



Biennial Report of the Alaska Public Offices Commission

Covering Calendar Years 2014 and 2015

Dated: January, 2016

Commissioners:

Kenneth Kirk, Chair
Vance Sanders, Vice Chair
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Executive Summary

The Alaska Public Offices Commission (APOC) delivers services to the public and elected and other public officials in Alaska to encourage public confidence in the political process. It is required by AS 15.13.030(8) to “prepare and publish a biennial report concerning the activities of the Commission, the effectiveness of this chapter, its enforcement by the attorney general’s office, and recommendations and proposals for change”. The agency has a total of 35 statutory requirements. APOC’s last biennial report was published in January of 2015. The biennial report is required in odd numbered years, but has been published annually since 2009 to provide greater continuity as the agency undergoes changes as a result of instituting electronic filing and other factors.

Complaint activity continued its declining trend in 2015. Education and training by the agency may have contributed to the declining trend of complaints evident since 2010. It should be noted that 2015 was a quiet election year with only municipal elections and no controversial ballot propositions on any ballot. Advisory opinion requests have also declined this year.

The major events of 2015 were the completion of a Legislative Audit requested in 2013 and the passage of the FY16 budget. The audit and the agency’s response are separate documents available on the Legislative Audit web site, but are addressed briefly in the challenges section. The FY16 budget saw the agency’s fiscal resources cut by approximately 40%. This cut required that several vacant positions remain open and two other positions be laid off in June of 2015.

While apparently effective, training and outreach will be decreased because of the budget cut. Staff will place an emphasis on direct service to the public and auditing reports in the upcoming year based on recommendations from the Legislative Audit.

Activities of the Commission

APOC’s mission is to encourage the public’s confidence in their elected and appointed public officials by administering Alaska’s disclosure statutes and publishing financial information regarding the activities of election campaigns, groups, individuals and entities making independent expenditures, public officials, lobbyists and lobbyist employers. The Commission has directed staff to work under the following priorities in descending order: Respond to filer inquiries; conduct filing audits; create and send notices of deficiency; file civil penalties; provide advisory opinions; investigate and report on complaints; file referrals with Attorney General for unpaid civil penalties; and, prepare and conduct training.

The Laws Administered by APOC

APOC administers four disclosure laws. These laws require the disclosure of information that enables citizens to identify the influence of private interests on public decision-making.

1 Campaign Disclosure (AS 15.13) (CD) requires state and municipal candidates, and political groups, to file periodic, detailed reports disclosing all campaign contribution and expenditure activities. The campaign disclosure law directly limits the influence of contributors on candidates by limiting the size of campaign contributions.

The same statute also requires that groups and entities to report any campaign related expenditures and contributions as well as any group, entity, or individual who makes independent expenditures for or against any candidate or ballot measure.

2 Regulation of Lobbying (AS 24.45) (LOB) requires lobbyists to register with APOC, and to file monthly reports of income from lobbying and lobbying expenditures during any month in which the legislature is in session, including special session. If the legislature is not in session, lobbyists file quarterly reports. Employers of lobbyists are required to file quarterly reports of lobbying payments and expenditures.

3 Legislative Financial Disclosure (AS 24.60.200 - 260) (LFD) requires legislators, legislative directors, and the members of the Select Committee on Legislative Ethics to file personal financial disclosure statements listing business relationships, sources and amount of income, and indebtedness.

4 Public Official Financial Disclosure (AS 39.50) (POFD) requires state and municipal candidates, elected officials, and many appointed officials to file financial disclosure statements, listing business relationships, income sources, and indebtedness.

Core Services

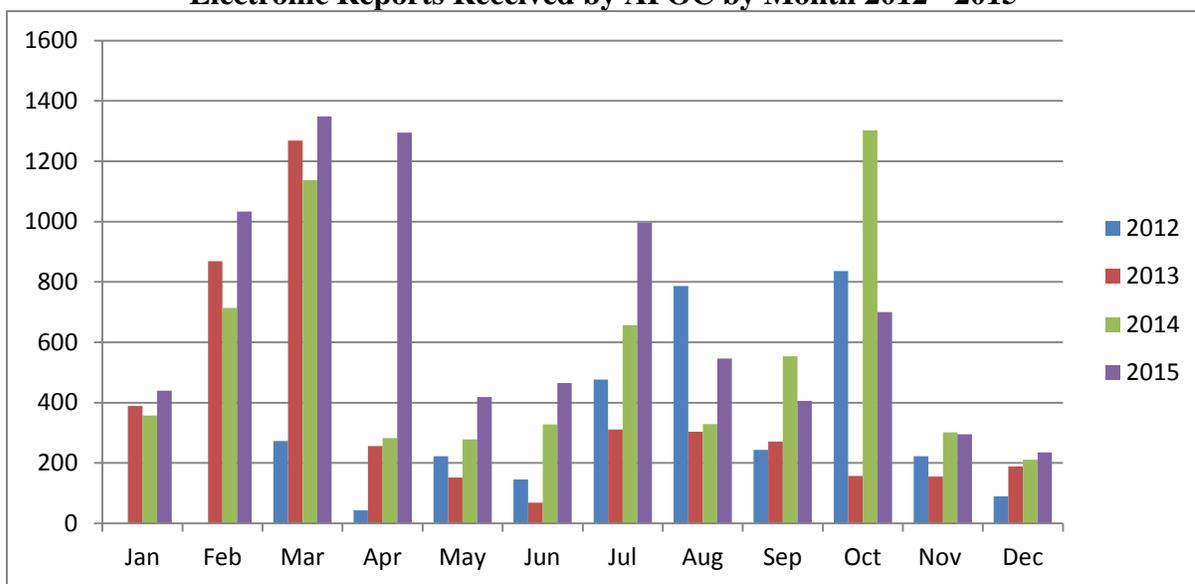
- Disclose information to aid Alaskans in making informed decisions regarding their elected and appointed officials.
- Administer laws upholding the transparency of the financial affairs of public officials, lobbyists and their employers, political groups, and municipal and state candidates.
- Interpret the disclosure laws and assist in compliance by conducting training.
- Provide forms and manuals for candidates, groups, lobbying activities, and public officials.
- Examine and compare reports for possible violations of the disclosure laws and compel the filing of required reports.

Disclose information for informed decisions

In 2015 Alaska media outlets continued to use APOC data for source material regarding municipal elections, ballot initiatives, and the statewide primary and general elections. Reporters were able to find the data on the agency’s website with minimal assistance from APOC staff, although media did contact staff to locate more esoteric data. APOC is providing readily accessible information to the public to enable informed decisions. In 2015, 16 of 36 public records requests related to POFD filings.

Electronic filing has made information more available to the public and assisted in providing information for the public to make informed decisions. Electronic filing has enabled more reports to be readily available to the public. Each year the number of reports submitted electronically has increased; from a total of 3,339 filings in 2012, to 4,389 in 2013, to 6,453 in 2014. In 2015 the agency received 5,975 electronic reports a high number for a non-state election year and an indication that more people are using the electronic filing system. A monthly tally for those years is shown graphically in Figure 1 below.

Figure 1¹
Electronic Reports Received by APOC by Month 2012 - 2015



Source: APOC Records

The level of activity in a given month depends on where that month is in an election cycle. For instance, February and March are busy months because of candidate and group year-end reports due in February and Public Official Financial Disclosure

¹ This data does not include lobbying reports prior to 2015.

(POFD) reports being due in March. The Anchorage Municipal election, held in early April, also contributes to the level of activity in March. In April lobbyists and employers of lobbyists file quarterly reports adding to the April total. The Anchorage election also influences the level of reporting during the summer as 105 day reports come due after the election. July is a busy month because of the state-wide primary election in even numbered years with the general election influencing September and October activity. There is no particularly slow time for reports coming to the agency and the public has access to most electronic filings in real time.

Electronic reports have had multiple effects on agency staff. First, by making the information more available to the public, more and different questions are directed at staff. This changes how staff spends its time. While one would think that having filers submit material without staff intervention would make for more staff time, in reality, the questions that come to staff have shifted the workload from data entry to more direct service to the public. Second, electronic filing enables staff to be more effective when helping filers or others by being able to view and refer to the same document that a caller may be viewing. Third, public availability helps staff in administering the laws upholding transparency by enabling public access. Fourth, by being able to conduct more audits in a timely manner, staff can assist filers in complying with the various rules in a non-punitive manner. When reports are submitted early staff has the opportunity to review the reports and to call filers if there is something on a report that is missing or incorrectly reported. The error can be dealt with before a due date and fewer penalties are assessed. Finally, being able to review reports online helps staff to work toward reviewing more reports rather than locating files, sorting through paper, and trying to decipher sometimes cryptic hand writing.

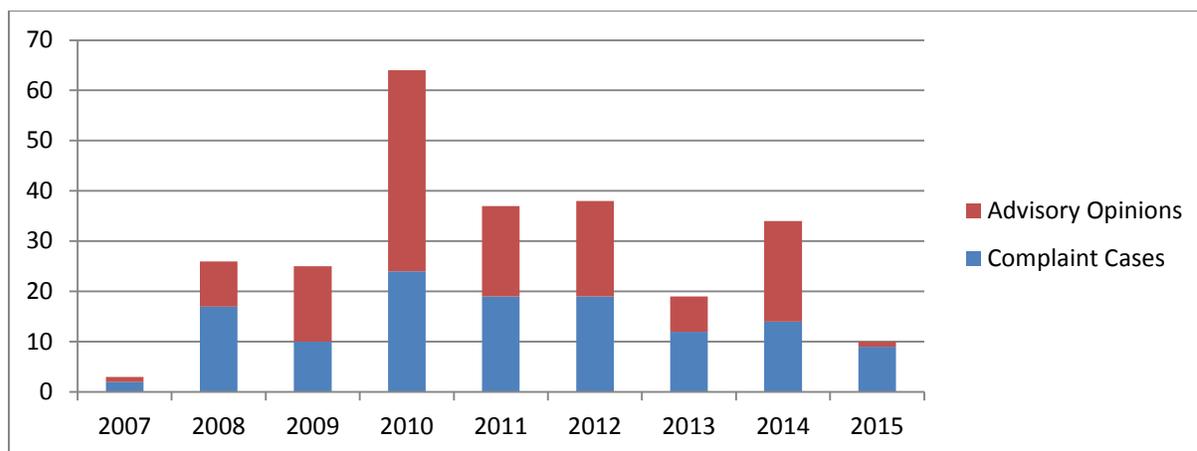
Administer laws upholding financial transparency

APOC activities include addressing complaints and advisory opinions related to the four disclosure laws. The volume of both complaints and advisory opinions in calendar year 2010 was historically high due to the gubernatorial election and ballot initiatives. The volume of complaints and advisory opinions for calendar year 2012 was less than that of 2010 and only slightly above 2011 as shown in Figure 2. The overall activity for 2013 was the lowest since 2007. Activity for 2014 was well below the previous gubernatorial election year activity in spite a highly contested elections and ballot propositions, and lower than the 2012 state-wide election. The activity level for 2015 has been quite low, lower than 2013 and the lowest since 2007.

Complaint activity has experienced a general downward trend since 2010. Training and outreach activities continued in 2014, but with the significant budget cut effective in July of 2015, training and outreach activities were be significantly curtailed. Training is highly time-intensive on staff and with fewer staff available this activity,

while meritorious, must suffer. APOC staff has also spent considerable time working with filers to ensure that they are aware of filing requirements.

Figure 2
Volume of APOC Complaints and Advisory Opinions 2007-2015



Source: APOC Records

In 2014 there was a significant increase in advisory opinions. The referenda, ballot propositions, and various other issues of the 2014 election led to set of complex issues that were new to filers and to APOC resulting in the increased number of advisory opinions.

The number of complaints continues to decrease in 2015 with only nine being filed, the smallest number since 2007. There was been only a single advisory opinion request in 2015. The lack of a contentious state-wide election in 2015 is a contributory factor to the low numbers of complaints and advisory opinions. Appendix 1 contains a summary of advisory opinions for 2014 and 2015.

One significant trend in advisory opinions is that the average time to produce an advisory opinion, the percentage of late issued advisory opinions, and the total number of days late has progressively decreased since 2010. The average time to produce an advisory opinion has decreased from 8.06 days in 2010 to 6.1 days in 2014; the percentage of late opinions has decreased from 35% in 2010 to 15% in 2014; and, the total days late have decreased from 143 in 2010 to 5 in 2014. Because there has been only one advisory opinion request in 2015 it is not statistically relevant to include the time to completion here as part of a larger trend, although that request met the statutorily required time.

Interpret disclosure laws and assist in compliance

APOC staff regularly works with the public to respond to a variety of questions that do not rise to the level of a formal advisory opinion. In 2013 APOC staff devoted 3,313 hours providing direct service to the public and in 2014 staff provided 3,713 hours of direct service; in 2015 staff provided 1,959 hours of direct service as of Sep 30. This projects to be about 2,600 total hours for the year, on par with 2012. Although this is a decrease from 2014, with fewer staff to respond to questions from the public this will account for nearly 20% of all staff time. APOC staff believes the high level of service to the public, in general responding to questions, and the time working with advisory opinions, directly impacts assisting in compliance in a non-punitive manner.

In the past APOC has made a concerted effort to expand educational activity as a larger part of APOC's mission through providing more training opportunities for candidates, groups, public officials, and lobbyists. Understanding the APOC statutes and regulations appears to contribute to fewer complaints and more transparent campaign and lobbying activity. Providing interpretive information and timely advisory opinions enables APOC staff to provide more attention to assisting in compliance rather than recommending penalties. Unfortunately, with a severe budget cut APOC staff is no longer in a position to offer extensive training opportunities, although the agency will offer as much training as it can within the limits of its resources. Training for the 2016 year has been limited to 14 total sessions.

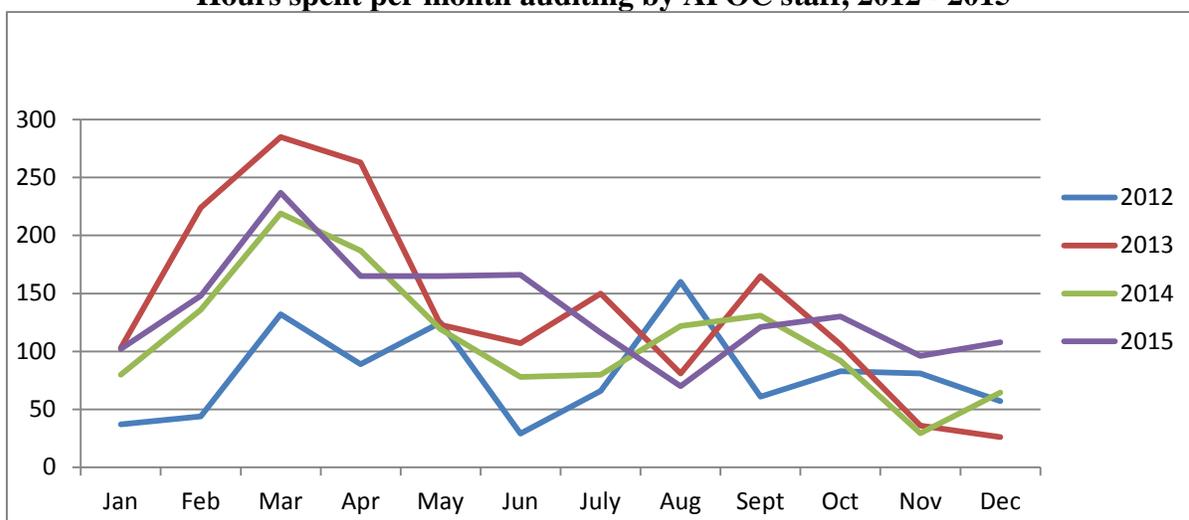
Examine and compare reports

Electronic filing began in 2012, that year APOC staff spent more than 689 hours auditing and comparing reports nearly double the time of the previous year. In 2013 staff spent over 1,670 hours auditing reports; again more than doubling the previous year. Figure 3 shows the time spent auditing and comparing reports for the past several years. The time spent in early 2014 is less than that of 2013 because the early portion of 2013 was spent auditing the year end reports of 2012 which was a larger than usual state-wide election due to redistricting, while early 2014 did not have those campaigns' year end reports to audit. In many cases filers were in substantial compliance, but with some errors, and they amended their reports upon request. Others were found to have more substantial errors and either paid a civil penalty or a complaint was filed against them. In 2015 the actual percentage of time spent auditing reports has increased even though the total hours have decreased. The budget cut effective for FY 2016 has required that the agency leave several positions open and then lay off two more staff members. As a result, staff struggles to balance assisting the public and auditing reports to best serve the needs of transparency.

Figure 3 shows that time spent auditing in 2015 went up very slightly from 2013, but the monthly time has dropped substantially since June 2015. Part of the explanation

for this is the reduction in budget. With fewer staff there is less time available to audit reports. In 2013 staff spent 1,662 hours auditing or 6.72% of its total working time, in 2014 that time went to 1,267 hours or 5.58%, in 2015 the total time went to 1,624, a minimal decrease from 2013, but the percentage of total time spent auditing jumped to 9%.

Figure 3
Hours spent per month auditing by APOC staff, 2012 - 2015

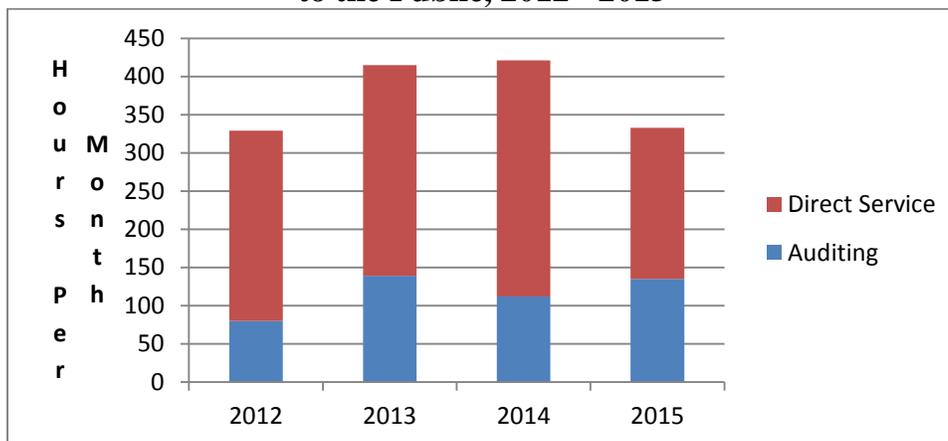


Source: APOC records

APOC staff has provided more direct service to the public each year from 2012 to present. In 2012 an average of 249 hours each month was directed at providing direct service, in 2013 276 hours each month an 11% increase, in 2014, 309 hours each month, and in 2015, 198 hours. The decrease in time in 2015 is also attributable to the budget cut for FY 16 as there are fewer staff to deal with the public. With fewer staff all areas of APOC’s performance will suffer.

Figure 4 depicts the combination of time spent auditing and providing direct service to the public. While there has been a decrease in average monthly time spent auditing from 2013 to 2015, there has been a larger increase in time devoted to providing direct service to the public from 2013 to 2014. The increase in time spent serving the public can be attributed to auditing results, increased training, and electronic filing. For 2014 when these two area’s activities are combined they account for over 20% of staff time in all but 4 months. It appears that 2013 and 2014 are an indication that the APOC staff had reached capacity in these two areas since the total time for these two areas is relatively constant. The data for 2015 shows the effects of having fewer staff members and the total time available is significantly decreased. However, a trend as to the proportion of each activity may be ascertained.

Figure 4
Average Combined Monthly Hours Sent Auditing and Providing Direct Service to the Public, 2012 - 2015



Source: APOC Records

Another way to see the effect of having fewer staff members is to see the relationship of hours spent on a task in relation to the total hours available. For instance, in 2013 there were an average of 2,062 hours worked each month by the total APOC staff, with 139 hours or 6.72% spent auditing reports. In 2015 the average hours worked each month dropped to 1,411 because there are fewer staff; but the average monthly hours spent auditing increased by 3 from 2013 to 142, but that minimal increase equates to 10% of total staff time. In other words, simply maintaining a level of hourly effort in a specific task increases the average percentage of that effort because there is a smaller total from which to draw.

Other Activities

Major events in calendar year 2014

- Complaints: 14 total, 11 CD, 0 LOB, 3 POFD.
- Advisory Opinions: 20 total, 16 CD, 2 LOB, 2 POFD.
- Commission held 10 days of meetings. There were eight regular meeting days and two special meetings. One scheduled meeting was cancelled.
- 1,579 financial disclosure statements received.
- 2,485 filings from 136 lobbyists and 406 employers of lobbyists.
- 4,587 campaign disclosure filings from 529 candidates and 176 groups.

Major events in calendar year 2015

- Complaints: 9 total, 7 CD, 0 LOB, 2 POFD.
- Advisory Opinions: 1 total, 0 CD, 0 LOB, 1 POFD.
- Commission held 12 days of meetings. Nine days were dedicated to hearings and adjudicatory decision making, one dealt with proposed legislative changes, and

two days dealt with seeking a public member to present to the governor upon the conclusion of the incumbent public member’s term.

- 1,622 financial disclosure statements received.
- 2,298 filings from 131 lobbyists and 388 employers of lobbyists.
- 455 filings from groups received.
- 324 campaign disclosure filings

Each year the Commission levies civil penalties against those filing late or incomplete reports. Figure 5 illustrates the Commission’s assessment of civil penalties and the amount collected in 2015. The first four categories refer to civil penalty assessments for late or incomplete reports. The “complaints” category is complaints filed by either the public or APOC staff. Penalties not collected are referred to the Attorney General.

The Commission levies penalties for both complaints and civil penalties. Staff recommends penalties using statutory fine levels to compute a maximum fine and then apply standardized mitigating or aggravating factors.

APOC staff believes that training has helped in keeping the number of CPAs relatively low. Many CPAs come from late reporting. The years 2013 and 2014 saw an increase in group CPAs because of increased activity by new filers interested in the several controversial ballot measures on the primary and general election ballots. New filers often attended training after a CPA had been issued for a late filing.

Figure 5
APOC Civil Penalty Assessment 2015

Category	Commission Assessed	Amount Received	Amount Unpaid	Amount Referred to Attorney General
Lobbyist	\$2,940.00	\$ 2,230.00	\$ 710.00	\$ -
Candidate Disclosure	\$76,096.00	\$ 5,746.00	\$ 70,350.00	\$ 70,350.00
Group Disclosure	\$6,299.75	\$ 6,299.75	\$ 00	\$ -
POFD/LFD	\$9,033.00	\$ 6,599.50	\$ 2,433.50	\$ 1,838.50
Complaints	\$35,530.50	\$ 1,070.50	\$ 34,460.00	\$ 34,460.00 ²
TOTALS	\$129,899.25	\$ 21,945.75	\$ 107,953.50	\$ 106,648.50

Source: APOC records

² In process, awaiting Commission approval.

In many cases the timing of a late report directly impacts the value of a CPA. Late 7 day or 24 hour reports have a maximum penalty of \$500 per day.³ The Commission has directed staff to begin any civil penalty assessment at the maximum fine, then to apply mitigating criteria provided in 2 AAC 50.865 to reduce any fine as appropriate before making a recommendation to the Commission. The Commission is the final decision maker regarding any civil penalty or fine assessed in a complaint action. The value of the CPAs shown is that assessed by the Commission and not the maximum penalty.

Effectiveness of APOC Laws

It is difficult to assess the effectiveness of laws. An assessment of APOC law effectiveness is the number of reports received compared to the number of actions; complaints or advisory opinions generated, for particular types of reports. Or, how often an action takes place per the number of reports received. This is depicted in Figure 6 below.

Figure 6
Ratio of APOC Actions/Filings 2014 and 2015

Year	Report Type	Number of reports	Complaints & Advisory Opinions	Ratio
2014	POFD/LFD	1579	5	1 action per 316 reports
	Lobbyist/Employer	2485	2	1 action per 1,243 reports
	Campaign Disclosure	4587	27	1 action per 176 reports
2015	POFD/LFD	1622	3	1 action per 541 reports
	Lobbyist/Employer	2298	0	
	Campaign Disclosure	779	7	1 action per 111 reports

Source: APOC Records

Figure 6 shows POFD/LFD and lobbying disclosures have a significantly lower number of actions per report filed than other areas. Quite possibly because lobbyists and their employers have been reporting electronically longer than candidates, POFD filers, and those submitting independent expenditure reports and statements of contributions the number of actions is less. POFD/LFD actions decreased from 1 in 316 reports in 2014 to 1 in 541 reports in 2015. Lobbying report actions went from 2 actions in 2014 to no actions in 2015. Both POFD/LFD and Lobbying reports are meant to provide transparency to the public regarding the financial interests of public officials and how public officials and legislators interact with lobbyists and those who employ lobbyists. The laws requiring transparency appear to be effective given the

³ See AS 15.13.390, 24.45.141, 24.60.240, and 39.50.135 for maximum penalties. Regarding 7 day and 24 hour reports see AS 15.13.110(a) and (b).

number of reports submitted and the low level of actions taken. Public officials and lobbyists and the employers of lobbyists tend to change slowly over time and gain experience in filing. Candidates, on the other hand, change often and do not always gain the experience to enable them to report accurately. There are also occasions where complaints are filed for publicity value just prior to an election.

Enforcement by the Attorney General's Office

The Attorney General's Office represents APOC staff in the complaint process. A person who believes a violation has occurred under the laws APOC administers can file an administrative complaint with the Commission.

As of December 2015 there are several complaints that remain unresolved: one complaint from 2012 remains open after substantial litigation and several appeals to superior court and to the state Supreme Court before any staff investigation could take place. In that matter both courts held that APOC was not barred from investigating the complaint. Two complaints, one from 2013 and one from 2014, were both appealed to the Superior Court where the Commission's decisions were upheld; they have subsequently been appealed to the State Supreme Court. Another complaint from 2015 remains unresolved due to legislative immunity during the legislative session. The Attorney General's Office represents the Commission in all appeals.

The Attorney General's Office also assists in the issuance of advisory opinions. Under APOC statutes (AS 15.13.374), an individual or group may ask the Commission to issue a formal letter of advice regarding the propriety of specific activities under the law. In consultation with the Attorney General's Office the staff proposes a written advisory opinion for Commission consideration. An affirmative vote of four Commission members is required to approve the advisory opinion. Following an affirmative vote, staff prepares a final letter of advice, and the opinion is placed in the Commission's records and published on the agency's website. In addition the Attorney General's Office assists in the review of numerous informal requests for information from APOC staff.

Civil penalty assessments that are neither paid nor appealed are referred to the Attorney General's Office for processing and collection. Twelve POFD penalties have been referred to the Attorney General in 2015.

Challenges, Recommendations, and Proposals for Change

Challenges

The major long-term challenge for APOC, after making a significant move to becoming more electronically oriented, is to continue to become an education oriented agency. As APOC can provide more training in a variety of venues and through different modes the number of complaints and civil penalties can be further decreased. This means a better use of state resources and staff time. This particular challenge has become even more pronounced in the face of the FY 16 budget cuts.

Considering that 2015 had the lowest level of complaint and advisory opinion activity since 2007 as seen in Figure 2, and the size of the staff as decreased by nearly 50% it will be a significant challenge for the agency to meet many of its statutory duties in the upcoming years. In light of the results of the legislative audit and the subsequent budget cut APOC does not anticipate being able to maintain the level of effort in auditing and some other activities during the 2016 election cycle which started in mid-2015.

APOC's statutorily-defined duties and how the agency is going to be able to discharge those duties are noted below. Green notes that the agency is fulfilling that duty, yellow indicates partial fulfillment, and red indicates the duty not being fulfilled. Some areas will have declining fulfillment due to the cuts to the agency.

Duty	Reference	Work required	Met in FY 15	Able to Meet in FY 17
Establish an office in each senatorial district of the state. <u>Core Service 1,2,5</u>	AS 15.13.020(j)	Hire personnel, order equipment. Would require a significant increase in budget.	NO	NO
Ensure copies of reports of municipal candidates are available for public inspection. <u>Core Service 1,2,5</u>	AS 15.13.020(k)	Scan and post to website. Municipal candidates are very resistant to this requirement.	YES	YES
Develop and provide all forms for AS 15.13, AS 24.45, and AS 39.50. <u>Core Service 3</u>	AS 15.13.030(1) AS 24.45.031(a)(1)	Develop and design 15 forms per current statutes and regs. Requires programming staff to be familiar with forms and program code.	Partially	Partially, but declining
Prepare and publish a manual setting out uniform methods of bookkeeping and	AS 15.13.030(2) AS 24.45.031(a)(2)	Complete an annual review of all statutes and regulations and ensure there are no	Partially. Done for lobbying, not for other	NO

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reporting for use by persons required to make reports. <u>Core Service 3</u>		unintended conflicts.	areas.
Assist all persons in complying with the requirements of this chapter. <u>Core Service 3</u>	AS 15.13.030(2) AS 24.45.031(a)(2)	Respond to phone calls, e-mails, and other communications. Very time intensive activity taking over 15% of all staff time each month. A very important function that often interrupts complaint investigations and report auditing.	Partially Partially, but declining
Receive and hold open for public inspection reports and statements required under this chapter, and furnish copies upon request. <u>Core Service 1, 2, 5</u>	AS 15.13.030(3) AS 39.50.050(a)	Done well for lobbying, groups, and candidates. POFD not as successful in staff is not always aware of who should be filing and all required reports may not be available. In 2015 to 9/15 the agency responded to 24 public records requests totaling nearly 2,000 pages of materials.	Partially Partially
Compile and maintain a current list of all filed reports and statements. <u>Core Service 1, 5</u>	AS 15.13.030(4)	There is no list per se and if kept it would require daily updating. Electronic filing has helped to enable partial compliance with this requirement.	Partially Partially
Prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available at cost. <u>Core Service 1</u>	AS 15.13.030(5)	Has not been done. To do this there would need to be research done on what goes into the summary, the format of the summary, and how to post the information.	NO NO
Notify by registered or certified mail, all persons who are delinquent in filing reports and statements required under this chapter. <u>Core Service 2</u>	AS 15.13.030(6)	This is dependent on knowing who is required to file. This is a time sensitive matter and numerous letters must be created and mailed. it is also costly in that certified mail is more expensive than 1 st class. in 2015 to Sept 15 the agency spent \$3,363 in mailing costs on 947 pieces of mail.	Partially Partially
Examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45 and AS 39.50.	AS 15.13.030(7) AS 24.60.220(3)	Staff must review <u>AND</u> compare every report. Staff endeavors to review current filings, but does not have the time to compare	NO NO

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Core Service 4

reports to previous filings or other current filings. in the past there were 9 staff to do this, now there are 5 to do this. The agency receives up to 8,650 reports annually. In 2015 the agency spent approximately 15% of its time dealing with this Requirement alone.

Prepare and publish a biennial report concerning the activities of the Commission...
Core Service 2

AS 15.13.030(8)
AS 24.45.031(a)(4)

Completed by the executive director with input from staff.

YES

YES

Adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 30.50....
Core Service 3

AS 15.13.030(9)
AS 24.60.220(1)

Review all statutes, follow regulations revision protocol. All staff are involved in this highly time intensive activity. As statutes are changed regulations may become obsolete with no notice. With decreased staff this will become very difficult to complete.

Yes

Partially

Consider a written request for an advisory opinion concerning the application of this chapter, AS 24.45, AS 24.60.200 – 260, or AS 39.50.
Core Service 3

AS 15.13.030(10)
AS 39.50.050(a)

Staff must review the request for technical compliance and then decide if the request is for advice and not involve a third party or hypothetical. This requirement takes precedence over others as it must be completed immediately.

YES

YES

Keep a list of exempt candidates as defined in AS 15.13.040(g)
Core Service 1, 5

AS 15.13.040(g)

Review filings and construct list.

YES

YES

Be able to accept reports either on paper or electronically
Core Service 3

AS 15.13.040(m)
AS 24.60.210(c)

Paper reports are received via e-mail, FAX, or mail. These are then scanned to a central location to be accessed by the public. Reports filed electronically are automatically in the agency's electronic filing system.

YES

YES

Keep a list of registered groups and entities.
Core Service 1

AS 15.13.050

Staff maintains a list of those groups and entities that have registered.

YES

YES

All reports required

AS 15.13.110(c)

All reports are

YES

YES

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<p>by this chapter shall be filed with the commission and shall be kept open for public inspection. <u>Core Service 1, 2, 5</u></p>		<p>public records and available for inspection either electronically or on paper. Staff maintains an index.</p>		
<p>The commission shall keep a report filed on paper under AS 15.13.040(m) open to public inspection by scanning the report and posting a copy of the scanned image on the commission's Internet website within two working days after the report is filed <u>Core Service 1, 5</u></p>	<p>AS 15.13.110(c)</p>	<p>Staff must receive, sometimes print, and scan the document to the agency's web site. This was able to be done in the past, but it is unknown if this can be done with a decreased staff.</p>	<p>YES</p>	<p>Partially</p>
<p>The commission shall prepare a summary of each report, which shall be made available to the public at cost upon request. Each summary must use uniform categories of reporting. <u>Core Service 1, 5</u></p>	<p>AS 15.13.110(c)</p>	<p>Currently, only done for lobbying. Information to be included, format, and other matters would need to be decided upon. As staff cannot currently review each report, this requirement has not and cannot be met.</p>	<p>NO</p>	<p>NO</p>
<p>Reports filed electronically shall be made available within 30 days after the report is filed. <u>Core Service 1, 5</u></p>	<p>AS 15.13.110(c)</p>	<p>Electronic reports are available immediately.</p>	<p>YES</p>	<p>YES</p>
<p>On paper shall be made available within 30 days after each election <u>Core Service 1, 5</u></p>	<p>AS 15.13.110(c)</p>	<p>Paper reports are received and scanned by staff.</p>	<p>YES</p>	<p>YES</p>
<p>Respond to requests for advisory opinions with a draft within seven days. <u>Core Service 3</u></p>	<p>AS 15.13.374</p>	<p>Staff must review applicable law, existing advisory opinions, previous orders, complaints, and draft the opinion. The draft must be reviewed by the Department of Law. All this must be done within 7 calendar days weekends included, so APOC time is really four days taking into account weekends and time for DOL to review. APOC is not always able to meet this requirement.</p>	<p>Partially</p>	<p>Partially, possibly declining</p>
<p>Notify all persons who are delinquent in filing. <u>Core Service 3</u></p>	<p>AS 15.13.380(a)</p>	<p>Staff must review expectations and see who is delinquent. A letter is then created and mailed to each delinquent filer. This done well for candidates and groups, but less so for Statements of Contributions</p>	<p>Partially</p>	<p>Partially</p>

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required under AS 15.13.040(k). The agency can receive up to 8,650 reports per year and a filer who is not known to staff will not be notified.

<p>Notify the Attorney General about all candidates whose campaign treasurers who have failed to file required reports. <u>Core Service 4</u></p>	<p>AS 15.13.380(a)</p>	<p>Staff compiles a list and submits it to the Dept. of Law.</p>	<p>YES</p>	<p>YES</p>
<p>Accept or deny complaints and complete a staff investigation report in 30 days. <u>Core Service 4</u></p>	<p>AS 15.13.380(c)</p>	<p>This applies to all areas of APOC's statutes--24.45, 24.60, and 39.50. Any incoming complaint must be reviewed for technical accuracy (required information) and then an assessment of "if true would the allegation constitute a violation". If no then the complaint is rejected and all parties notified. If yes then after notification an investigation takes place. Investigation may include document review, request for information, bank statements, interviews with those involved or witnesses. How complex in the complaint? Will the parties be cooperative and forthcoming? Is a subpoena necessary? Are there multiple violations in the complaint? What else is going on during the investigation— a reporting deadline or AO request or other complaints? Many issues can impact how quickly an investigation can be completed.</p>	<p>Partially</p>	<p>Partially, but declining.</p>
<p>Assess civil penalties for late and/or incomplete reports <u>Core Service 4</u></p>	<p>AS 15.13.390 AS 24.60.240 AS 24.45.141 AS 39.50.210(a)</p>	<p>Staff would need to review each report to ascertain if it is complete or not. Currently staff is not able to review every filing nor has staff been able to do so. Late reports are generally dealt with well, but incomplete reports are not dealt with as well. In 2014 the agency received 8,651 reports; in 2015 2,248 were received by August 31.</p>	<p>NO</p>	<p>NO</p>
<p>Ensure all candidates file a POFD. <u>Core Service 1, 4</u></p>	<p>AS 39.50.020 AS 24.60.210(a)</p>	<p>Staff compares candidate registrations and matches against filed POFDs.</p>	<p>YES</p>	<p>YES</p>
<p>Ensure all those who are required to, file an annual POFD. <u>Core Service 1, 4</u></p>	<p>AS 39.50.020</p>	<p>APOC staff must be aware of those required to file. If so, then staff can create an expectation for the years in which an individual must file. If a person leaves office without APOC knowing then the agency as a false set</p>	<p>NO</p>	<p>NO</p>

		of expectations for that person and no expectation for whoever took the position. Municipal filers are an issue in this regard as some leave office and APOC is not notified. Small municipalities are a particular issue. This is an ongoing matter for APOC staff and requires nearly daily attention. Currently the executive director fulfills this requirement as time allows because of staff layoffs.		
Ensure all those leaving service file a final POFD within 90 days of leaving office. <u>Core Service 1, 4</u>	AS 39.50.020	APOC staff must be aware of those leaving office in the case of final POFDs. If so, then staff can create expectations and provide a reminder to affected individuals. This is an ongoing matter for APOC staff and requires nearly daily attention. Currently the executive director fulfills this requirement as time allows because of staff layoffs.	NO	NO
Report suspected Lobbying violations To the Attorney General's Office <u>Core Service 4</u>	AS 24.45.031(a)(5)	Staff reports to the Commission who in turn reports violations to the Attorney General.	YES	YES
Administer the annual lobbyist/ employer of lobbyist training program. <u>Core Service 3</u>	AS 24.45.031(a)(6)	Staff must update the training each year to ensure that it conforms to any statutory changes. This training has been offered both on-line and face-to-face. Staff has travelled to Fairbanks and Anchorage in the past. Budgetary constraints will decrease the amount of travel that can be done for face-to-face training.	YES	YES
Prepare and publish summaries of statements and reports received at least biennially. <u>Core Service 1, 5</u>	AS 24.45.031(b)(3)	Staff must compile data from each lobbyist and employer then sort for each lobbyist by employer. This was previously done with three staff, now there is only one staff person to do this.	YES	YES
Preserve lobbying statements in the state capital for six years from filing. If no office in state capital reports will be in the Lt Gov Office. <u>Core Service 1, 5</u>	AS 24.45.111(b)	Reports are held in the Juneau office, this requires storage space. With electronic filing is this requirement necessary?	YES	YES
The commission or its staff shall examine	AS 24.45.131(a)	Staff must audit each filing from a lobbyist or	NO	NO

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each report filed within 10 days of filing
Core Service 4

employer of a lobbyist within 10 days of receipt. A cursory review can be done, but a real review is not possible considering the number of reports and number of staff available.

Notify delinquent filers immediately if no report is filed or a complaint is filed.
Core Service 3 AS 24.45.131(a)

Identifying late reports is significantly easier than reviewing the report of every lobbyist or employer of lobbyist.

YES **YES**

Report any suspected violation to the attorney General, District attorney, or grand jury.
Core Service 4 AS 24.45.131(c)

Staff refers to the Commission who in turn refers to other areas of enforcement.

YES **YES**

The agency recently underwent a Special Legislative Audit. That audit made several recommendations, those recommendations, and responses by the Commission are:

The agency's executive director, in consultation with the Commission, should develop and implement comprehensive written audit procedures.

This has been accomplished. Each statute requires different auditing actions. Staff has had written guidelines for some time. Staff has established procedures for selecting filings to audit. The Commission does not believe that establishing deadlines to audit reports is in anyone's best interest.

The agency's executive director, in consultation with the Commission, should develop and implement comprehensive written procedures for the civil penalty assessment and appeal processes.

This has been addressed. The process is written in regulations 2 AAC 50.855, .860, and .865. Additional written guidelines would do nothing to clarify the process. Staff and the Commission have revised these same regulations and will begin the formal regulations revisions process in 2016. It is noteworthy that the amount of time spent auditing or preparing civil penalty assessments is quite high. More written procedures will not increase efficiency or effectiveness.

The executive director should consider automating certain workload tasks as a way to obtain efficiencies and meet timelines.

The Commission has directed the executive director to examine all areas of the agency's operations before making any recommendations for automation. In the meantime the agency staff will undertake work in the following order:
 1-Respond to filer inquiries;
 2-Conduct filing audits;
 3-Create and send notices of deficiency;
 4-Filing civil penalties;
 5-Working on advisory opinions—this will preempt tasks 1 - 4;

6-Working on complaints—this will preempt tasks 1 - 4;
7-File referrals with Attorney General for unpaid
civil penalties;
8-Prepare and conduct training.
The report of the executive director
is due in February 2016.

Recommendations for Change

The emphasis placed on education and outreach should continue. By traveling to filers the agency has been able to increase its visibility and possibly decrease the number of complaints. This activity needs to be funded.

In previous years there was a 10 day post-election report. APOC staff recommends re-instituting the ten day post-election report so that candidates remain engaged immediately after the election and are required to look at their last few weeks of the campaign sooner to keep potentially large fines from accruing. This would serve two purposes. First, it would improve transparency as the public would see the end of campaign materials that are currently not available until February of the next year much sooner; and second, the potential for large fines would be removed since a report 10 days after an election would ensure a timely resolution of late campaign transactions. In 2013 and 2014 there were instances where high potential fines were noted for missing 24 hour reports and statements of contributions. In the past it has been nearly impossible for APOC to fulfil its duties in this area because of the difficulties in conducting appropriate report comparisons. Time was a major factor in this effort with reports being received many months after the election. Comparing transactions on paper reports with several months separating the submissions made a detailed comparison virtually impossible and the law very difficult to enforce. Electronic filing has made audits for 24 hour reports and statement of contributions a reasonable and expected activity. This recommendation for change increases transparency for the public.

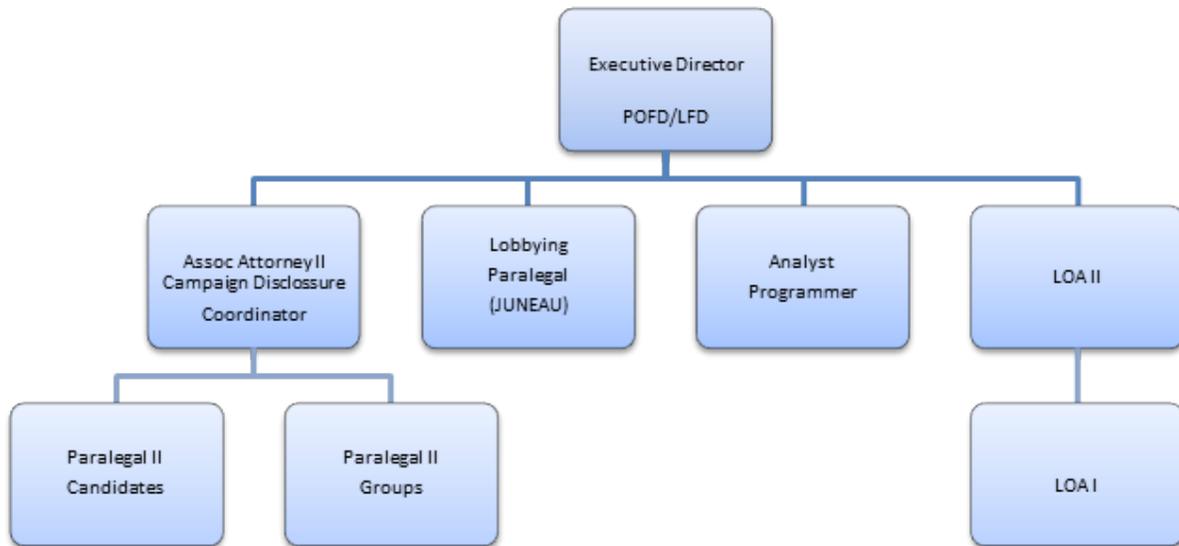
Finally, both the Commission and its staff understand the magnitude of the fiscal issues facing the state based on the price of oil. In the 2015 legislative session there appeared to be an effort on the part of the legislature to increase APOC's receipt authority to further fund its operations and decrease the state appropriation to the agency. If there is continued interest in having the agency become more self-sufficient the legislature is respectfully reminded that any increase in program receipts needs to be accompanied in statute by the authority to increase current fees and similar authority to establish new fees.

Appendices

APPENDIX 1
Summary of APOC Advisory Opinions 2014 and 2015

AO Number	Name/Subject	Date received	Date Issued	Total Days
<u>2014</u>				
AO 14-01-CD	Parnell 2014/Fund Raising during Legislative Session	1/22/14	1/29/14	7
AO 14-02-CD	Coffey/Cost reimbursement	1/24/11	1/31/14	7
AO 14-03-CD	McGuire/Fund Raising during Legislative Session	2/6/14	2/14/14	8
AO 14-04-CD	McKeever/Advertising reporting requirements	2/11/14	2/18/14	7
AO 14-05-CD	Botelho/Fund Raising during Legislative Session	2/28/14	3/1/14	4
AO 14-06-CD	Botelho/Joined Campaigns	2/20/14	2/27/14	7
AO 14-07-CD	Fischer/Candidate Activities re Ballot Proposition Groups	3/10/14	3/17/14	7
AO 14-08-CD	Ross/Contributions to different campaigns	4/28/14	5/7/14	9
AO14-09-CD	Mallot/Private air transport	6/18/14	6/27/14	9
AO 14-10-LOB	Conoco-Phillips/SB 138	7/8/14	7/15/14	7
AO 14-11-CD	Gara/Referendum Position	7/11/14	7/18/14	7
AO 14-12-CD	Huggins/Use of State Resources To Oppose or Support Referendum	7/25/14	8/1/14	7
AO 14-13-LOB	TransCanada/Communications Regarding Gas Line Project	8/28/14	9/4/14	7
AO 14-14-CD	RRC/Reporting of Advertising	9/5/14	9/12/14	7
AO 14-15-CD	Hull/Money of a Political Subdivision and Municipal Resolutions	9/15/14	9/18/14	3
AO 14-16-CD	Walker-Mallot/Contributions to Different Campaigns	9/17/14	9/22/14	5
AO 14-17-CD	Putting Alaskans First/Naming of A Group & Paid for By	9/17/14	9/19/14	2
AO 14-18-CD	French/Disposition of Campaign Assets	10/24/14	10/30/14	6
AO 14-19-POFD	Menefee/Reporting Requirements for AMHLTO	12/15/14	12/18/14	3
AO 14-20-POFD	Sturrock/ Reporting Requirements for Specific Positions	12/16/14	12/19/14	3
Average days between receipt of request and issuance of AO in 2014				6.1 Days
<u>2015</u>				
AO 15-01-POFD	O'Hara, Informational Requirements	1/12/15	Withdrawn	
AO 15-02-POFD	McReady, Judicial Close Economic Associations	3/13/15	3/19/15	6

APPENDIX 2
APOC Organization Chart 2015



**APPENDIX 3
Training Data**

Date	Location	Topic	Attending⁴
1/2/14	Anchorage	POFD	1
1/3/14	Anchorage	Groups	22
1/7/14	Anchorage	Lobbying	7
1/8/14	Anchorage	Lobbying	10
1/13/14	Anchorage	POFD-Muni Clerks	13
1/14/14	Juneau	Lobbying	11
1/14/14	Anchorage	POFD	3
1/17/14	Anchorage	Candidates	2
1/27/14	Anchorage	POFD	2
2/6/14	Anchorage	POFD	2
2/7/14	Anchorage	Candidates	5
2/11/14	Anchorage	POFD	1
2/26/14	Anchorage	POFD	1
2/27/14	Anchorage	Candidates	4
2/28/14	Anchorage	Groups	12
4/9/14	Anchorage	Groups	6
4/10/14	Anchorage	Groups	20
4/11/14	Anchorage	Candidates	10
4/11/14	Anchorage	Independent Expenditures	29
4/17/14	Anchorage	Candidates	1
5/9/14	Anchorage	Candidates	11
5/16/14	Anchorage	Candidates	1
6/10/14	Anchorage	Candidates	13
6/20/14	Anchorage	Candidates	8
7/8/14	Anchorage	Candidates	5
7/11/14	Anchorage	Candidates	9
8/7/14	Anchorage	Candidates	6
8/28/14	Anchorage	Candidates	6
9/4/14	Anchorage	Candidates	1
10/3/14	Anchorage	Groups	11
12/4/14	Juneau	Lobbying	6
12/16/14	Fairbanks	Lobbying	7
12/17/14	Anchorage	Lobbying	7
12/17/14	Anchorage	Lobbying	3
12/18/14	Anchorage	Lobbying	4
12/18/14	Anchorage	Lobbying	5

36 Sessions Serving 275 Attendees

⁴ In 2012 there were 45 sessions and 492 attendees; in 2013 23 sessions with 232 attendees.

Date	Location	Topic	Attending
1/6/15	Anchorage	POFD	2
1/22/15	Anchorage	POFD	2
1/23/15	Anchorage	Candidates	8
1/29/15	Anchorage	POFD	3
2/4/15	Anchorage	POFD	2
2/20/15	Anchorage	Candidates	1
2/23/15	Anchorage	POFD	3
3/5/15	Anchorage	POFD	1
3/20/15	Anchorage	Groups	20
4/17/15	Anchorage	Groups	6
5/1/15	Anchorage	Groups	14
5/22/15	Anchorage	Groups	10
12/16/15	Fairbanks	Lobbying	4
12/17/15	Anchorage	Lobbying	18

14 Sessions Serving 94 Attendees

APPENDIX 4
Outreach Data

Date	Location	Group	Topic	Attending
1/22/14	Juneau	International Fire Fighters Assoc.	Expenditure Reporting	14
7/9/14	Anchorage	Wayland Baptist Univ. Gov't Class	APOC Mission	22
9/15/14	Juneau	SE Alaska Non-Profits	Expenditure Reporting	8
12/2/14	Anchorage	Legislative Information Offices	APOC Mission/Activities	26

4 Sessions Serving 70 Attendees

There was no outreach activity in 2015.