



# Biennial Report of the Alaska Public Offices Commission

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Covering Calendar Years 2013 and 2014

Dated: January, 2015

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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”. APOC’s last biennial report was published in January of 2014. 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.

The agency experienced considerable activity regarding state –wide referendum and ballot initiative actions in 2014. Municipal election ballot proposition activity also generated additional agency tasks.

Complaint activity continued its declining trend in 2014. Education and training by the agency may have contributed to the declining trend of complaints evident since 2010.

Major events in 2014 included the oil tax referendum vote on the August primary ballot and ballot propositions concerning the legalization of marijuana, increasing the minimum wage, and resource extraction issues on the November ballot. The unique circumstance of gubernatorial tickets combining made the general election challenging for the agency as well. Redistricting also played a role in making this a busy year in the state primary and general elections.

There was minimal staff turnover in 2013 and 2014, a significant change from previous years; as a result staff has become more proficient because of increased continuity and experience.

## **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 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 of income (and for legislators the amount of income), and indebtedness.

**4 Public Official Financial Disclosure (AS 39.50) (POFD)** requires all state and many municipal candidates, elected officials, and many appointed state and local officials to file personal financial disclosure statements, listing business relationships, the source of all income, and indebtedness.

## Core Services

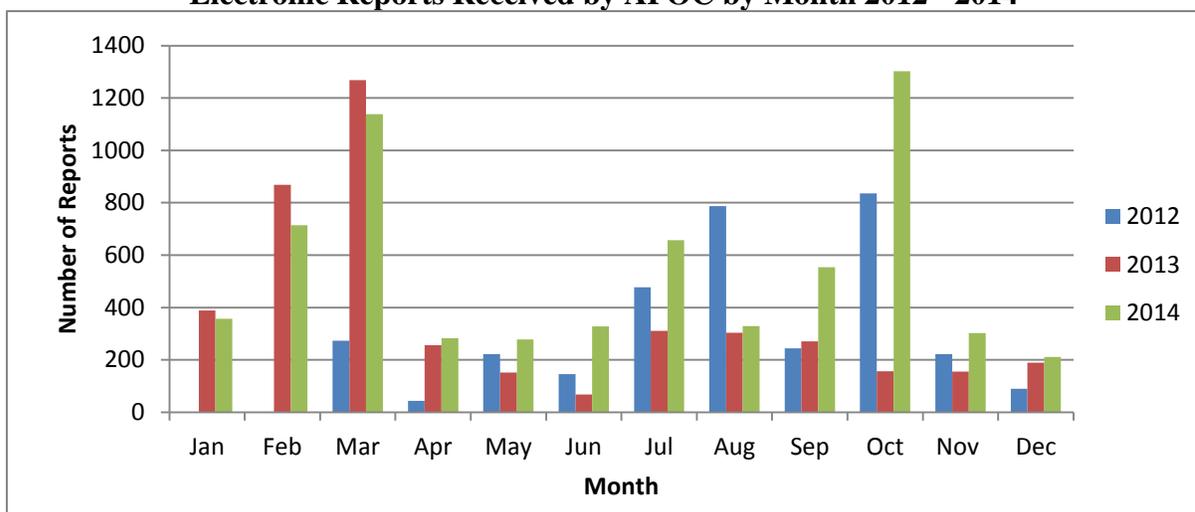
- Disclose information to aid Alaskans in making informed decisions regarding their elected officials.
- Administer laws upholding the transparency of the financial affairs of public officials, lobbyists and their employers, political groups, and municipal and state candidates.
- Interpret the disclosure 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 2013 and 2014 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. Considerable media coverage was devoted to sources for contributions to specific ballot questions and candidates’ campaigns. APOC is providing readily accessible information to the public to enable informed decisions. There have also been various articles that cited and encouraged people to use the APOC website to learn about campaign contributions and expenditures.<sup>1</sup>

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. A monthly tally for those three years is shown graphically in Figure 1 below.

**Figure 1<sup>2</sup>**  
**Electronic Reports Received by APOC by Month 2012 - 2014**



Source: APOC Records

<sup>1</sup>Restino, Carey, “OPINION: How to pick a candidate 101”, *The Bristol Bay Times*, October 17, 2014. [http://www.thebristolbaytimes.com/article/1442how\\_to\\_pick\\_a\\_candidate\\_101](http://www.thebristolbaytimes.com/article/1442how_to_pick_a_candidate_101); Buxton, Matt, “APOC reports: Latecomer Democrat Adam Wool out-fundraising Republican Pete Higgins”, *Newsminer.com*, October 11, 2014, [http://www.newsminer.com/news/local\\_news/apoc-reports-latecomer-democrat-adam-wool-out-fundraising-republican-pete/article\\_57795f16-5119-11e4-8872-0017a43b2370.html](http://www.newsminer.com/news/local_news/apoc-reports-latecomer-democrat-adam-wool-out-fundraising-republican-pete/article_57795f16-5119-11e4-8872-0017a43b2370.html); among others.

<sup>2</sup> This data does not include lobbying reports which are electronic, but not available to the public electronically. Lobbying reports became electronically available to the public as of November 2014 they will be included in next year’s report.

The level of activity in a given month depends on what is happening. For instance, February and March are busy months because of candidate and group year-end reports due in February and Public Official Financial Disclosure (POFD) reports being due in March. The Anchorage Municipal election, held in early April, also contributes to the level of activity in March. 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 electronic reports in real time. Peak monthly and annual totals for selected reports are provided in Figure 2.

**Figure 2**  
**Selected Report Activity for 2014**

<b>Type of Report</b>	<b>Highest Monthly Total</b>		<b>Yearly Total</b>
POFD/LFD	March	787	1,511
Candidate Campaign Report	October	705	1,857
Group Campaign Report	October	389	1,332
Independent Expenditure	October	240	858
Statement of Contributions	August	93	668
Candidate Registrations	June	93	503
Municipal Exemptions	August	228	364
Group Registrations	February	59	335
Candidate Reimbursements	July	24	109

Source: APOC records

Electronic reports have had multiple effects on agency staff. First, by making the information more available to the public, more 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

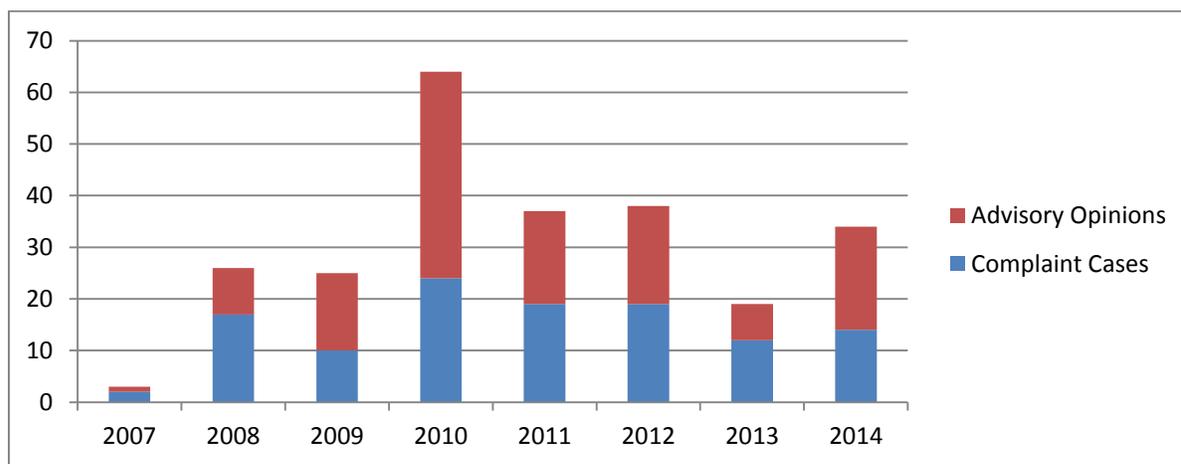
staff to work toward reviewing more reports rather than finding files, sorting through paper, and trying to decipher sometimes cryptic hand writing.

**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 3. The overall activity for 2013 was the lowest since 2007. Activity for 2014 was well below the previous gubernatorial election year activity and lower than the 2012 state-wide election.

Complaint activity has experienced a general downward trend since 2010. Most of the complaints in 2013 dealt with issues from 2012 or from activities related to the 2014 election. Training and outreach activities have continued in 2013 and 2014 with more efforts to bring training throughout the state. APOC staff has also spent considerable time working with filers to ensure that they are aware of filing requirements. This was important in 2013 since gathering signatures for ballot propositions and referendum activities constituted a great deal of filer activity during the year. These activities are guided by a seldom used and complex set of statues and regulations. In spite of this, the number of complaints filed in 2014 is just over half of the 2010 complaint level and considerably less than 2012. The number of complaints for a state-wide election year was the lowest since 2006 when seven complaints were filed.

**Figure 3**  
**Volume of APOC Complaints and Advisory Opinions 2007-2014**



Source: APOC Records

The number of advisory opinions requested increased from the 2012 total, but many 2014 requests concerned fund raising in the capital city during legislative session and matters that are new requirements such as communications by certain companies with the executive branch regarding the proposed gas line project as outlined in SB 138. Issues concerning POFD reporting also came to the fore at the end of the calendar year. Appendix 1 contains a summary of advisory opinions for 2013 and 2014.

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. All these things have happened without a decrease in the number of opinions requested since 2011. This data is depicted in Figure 4.

**Figure 4**  
**Volume Advisory Opinions and Select Performance Measures 2010-2014**

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b># AOs</b>	37	18	19	7	20
<b>Ave Days to Publish</b>	8.06	6.62	6.29	8.57 <sup>3</sup>	6.15
<b># late AOs</b>	13	4	2	2	3
<b>% AOs Late</b>	35%	22%	11%	29%	15%
<b>Total Days Late</b>	143	29	27	15	5

Source: APOC Records

The explanation for the decrease in time to complete an advisory opinion is multi layered. First, there is training to those who would request an opinion. Increased training has enabled more potential filers to become better acquainted with the statutes and regulations thereby decreasing the need for specific advisory opinion requests. The same training enables filers to develop some level of a relationship with APOC staff. That relationship may encourage people to call and ask questions. When staff is not able to answer a question easily the result is usually a request for an advisory opinion. Second, there has been increased staff training regarding legal writing. Third, there has been less staff turnover in the positions that write and contribute to advisory opinions. Finally, there has been a more concerted effort by management to work to have advisory opinions completed within seven calendar

<sup>3</sup> The cause of apparent aberration in 2013 was a highly complex advisory opinion that addressed 20 separate questions taking 18 days to prepare, skewing the average days to complete number because of a relatively low number of requests that year. Eleven of the total 15 late days for that year are from that request.

days. All of these factors play a part in decreasing the time to complete an advisory opinion.

### **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 245 hours on 7 advisory opinions. In 2014 staff provided 3,713 hours of direct service and 351 hours on 20 advisory opinions. APOC staff believes the high level of service to the public, in general responding to questions, and the time working with advisory opinions, is a direct result of an emphasis on training and outreach. This directly impacts assisting in compliance in a non-punitive manner.

APOC is making 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. Where a complaint takes on average approximately 50 hours to complete, the average advisory opinion requires significantly less time to complete; 35 hours on average in 2013 and 17 hours in 2014. Providing interpretive information and timely advisory opinions enables APOC staff to provide more attention to assisting in compliance rather than recommending penalties. Moreover, the training helps to provide a link between filers and APOC staff by providing the opportunity to place a face with a name. This makes communication about potentially difficult topics considerably easier when there is some level of connection between the people participating in the conversation.

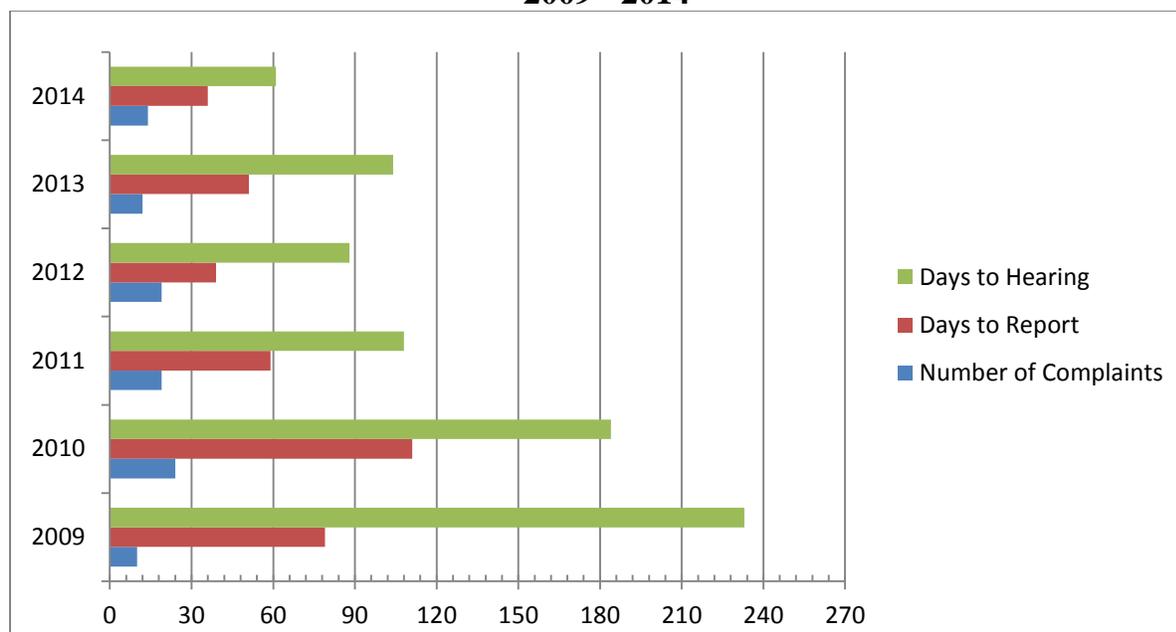
In 2012 APOC expanded its outreach and education initiative to make training available earlier in order to decrease the number of potential errors on early reports for municipal candidates and to educate filers and the public regarding POFD issues. Questions about ballot initiatives were the basis for numerous telephone calls. Staff also began to address the reporting requirements for ballot proposals and independent expenditures in late 2013 and into 2014. A result of the agency's training program since 2011 has been a steady decrease in the number of complaints since then regardless of issues such as a gubernatorial election, major redistricting, or controversial ballot initiatives as illustrated in Figure 2 above. Appendix 3 reflects training session data and Appendix 4 reflects outreach activity for 2013 and 2014. As those appendices show, group reporting was a much more intensive topic, doubling the number of sessions with an increase in attendance of 150%. Many representatives from groups that are not generally politically active attended training to ensure they were reporting correctly. Conducting training via the internet also helped people attend sessions prior to required reporting dates when they were unable to travel.

Another effect of training and electronic filing may be seen in Figure 5 below. This figure illustrates the number of complaints filed each year, the average time to completion of the staff report, and the average time to when the complaint is heard by the Commission. There has been a decline in the number of complaints filed from 2010 to 2014, the average time to complete the staff report has declined, and the average time to hearing has also declined during the same period.

There have been 98 complaints filed from 2009 to present and 20 of them, or slightly over 20%, have been related in some way to activity regarding Pebble Mine. Thirty six of the complaints, or 37%, had some type of extension granted which lengthened the time to complete the staff report or hearing.

The number of complaints filed has declined from 24 in 2010 to 14 in 2014. The number of complaints filed by APOC staff has varied over these years and has no apparent relationship to the total number of complaints filed in any given year. The year with the highest number of complaints, 2010, had only a single complaint filed by APOC staff, while the next two years each with 19 complaints with APOC staff filing 11 in 2011 and only one in 2012.

**Figure 5**  
**Average time to complete Complaint Staff Reports and Hold Hearing**  
**2009 - 2014**



Source: APOC Records

The average time to complete the staff report has decreased from 79 days in 2009 to 36 days in 2014. A staff report is due not more than 30 days after accepting a complaint.<sup>4</sup> However, this timeline may be lengthened by request of a party because of issues in providing or receiving evidence, availability of witnesses, or other good cause. Regulation 2 AAC 50.806(b) allows the respondent 10 days to provide documents requested by APOC staff or, if agreed to by staff, more time may be allowed for documents to be collected before being provided to APOC. Some information can take considerable time to collect, for instance two or more years of bank records may take some time to produce and then review and analyze. If documents are not provided, APOC may subpoena the information, but the respondent has the option of objecting to and requesting a hearing on the subpoena. Additionally, there are difficulties in contacting respondents during the course of an investigation that also lengthens the process. After receiving the information staff then needs additional time to review and analyze the data. While staff endeavors to complete all reports within the 30 day time frame provided by regulation the ability to receive information that will lead to a complete investigation can affect the completion of any given report. Additionally, litigation or motions may prevent a report from being completed or extend the time to hearing. One complaint filed in 2012 has been subject to considerable motion practice and several appeals to Superior and the Supreme Court and the staff report has yet to be completed and by extension the hearing has not been conducted.

The Commission works to hold a hearing on a complaint within 90 days of the acceptance of the complaint.<sup>5</sup> In many cases time to complete a staff report or to hold a hearing is greater than 30 or 90 days respectively because of extensions requested by one party and agreed to by the other. These extensions constituted over 40% of all the complaints filed in 2009, 2010, and 2013; three of the four years with the longest average times to staff report completion and hearing date.

### **Examine and compare reports**

Electronic filing began in 2012, 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 4 shows the time spent auditing and comparing reports in 2014. 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

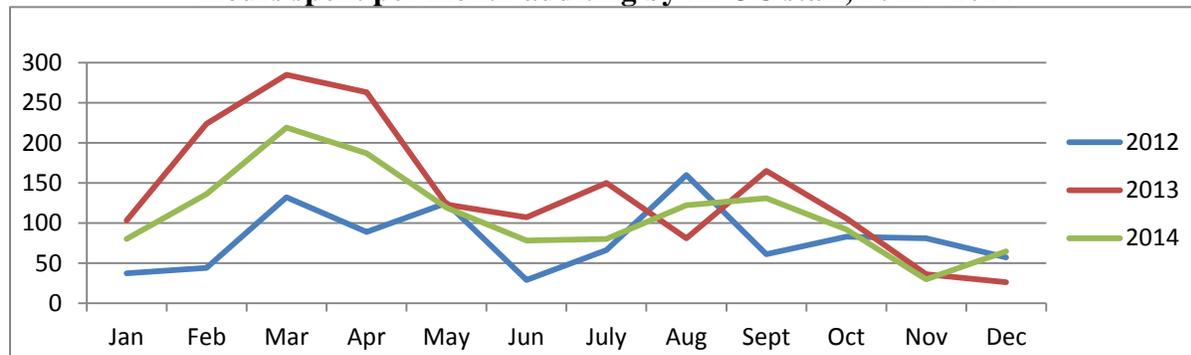
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<sup>4</sup> 2 AAC 50.875(c).

<sup>5</sup> AS 15.13.380(e) and (h).

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.

**Figure 6**  
**Hours spent per month auditing by APOC staff, 2012 - 2014**



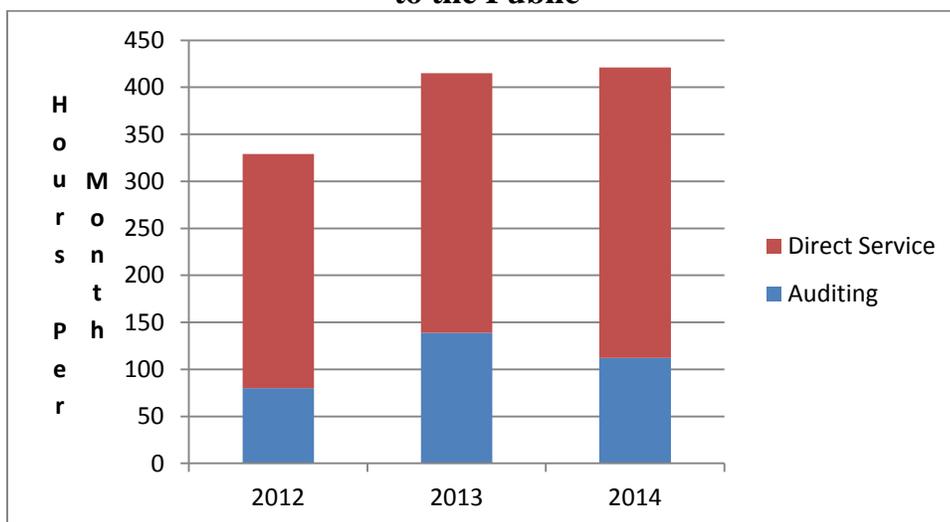
Source: APOC records

Figure 6 shows that time spent auditing has decreased in 2014. In 2012 there were 964 hours spent on auditing, or 80- hours per month. In 2013 1,669 hours for the year were spent auditing for an average of 139 hours per month. In 2014 there were 1,338 hours spent auditing reports or 112 hours per month; overall a decrease of 20% or 28 hours per month. The reason for that decline is easily explained; increased direct service to the public.

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, and in 2014, 309 hours each month, a 10% increase from the previous year’s average or 35 hours more per month.

Figure 7 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 2014, there has been a larger increase in time devoted to providing direct service to the public from 2013 to 2014. Whether the increase in time spent serving the public can be attributed to auditing results, increased training, electronic filing, or to some other factor is not clear. Staff does note anecdotally that phone calls with questions tend to increase after training sessions are held. 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 is reaching capacity in these two areas since the total time for these two areas is relatively constant; but at least one more year of data is required to make a more informed decision on this point.

**Figure 7**  
**Average Combined Monthly Hours Sent Auditing and Providing Direct Service to the Public**



Source: APOC Records

### Other Activities

#### Major events in calendar year 2013

- Complaints: 12 total, 11 CD, 0 LOB, 1 POFD.
- Advisory Opinions: 7 total, 7 CD, 0 LOB, 0 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.
- 1,694 financial disclosure statements received.
- 2,478 filings from 141 lobbyists and 392 employers of lobbyists.
- 701 campaign disclosure filings from 307 candidates and 185 groups.

#### 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.

In 2014 the agency oversaw nearly \$50 million in campaign contributions and expenditures as shown in Figure 8 below. A great deal of the total value of these contributions and expenditures came from Independent Expenditures. Much of that value was focused on the oil tax referendum with lesser amounts on the minimum wage ballot measure and the regulation of marijuana ballot proposition.

**Figure 8**  
**Contributions and Expenditures Overseen by APOC in 2014<sup>6</sup>**

Filer Type	#	Contributions			Expenditures		
		Total	Number	Average	Total	Number	Average
Candidate	542 <sup>7</sup>	\$9,012,735	39,225	\$232	\$7,047,190	15,0194	\$467
Groups	184	\$18,858,130	47,588	\$396	\$18,003,434	4,468	\$4,029
Independent Expenditures	718 <sup>8</sup>	\$21,479,372	5,904	\$3,638	\$23,079,853	6,308	\$3,659
<b>TOTALS</b>		\$49,350,189			\$48,230,477		

Source: APOC Records

Much of the staff time spent providing direct service to the public was focused on these ballot questions. Issues regarding these ballot questions were not only focused on group reporting. Candidates, lobbyists, and those desiring to make independent expenditures were all concerned and requested informal advice about how they could support or oppose those matters within the confines of campaign disclosure laws. In many cases the training provided enabled filers to understand that there could be concerns over reporting across the different disclosure laws. This increased awareness by filers is a very positive outcome of training provided by APOC staff.

Each year the Commission levies civil penalties against those filing late or incomplete reports. Figure 9 illustrates the Commission’s assessment of civil penalties and the amount collected in 2014. 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.

<sup>6</sup> All data for this figure up to and including December 1, 2014.

<sup>7</sup> Of the 542 candidate registrations it is important to note that 327 candidates filed municipal/judicial exemptions stating that they would neither receive nor expend over \$5,000 and do not report to the Commission until they exceed that amount (often receiving no contributions or making no expenditures) and another 27 candidates did not receive any contributions or make any expenditures. The average contribution is derived from dividing the number of contributions into the total value of the contributions and applies only to those candidates receiving contributions or making expenditures.

<sup>8</sup> This is the number of Independent Expenditure filings.

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.

**Figure 9**  
**APOC Civil Penalty Assessment 2014**

Category	Commission Assessed	Amount Received	Amount Unpaid	Amount Referred to Attorney General
Lobbyist	\$1,740.00	\$ 1,700.00	\$ 40.00	\$ -
Candidate Disclosure	\$5,684.00	\$ 5,313.00	\$ 21.00	\$ 350.00
Group Disclosure	\$18,881.50	\$ 17,996.50	\$ 885.00	\$ -
POFD/LFD	\$13,656.50	\$ 9,166.00	\$ 355.50	\$ 4,135.00
Complaints	\$36,914.85	\$ 16,007.61	\$ 20,907.24 <sup>9</sup>	\$ -
<b>TOTALS</b>	<b>\$76,876.85</b>	<b>\$ 50,183.11</b>	<b>\$ 22,208.74</b>	<b>\$ 4,485.00</b>

Source: APOC records

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.

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.<sup>10</sup> 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 of 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;

<sup>9</sup> Includes \$17,591 on 3 separate payment plans and \$2,921.75 being appealed in Superior Court.

<sup>10</sup> 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 15.13.110(a) and (b).

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 graphically depicted in Figure 10 below.

**Figure 10**  
**Ratio of APOC Actions/Filings 2013 and 2014**

Year	Report Type	Number of reports	Complaints & Advisory Opinions	Ratio
2013	POFD/LFD	1694	1	1 action per 1694 reports
	Lobbyist/Employer	2478	0	
	Campaign Disclosure	701	18	1 action per 39 reports
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

Source: APOC Records

Figure 10 shows POFD/LFD and lobbying disclosures have a significantly lower number of actions per report filed than campaign expenditures. POFD/LFD actions increased from 1 per 1,694 reports in 2013 to 1 in 316 reports in 2014. This is due to a large number of complaints filed of which only three were accepted. Of the three accepted complaints one was dismissed by the commission on the staff’s recommendation.<sup>11</sup> Lobbying report actions went from no actions in 2013 with 2478 reports to 2 actions and 2485 reports in 2014. The actions here were advisory opinions requested to ensure that lobbyist or employers of lobbyists could communicate with public officials regarding the proposed natural gas line without breaking lobbying laws. In the cases of POFD and lobbying filers have become more experienced and with continued emphasis on education and training, the number of actions should be low. 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 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. With that noted, the number of actions per report has dropped in 2014 a gubernatorial election year combined with redistricting from the previous year when there was only state wide municipal elections.

<sup>11</sup> In this instance one group filed a series of over 200 lobbying complaints and POFD/LFD complaints against various lobbyists, public officials, and legislators in August 2014. Because the complainant had an imperfect understanding of the laws used in the complaints only three POFD complaints were accepted and no lobbying complaints were accepted from the August complaints.

Another potential explanation is that lobbying activity has been required to report electronically longer than other types of filing and is more experienced, POFD/LFD reporting was next in the order of electronic reporting with candidate filings being the most recent. APOC staff is working to improve training so that candidate filing matters may decrease as filers become more experienced with electronic filing.

### **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.

In 2014, 241 complaints were filed with APOC and 14 were accepted with the remainder being rejected. The 227 rejected complaints were rejected for not meeting the requirements of AS 15.13.380 and 2 AAC 50.870; specifically, that they did not allege facts that if true would constitute a violation. The bulk of these rejections resulted from misunderstanding the nature of lobbying and who is required to report gifts to APOC.

As of December 2014 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 prior to any staff investigation being completed to date; one complaint from 2013 is being appealed in superior court; and one complaint from 2014 is also on appeal with superior court. 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. During calendar year 2014 there were 20 requests for advisory opinions. 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. One candidate civil penalty and seven POFD penalties have been referred to the Attorney General in 2014.

## 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 decreased. This means a better use of state resources and staff time.

A significant challenge that is confronting staff is change; change in how time is spent, change in using technology, and change in how staff interacts with the public. Change is impacting every member of APOC staff from law office assistants to the executive director as tasks are reconfigured.

### 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. During 2013 APOC received requests for training and outreach from Fairbanks, the Southeast Conference, the Alaska Association of Municipal Clerks, and the City and Borough of Juneau in preparation for the 2014 elections. APOC has done much along the rail-belt and the ability to go to more remote parts of the state could prove beneficial in the future.

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 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.

Amend the language of AS 39.50.050 to make it more congruent with AS 15.13.010 regarding reporting requirements for smaller municipalities, to decrease the burden on the municipal clerks of smaller municipalities, and to require more municipalities to report electronically. AS 15.13.010 does not require candidates in municipalities with a population of 1,000 or less to report to APOC during a municipal election while AS 39.50.050 requires those same candidates, if successful, to file a POFD. The proposed change in language makes the two statutes congruent and easier for municipal clerks to properly execute. Requiring more municipalities to report POFDs electronically decreases the burden placed on municipal clerks in municipalities with populations between 5,000 and 15,000.

Amend the language of AS 15.13.020(f) to increase the compensation of commission members from \$50 per day while attending commission meetings to \$250 per day while attending commission meetings. APOC commissioners receive some of the lowest compensation of all public board/commission members, meet more often than many commissions/boards, and spend several days in preparation for a commission meeting.

Finally, both the Commission and its staff understand the magnitude of the fiscal issues facing the state based on the price of oil. The agency is currently undergoing a Legislative Audit to see if its activities are in line with its statutory requirements. Knowing that the budget will be an issue for the next several years APOC respectfully wishes to make the legislature and others aware that if the agency is not funded as per its requests, it will not be able to fulfil its statutory obligations. That statement is made based on the potential unavailability of personnel funds for overtime as ten of the fourteen agency employees are overtime eligible employees, and other potential budget cuts. If, as would seem to be the case as of this writing, the agency cannot be fully funded the following two approaches are recommended:

- 1) Relax or modify the statutory requirements for the following matters:
  - a) Delivery times of staff investigation reports (AS 15.13.380(e) and (h)) and advisory opinions (AS 15.13.374(c)) to save on potential overtime requirements. Staff is currently hard pressed to meet these time lines and has paid the overtime at the following levels for the past several fiscal years:
 

2009	2010	2011	2012	2013	2014	2015
\$30,316	\$13,995	\$11,314	\$12,822	\$11,985	\$12,437	\$857

While the time limited requirements imposed on advisory opinions and complaints will be the highest priority, non-time limited tasks will of necessity take a much lower priority.

- b) The requirement to review every report received (AS 15.13.030(7) and (AS 24.60.220(3)) to enable staff effort in other areas that require time. In fiscal 2015 there is no overtime funding available and auditing has fallen off

significantly as noted in Figure 4 above (page 10). In fiscal 2015 the agency started the year with a \$33,000 deficit in personnel according to DOA projections and is making it up by leaving positions open for an extended period which hinders agency productivity;

c) The requirement to have an office in each state senatorial district (AS 15.13.020(j)) to modify a requirement that is not currently being met;

d) The requirement to notify persons by registered or certified mail in order to save on mailing costs (AS 15.13.030(6)). Postage runs nearly \$7,000 each year and certified postage costs more than first class mail. For the first 5 months of fiscal 2015 APOC sent 421 pieces of mail out certified with return receipt requested at a cost of \$2,160; 1<sup>st</sup> class mail would have cost \$202 for the same volume. Projected for the entire year the cost would be \$5,184 certified return receipt requested as opposed to \$485 for first class mail; a potential savings of \$4,699 or 90%.

2) Proceed with the understanding that the agency will not be able to meet the above listed statutory requirements and potentially others as well.

## Appendices

### APPENDIX 1 Summary of APOC Advisory Opinions 2013 and 2014

AO Number	Name/Subject	Date received	Date Issued	Total Days
<b>2013</b>				
AO 13-01-CD	Walker/TV Host as candidate	5/3/13	5/9/13	6
AO 13-02-CD	Lavin/Support Referendum	5/8/13	5/15/13	7
AO 13-03-CD	Limoge/Oppose Referendum	5/9/13	5/16/13	7
AO 13-04-CD	RRF/Activities re ballot measure	5/13/13	5/31/13	18 <sup>12</sup>
AO 13-05-CD	French/Contribulopes	8/18/13	8/22/13	4
AO 13-06-CD	Steele/Contribution Limits	10/28/13	11/04/13	7
AO 13-07-CD	Walker-Fleener/Joined Campaign	11/04/13	11/15/13	11
<b>Average days between receipt of request and issuance of AO in 2013</b>				<b>8.57 Days</b>
<b>2014</b>				
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

<sup>12</sup> This advisory opinion request contained a total of 20 individual questions regarding accounting for employee time, food and beverage costs, photography/media materials, valuing volunteer time, and accounting for “in-kind” contributions among other topics during the signature gathering phase of a ballot initiative.

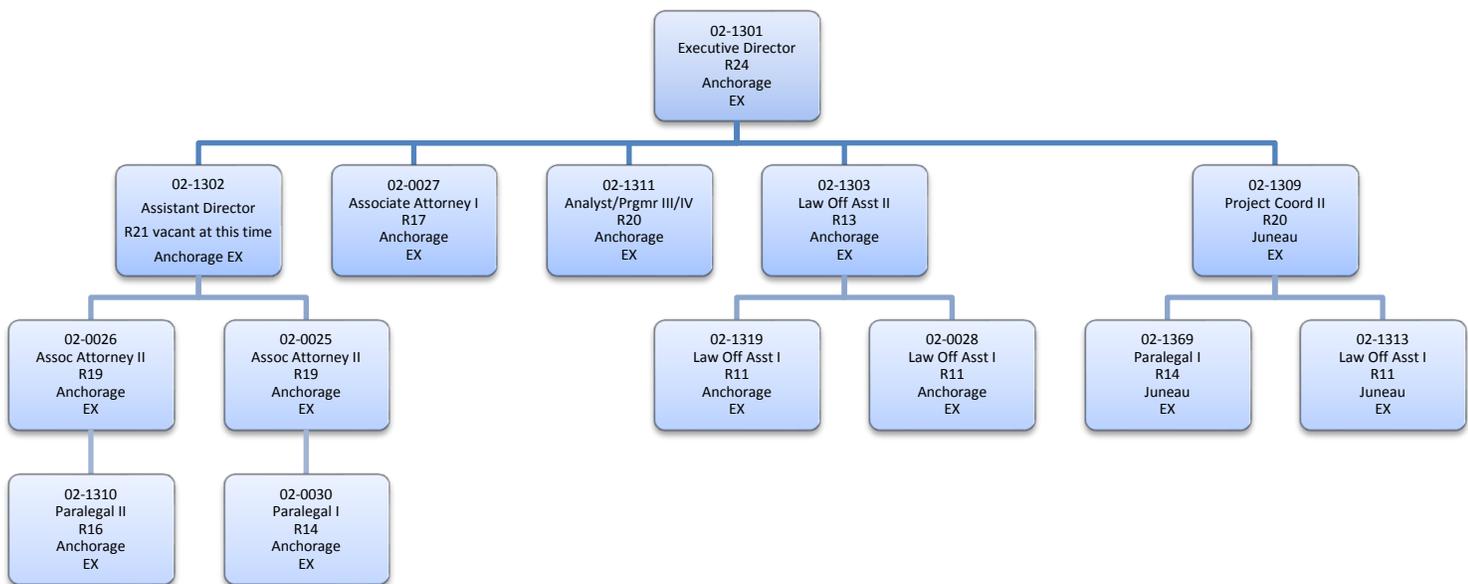
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<b>AO 14-17-CD</b>	Putting Alaskans First/Naming of A Group & Paid for By	9/17/14	9/19/14	2
<b>AO 14-18-CD</b>	French/Disposition of Campaign Assets	10/24/14	10/30/14	6
<b>AO 14-19-POFD</b>	Menefee/Reporting Requirements for AMHLTO	12/15/14	12/18/14	3
<b>AO 14-20-POFD</b>	Sturrock/ Reporting Requirements for Specific Positions	12/16/14	12/19/14	3
<b>Average days between receipt of request and issuance of AO in 2014</b>				<b>6.1 Days</b>

**APPENDIX 2**  
**APOC Organization Chart 2013**

APOC Organizational Chart



**APPENDIX 3  
Training Data**

<b>Date</b>	<b>Location</b>	<b>Topic</b>	<b>Attending<sup>13</sup></b>
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**

<sup>13</sup> In 2012 there were 45 sessions and 492 attendees; in 2013 23 sessions with 232 attendees.

**APPENDIX 4**  
**Outreach Data**

<b>Date</b>	<b>Location</b>	<b>Group</b>	<b>Topic</b>	<b>Attending<sup>14</sup></b>
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**

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<sup>14</sup> In 2012 there were 15 sessions with a total of 332 attendees; in 2013, 11 sessions served 351 people.