

FISCAL YEAR 2020
CONGRESSIONAL BUDGET JUSTIFICATION
—and—
PERFORMANCE BUDGET GOALS



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PART 1 – EXECUTIVE SUMMARY

In Fiscal Year (FY) 2015, the number of new matters received by OSC surged to an all-time high of 6,140—more than 900 additional matters than had been received the year before. The amount of cases following the spike in FY 2015 is now the established norm for the agency, with an average of over 6,000 new cases received during each of the past three fiscal years. In FY 2018, OSC received 6,015 new matters. This level represents a 49 percent increase in new matters since FY 2011 and, in turn, poses serious challenges to OSC’s ability to effectively and efficiently carry out its core mission of serving whistleblowers in the federal government.

Resources provided to OSC to carry out its mission constitute an investment in a critical tool for creating accountability in the federal government and promoting responsible stewardship of taxpayer resources. When whistleblowers disclose instances of wrongdoing, or waste, fraud, or abuse, at their agencies to OSC, they shine a spotlight on the inefficient use of taxpayer dollars and drive real change in how agencies conduct business. For example, in FY 2018, OSC reported to the President and Congress on significant waste that occurred at a Navy facility in California. A whistleblower alleged that the Navy’s lax inventory processes at the facility had resulted in the loss of over \$20 million. Upon investigation, the Navy substantiated the allegations, finding that \$32.25 million in equipment was unaccounted for. More recently, OSC worked with a whistleblower at an Air Force facility in Alabama to identify up to \$6.9 million in potential savings forgone from a failure to utilize the best available technology for aircraft testing.

In addition to exposing instances of mismanaged resources at agencies, resources invested in OSC also provide a direct return on investment. In FY 2018, OSC worked with whistleblowers to identify nearly \$1.5 million in wasteful equipment purchases at a Department of Veterans Affairs (VA) facility in North Carolina. As a result of OSC’s work, the VA has been able to use the equipment in other facilities, saving taxpayers nearly \$1.5 million.

Ensuring that whistleblowers maintain a high level of satisfaction with and confidence in OSC is necessary for OSC to continue to expose waste in the federal government. When whistleblowers are confident that OSC will protect them and are satisfied with the results of their cases, it encourages more individuals to step out of the shadows and report wrongdoing. To drive this confidence and satisfaction, OSC has been tirelessly working to bring about favorable outcomes for whistleblowers and to protect those who have suffered retaliation. In the past year, OSC has achieved a record number of positive outcomes for whistleblowers—236 favorable actions—more than double its historical averages. This is not an anomaly; OSC now routinely receives favorable outcomes for whistleblowers at levels that quadruple those obtained earlier this decade.

OSC has also increased whistleblower confidence by holding accountable those who violate merit system principles, e.g., by retaliating against whistleblowers. In the past year OSC obtained 18 disciplinary actions against individuals who violated merit system principles. Taken together, OSC’s record-high successes holding wrongdoers accountable provide whistleblowers with the necessary sense of security to come forward and make the federal government more efficient and effective.

A well-resourced OSC is essential to providing a secure route for whistleblowers to report waste, fraud, abuse, and wrongdoing at agencies. OSC recognizes that part of its duty in receiving taxpayer resources is to ensure that they are well-stewarded and used efficiently—something OSC is deeply committed to achieving. To that end, OSC has reduced the cost of resolving a case by 28 percent over the last ten years—decreasing from \$6,127 per case in 2009 to \$4,419 per case in 2018. OSC has also redoubled its efforts to ensure that whistleblower claims are addressed in a timely fashion. By reducing the cost of resolving cases and complaints in a timely manner, OSC continues to do more with each additional dollar provided—increasing the potential return on investment even further.

OSC’s success in raising awareness and confidence in the agency among whistleblowers has been a major driver of increased case filings. However, despite all of OSC’s successes, limited resources have presented a significant hurdle for the agency, particularly in its ability to provide services to all whistleblowers. Since FY 2016, OSC has

experienced a case backlog of more than 2,000 cases. Additional much-needed resources that were provided to OSC in FY 2018, coupled with internal reviews of process efficiency, have enabled the agency to slow the increase in backlogged cases. Despite these efforts, however, OSC's backlog crossed the 2,600 mark for the first time this year, growing to 2,607 cases by the end of FY 2018.

In order to stem the tide of backlogged case growth, OSC has been agile in adopting new strategies to more efficiently process cases. While the aforementioned reduction in processing costs allowed the agency to stretch its limited budget further, OSC also reorganized its program units to more efficiently conduct its operations. As part of this reorganization, at the start of FY 2019, OSC consolidated the bulk of its prohibited personnel practice (PPP) investigations into a single unit. This new unit, which combines the prior Complaints Examining Unit and Investigations and Prosecution Division, will handle the entire lifecycle of a PPP case. As a result, a single attorney will now be responsible for each PPP case, from the start of the review process through resolution of the case. This new process will eliminate duplicative review and allow OSC to process PPP complaints more quickly and efficiently—all while providing a more consistent experience for complainants. OSC also created a new unit, the Case Review Division, to handle the intake of all filings with OSC. This new intake unit will help filter out those cases that can be closed quickly. The unit will ensure that OSC's scarce resources are directly focused on cases that require OSC's specialized services, rather than spend time and resources on cases that fall out of OSC's purview.

OSC's efforts to increase efficiency are not limited to restructuring the way it manages its human capital resources. OSC has also invested in modernizing its information technology (IT) infrastructure by procuring a new case management system and upgrading its back-end server environment in order to streamline the case submission process for the public. The new case management system will create a more efficient process for attorneys and support staff to share information on cases. Despite the upfront costs in time and resources, once in place, the new systems will allow OSC to further reduce case processing costs.

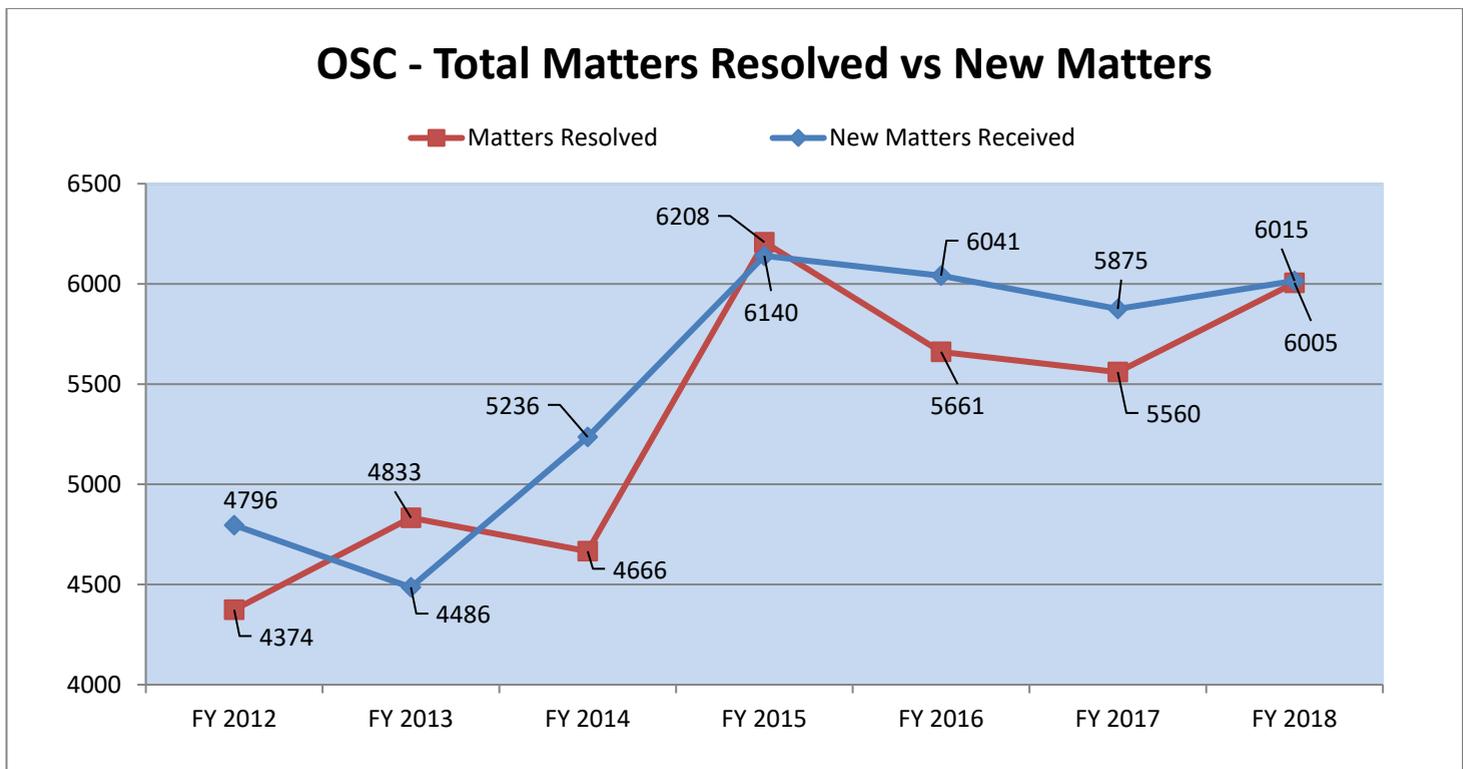
While these efforts to increase OSC's effectiveness and efficiency will help address the more than 6,000 cases filed each year, they alone will not be enough to deal with the growing case backlog in a timely fashion. In order to address this burden, OSC needs additional resources to hire more attorneys and other staff. Therefore, OSC has shifted its FY 2020 request to focus on allocating more resources to personnel and benefit costs for mission-critical employees.

OSC is committed to achieving mission-excellence by protecting whistleblowers, promoting confidence in OSC, effectively and efficiently processing cases, and completing cases in a timely fashion consistent with statutory requirements. Every dollar invested in OSC's mission represents another opportunity to identify wasted taxpayer dollars, wrongdoing, fraud, or abuse, thereby ensuring a more effective and accountable federal government. Accordingly, OSC is requesting funding of **\$26,252,000** for Fiscal Year 2020. This funding level will allow OSC to hire sufficient staff to reduce existing case backlogs and achieve OSC's statutory mandate.

Summary of Request

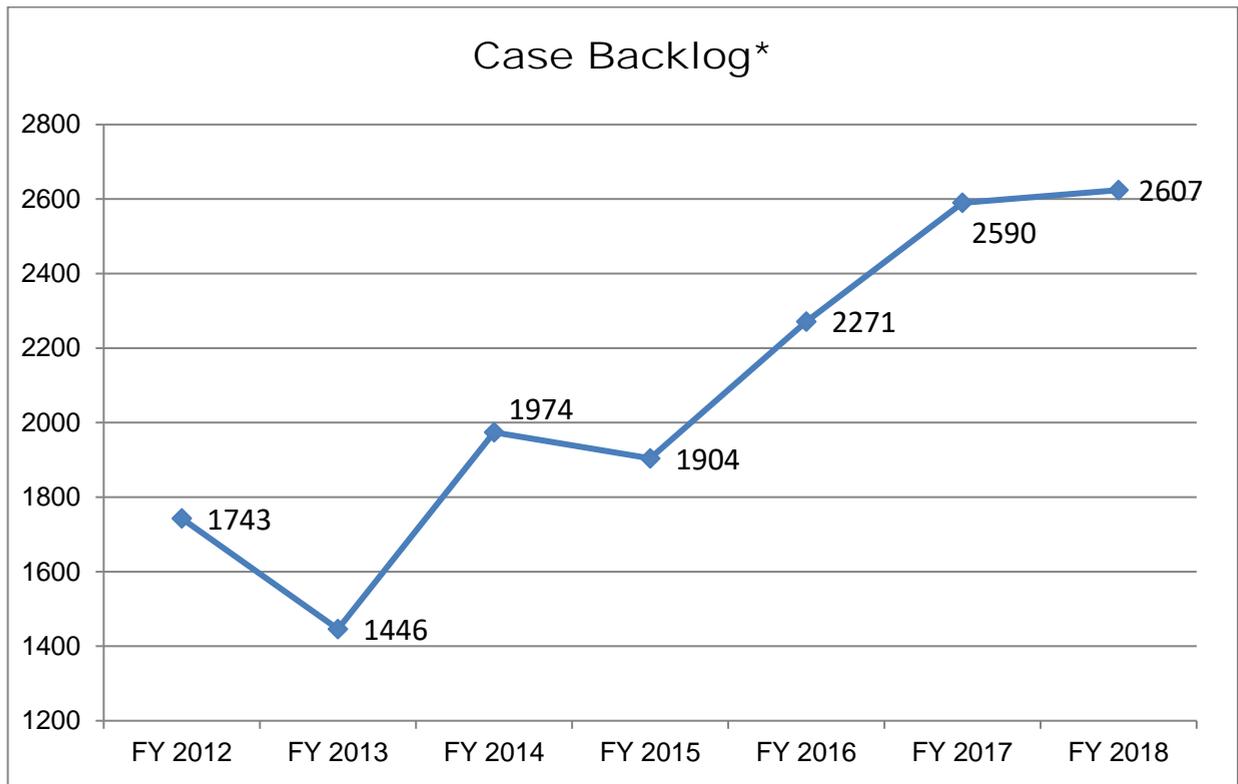
For FY 2020 OSC is requesting \$26,252,000. This request represents a one-percent decrease from the FY 2019 appropriation contained in the Consolidated Appropriations Act, 2019, PL 116-6. Despite this one-percent decrease, OSC will be able to increase personnel in FY 2020 due to rent credits in FY 2019 as a result of its HQ lease renegotiation. Funding OSC at the requested level would allow for an increase of 11 full-time employees (FTEs) from the FY 2019 level, bringing total FTEs to 155 for FY 2020. The additional 11 FTEs will be a vital influx of human capital resources necessary to address OSC’s historic levels of new case filings, as well longstanding backlogs. With this level of funding, OSC can resolve the bulk of its incoming cases in the statutorily-required processing timeframes, receive significant favorable actions and results, and begin to reduce its case backlog to moderate levels. Such steps are necessary to allow OSC to perform its fundamental mission and address whistleblower and PPP claims in a timely manner. Absent this funding, OSC believes that case processing times will suffer, and the backlog will continue to grow.

OSC is already fully utilizing available resources by working harder, smarter, and more effectively than at any time in its history. In each of the past four years, OSC has resolved more than 5,500 cases, with this year’s case resolutions being 61 percent above the historical average since FY 2001. (See chart below.) Other key metrics have also improved. However, OSC has done far more than merely closing cases. In FY 2018, OSC achieved 236 favorable actions in response to whistleblowing, the second highest number in agency history, and an increase of more than 100 percent over the levels just five years earlier. OSC achieved 314 total favorable actions for federal employees in FY 2018, the second highest in agency history.



The federal workforce’s growing confidence in OSC’s ability to obtain corrective action drives demand for OSC’s services. Although OSC has received increased resources in previous appropriations packages, the growth in OSC’s caseload has far outpaced its budget, thereby increasing our backlog in recent years. (See chart below.) While OSC employees are proud of and enthusiastic about their work, they are taxed to the limit as their caseloads continue to rise. For FY 2017, the average caseload per attorney was 89 cases, a number which increased in FY 2018. Because of the complex nature of many of the cases that OSC handles, the extremely high caseloads are untenable for the long-term success of OSC and result in frustration for whistleblowers. This gap between resources and demand,

which has resulted in the current backlog, must be closed for OSC to continue to fulfill its mission effectively.



OSC’s budget request will allow us to meet the rising demand for the agency’s services among the federal workforce and reduce our case backlog. OSC is requesting a FY 2020 budget of **\$26,252,000**, which includes funding for the salaries and benefits of 155 FTEs, a modest increase over OSC’s FY 2019 projected staffing levels of 144 FTEs. This staffing increase will be achieved, even though OSC’s appropriation will be reduced by 1%, by directing the rent rebate OSC will receive in FY 2020 toward mission-facing personnel.

Funding OSC at our requested level will help ensure that we fulfill our statutory mission to root out waste, mismanagement, and fraud; to protect veterans and federal employees; to ensure accountability, integrity, and fairness in the federal workplace; and to restore and maintain public confidence in the federal merit system.

Appropriations Language

OFFICE OF SPECIAL COUNSEL *FEDERAL FUNDS* SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel, including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles, \$26,252,000.

Note.—A full-year 2019 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2019 (Division C of P.L. 115–245, as amended). The amounts included for 2019 reflect the annualized level provided by the continuing resolution.

About the Office of Special Counsel

OSC is a critical resource for whistleblowers to report evidence of waste, fraud, abuse, law-breaking, or threats to public health or safety, as well as the main avenue to protect federal employees from prohibited personnel practices (PPPs), such as retaliation for whistleblowing. In addition, OSC promotes a fair and unbiased federal government through its enforcement of the Hatch Act of 1939, which prohibits federal employees from engaging in partisan political activity while on duty.

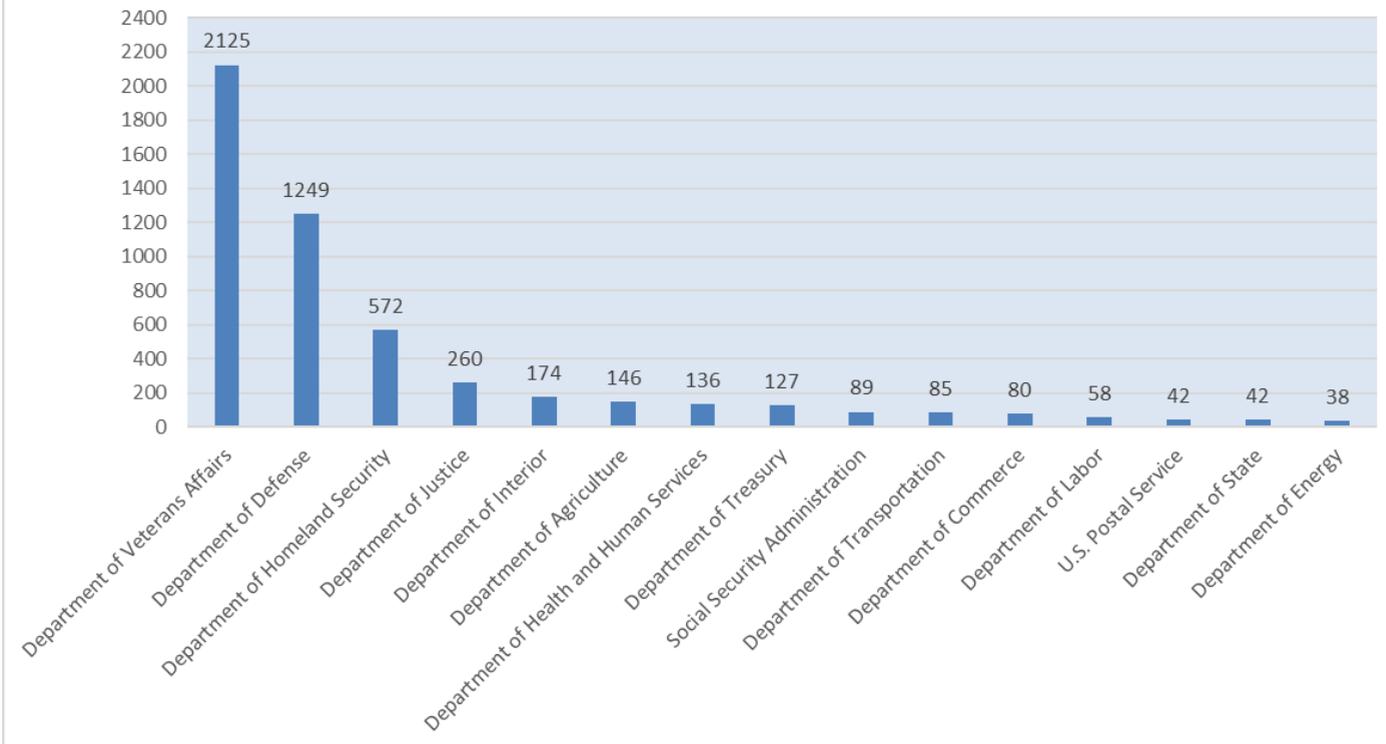
When a federal whistleblower identifies waste, fraud, abuse, or other wrongdoing at a federal agency, OSC makes sure the whistleblower's concerns are heard and, where warranted, investigated fully and addressed. OSC also protects federal employees from prohibited personnel practices, such as retaliation for making disclosures of wrongdoing. By enforcing the Hatch Act, OSC preserves the integrity of the civil service system, ensuring that federal employees are not coerced by their superiors into partisan political activity and that employees do not engage in partisan politics while on duty. OSC also defends returning service members and reservists against employment discrimination by enforcing their rights under the Uniformed Services Employment and Reemployment Rights Act of 1994.

OSC is a critical pillar in the federal government's efforts to ensure that taxpayer dollars are well-managed and government functions are executed in a safe, effective, and efficient manner. By providing a safe channel for whistleblowers and their disclosures, OSC not only remedies situations where wrongdoing occurs, but also helps to prevent wasteful practices and disasters from ever occurring. Investing funds and resources in OSC and its mission not only makes sense from a good government perspective, but also provides taxpayers real returns on their dollars.

OSC's Docket

OSC is responsible for addressing whistleblowers and PPPs from nearly every sector of the federal government. The chart below depicts the organizations with employees that file the most cases with OSC. We continue to receive far more cases from VA employees than any other agency, including the Defense Department (DoD), despite the fact that the VA employs roughly half the number of civilian employees as DoD.

Top Agencies Providing Casework - FY 2018 (includes all type of OSC cases)



Prohibited Personnel Practices

With the passage of the Whistleblower Protection Enhancement Act of 2012 (WPEA) and the corresponding expansion in the number of employees covered due to the closing of loopholes that prevented many claims, the number of complaints in this area continues to rise. In FY 2018, OSC received 4,168 new PPP complaints—65 percent higher than historical average levels since FY 2002. Addressing PPP cases is a key component of OSC’s mission and remains critical to promoting confidence and security among whistleblowers and federal employees.

Whistleblower Disclosures

OSC is an important pathway for whistleblowers to report instances of waste, fraud, abuse, or other wrongdoing at federal agencies. Whistleblower disclosures are a growing portion of OSC’s caseload, now comprising almost 30 percent of the agency’s new matters. OSC received 1,559 new disclosures in FY 2018, the 5th consecutive year OSC has seen levels higher than 1,500 disclosures.

Retaliation and Disclosure Unit (RDU)

This unit, established in FY 2016, handles hybrid cases alleging both a whistleblower disclosure and retaliation, providing complainants a single point of contact. RDU performs the full range of actions in these cases, including the referral of whistleblower disclosures to agencies and the investigation and prosecution of related retaliation claims, where appropriate. Because this unit is relatively new to OSC, we are currently developing metrics to better track its casework and overall performance.

Hatch Act

The Hatch Act ensures that government service is not tainted by partisan political influences. Hatch Act complaints typically increase around election cycles.

USERRA

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) establishes rights and responsibilities for uniformed service members and their employers. A claimant employed by a federal executive agency within OSC’s purview may allege a violation of USERRA by filing a complaint with the Department of Labor (DOL). DOL investigates and attempts to resolve the complaint, but if that is not successful, the claimant may ask DOL to refer the matter to OSC for possible representation before the Merit Systems Protection Board (MSPB). If OSC concludes the claimant is entitled to relief, it may act as the claimant’s attorney and initiate an action at the MSPB.

Strategic Goals

The Office of Special Counsel has three strategic goals, enumerated below, each of which is supported by a series of operational objectives. These operational objectives are described in the Strategic Plan (*Appendix B*) and are further detailed in the Goal Table section for each budget program.

OSC's FY 2020 Strategic Goals and Costs* per Goal

1. Protect and promote the integrity and fairness of the federal workplace. \$16,416
2. Ensure government accountability. \$5,139
3. Achieve organizational excellence. \$4,697

*Numbers in thousands; derived from percentage costs based on projected budget totals.

Office of Special Counsel's Efficiencies and Successes

OSC improves the efficiency and accountability of the government. Over the last few years, the agency has handled record numbers of disclosures from federal whistleblowers, many of which resulted in direct financial returns to the government and even greater indirect benefits in harm avoided or reduced. OSC not only ensures that disclosures are properly considered, but also protects the whistleblowers who bring them forward.

Prohibited Personnel Practices

The volume of PPP complaints is substantial and growing: In FY 2018, OSC received 4,168 new PPP complaints—a new agency record.

OSC plays a unique role in fostering a productive federal workplace by handling allegations of PPPs, such as whistleblower retaliation, nepotism, and violations of merit systems principles. These cases are typically resolved by negotiation, mediation, and settlement rather than by prosecution, thereby ensuring fairness and due process to employees, while preventing paralyzing stalemates and disruptions to the conduct of government business.

For some of these cases, mediation offers a timely and mutually beneficial outcome, and OSC has been very successful at achieving settlements through mediation. During FY 2018, 72 percent of mediations completed by OSC resulted in settlements. Mediation significantly reduces the amount of time and money required to investigate and resolve a case and provides a streamlined settlement option, resulting in a win-win for parties to the dispute.

However, not all meritorious PPP cases can be settled in mediation. Where appropriate, OSC seeks corrective, systemic, and/or disciplinary action through informal resolutions and/or litigation before the MSPB. OSC is achieving an unprecedented number of favorable actions. During FY 2018, OSC obtained a near record 314 favorable actions in its cases. This translates into improved accountability and fairness in government, as well as jobs saved, whistleblowers protected, and rights restored.

Of the favorable actions in FY 2018, 236 involved reprisal for whistleblowing, another agency record. Furthermore, OSC negotiated 47 stays with agencies to protect employees from premature or improper personnel actions. Twelve additional stays or stay extensions were obtained from the MSPB. OSC also achieved 22 disciplinary actions, upholding accountability and sending a clear message to supervisors that Federal agencies do not tolerate prohibited practices.

Hatch Act

The number of Hatch Act complaints filed with OSC has significantly decreased since the Hatch Act Modernization Act (HAMA) took effect in December 2012. HAMA has enhanced the efficiency and effectiveness of OSC's enforcement efforts and allowed OSC to better direct its resources toward investigations of federal employees and serious state and local misconduct. In FY 2018 OSC received 263 new Hatch Act complaints and resolved 286 cases this year. OSC also received over 1,300 advisory opinions in FY 2018, both formal and informal. The agency also issued 49 warning letters, and 10 corrective actions were taken. OSC obtained two disciplinary actions in Hatch Act cases from the MSPB in FY 2018.

USERRA

OSC receives referrals of USERRA cases for prosecution from DOL, which investigates these cases. OSC received 25 referrals in FY 2018 and gained corrective actions, including back pay, retroactive promotions, and restored leave, for three complainants

Office of Special Counsel's Internal Organization

OSC is headquartered in Washington, D.C. It has three field offices located in Dallas, Texas; Detroit, Michigan; and Oakland, California. The agency includes a number of program and support units.

Immediate Office of Special Counsel (IOSC)

The Special Counsel and his immediate staff are responsible for policy-making and the overall management of OSC, including supervision of each of OSC's program areas. This encompasses management of the agency's congressional liaison and public affairs activities as well as coordination of its outreach program. The latter includes promoting federal agencies' compliance with the employee information requirement at 5 U.S.C. § 2302(c).

Office of General Counsel

This office provides legal advice and support in connection with management and administrative matters, defense of OSC interests in litigation filed against the agency, ethics programs, policy planning, and development.

Case Review Division (CRD)

The new Case Review Division, which commenced operations on October 1, 2018, serves as the initial point of intake for all PPP and disclosure allegations. This unit screens all new allegations to ensure that PPPs and disclosures are directed to the appropriate units. CRD also closes out certain categories of PPP allegations under the new authorities OSC received in the Reauthorization Act of 2017: those which are duplicative (5 U.S.C. § 1214(a)(6)(A)(i)(I)), filed with the MSPB (§ 1214(a)(6)(A)(i)(II)), outside of OSC's jurisdiction (§ 1214(a)(6)(A)(ii)), or more than three years old (§ 1214(a)(6)(A)(iii)).

Investigation and Prosecution Division (IPD)

The newly-expanded Investigation and Prosecution Division (IPD) is comprised of attorneys and investigators at OSC's headquarters and three field offices. IPD receives PPP allegations from the Case Review Division and determines whether the evidence is sufficient to establish that a violation has occurred. If the evidence is insufficient, the matter is closed. If the evidence is sufficient, IPD decides whether the matter warrants corrective action, disciplinary action, or both. IPD works closely with OSC's Alternative Dispute Resolution Unit in appropriate cases. If a meritorious case cannot be resolved through negotiation with the agency involved, IPD may bring an enforcement action before the MSPB.

Disclosure Unit (DU)

This unit receives and reviews disclosures from federal whistleblowers. DU recommends the appropriate disposition of disclosures, which may include referral to the head of the relevant agency to conduct an investigation and report its findings to the Special Counsel, informal referral to the Office of Inspector General (OIG) or general counsel of the agency involved, or closure without further action. Unit attorneys review each agency report of investigation to determine its sufficiency and reasonableness. The Special Counsel then sends the report, along with any comments by the whistleblower, to the President and appropriate congressional oversight committees. OSC also posts the report and whistleblower comments in its public file.

Retaliation and Disclosure Unit (RDU)

This unit reviews related PPP complaints and disclosures submitted by the same complainant. The assigned RDU attorney serves as the single OSC point of contact for both filings, performing a similar function to the IPD and DU attorneys. Where appropriate, attorneys investigate PPP complaints, obtain corrective or disciplinary actions, and refer disclosures for investigation. RDU attorneys also refer cases to ADR.

Hatch Act Unit (HAU)

This unit enforces and investigates complaints of unlawful political activity by government employees under the

Hatch Act of 1939 and represents OSC in seeking disciplinary actions before the MSPB. In addition, the Hatch Act Unit is responsible for providing advisory opinions on the Hatch Act to federal, state, and local employees, as well as to the public at large.

USERRA Unit

OSC enforces the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) for civilian federal employees. OSC may seek corrective action for violations of USERRA and provides outreach and education to veterans and agencies on their rights and responsibilities under USERRA.

Alternative Dispute Resolution Unit (ADR)

This unit supports OSC's operational program units, mediating appropriate matters where both the affected employee and agency consent to ADR. ADR is equipped to negotiate global settlements of OSC and other claims, for example resolving PPP and Title VII discrimination claims stemming from the same personnel action.

Diversity, Outreach and Training

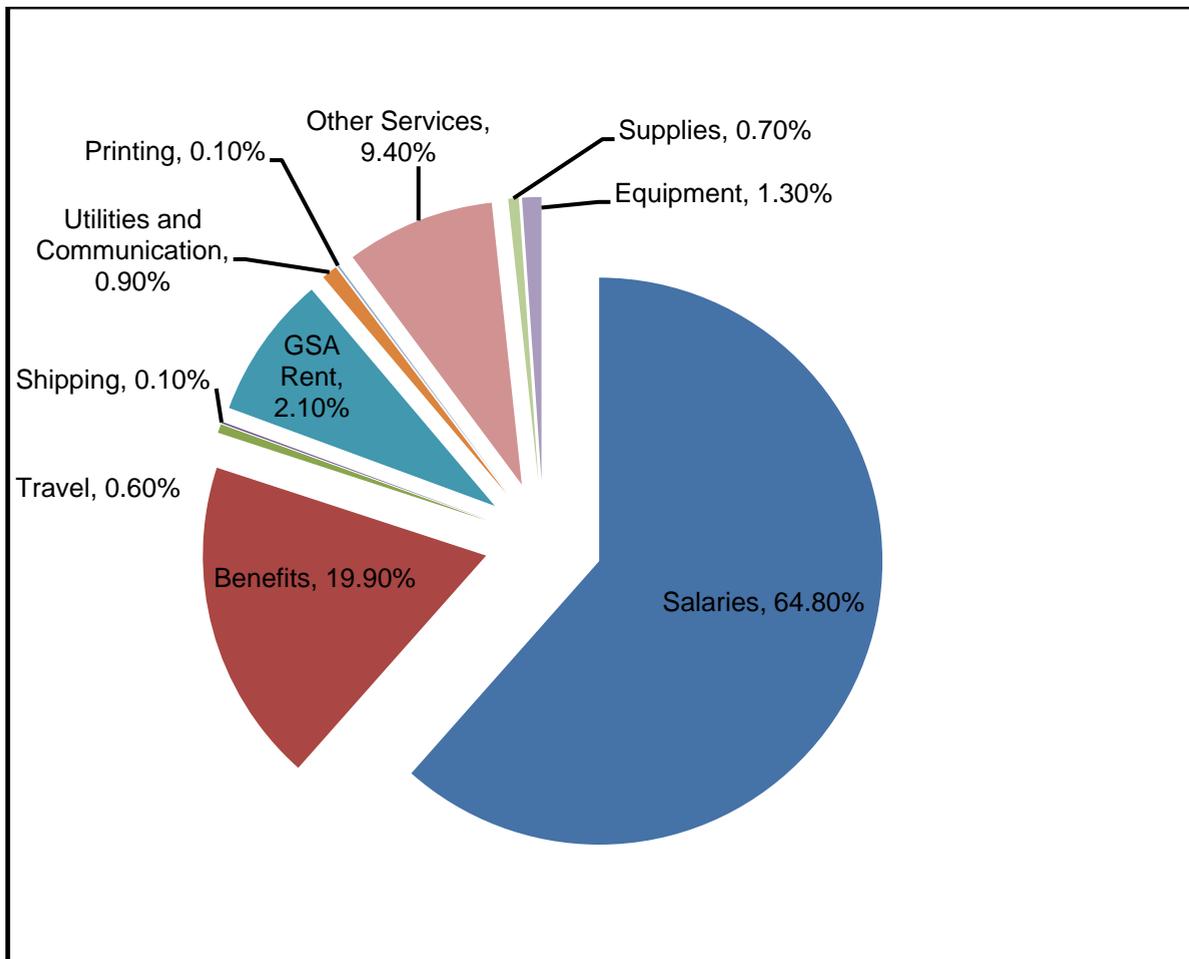
The Diversity, Outreach and Training Unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c). This provision requires that federal agencies inform their workforces, in consultation with OSC, about the rights and remedies available to them under the whistleblower protection and prohibited personnel practice provisions of the Whistleblower Protection Act. OSC designed and implements a five-step educational program, the 2302(c) Certification Program. Unit staff provide government-wide training related to 2302(c). OSC provides formal and informal outreach sessions, including making materials available on the agency website. This unit also helps develop and implement training programs for OSC's internal staff, in order to meet compliance requirements.

Administrative Services Division

This division manages OSC's budget and financial operations and oversees the agency's technical, analytical, records, and administrative needs. Component units are the Budget and Finance Branch, Human Capital Office, Administrative Services Office, and Information Technology Branch. During FY 2017, the Office of the Clerk was also established under the Administrative Services Division. This office leads several functional areas, including Freedom of Information Act (FOIA), Privacy Act, Controlled Unclassified Information, and records management.

Components of Budget Request

The following chart estimates how the FY 2020 request will be distributed on a percentage basis.



Budget by Program

The following table provides an estimate of the FTE and budgetary resources for each program of the agency, during FY's 2019-2020.

Budget by Program						
Program	FY 2019 ¹ Estimate		FY 2020 ² Estimate		Increase/Decrease	
	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE
Case Review Division	\$1,474	8.0	\$1,355	8.0	(\$119)	0
Investigation and Prosecution of Prohibited Personnel Practices	\$12,438	67.5	\$12,194	72.0	(\$244)	4.5
Retaliation Disclosure Unit	\$1,290	7.0	\$1,355	8.0	\$65	1
Hatch Act Unit	\$737	4.0	\$1,016	6.0	\$279	2
Whistleblower Disclosure Unit	\$3,133	17.0	\$3,218	19.0	\$85	2
USERRA Unit	\$184	1.0	\$169	1.0	(\$15)	0
Alternative Dispute Resolution	\$553	3.0	\$677	4.0	\$125	1
Immediate Office of the Special Counsel	\$1,198	6.5	\$1,186	7.0	(\$12)	0.5
Office of General Counsel	\$553	3.0	\$508	3.0	(\$45)	0
Diversity, Outreach and Training	\$369	2.0	\$339	2.0	(\$30)	0
Administrative Service Division	\$4,607	25.0	\$4,234	25.0	(\$373)	0
Totals	\$26,535	144.0	\$26,252	155.0	(\$283)	11.0

¹ The FY 2019 Estimate is based upon OSC's President's Budget level

² Numbers in table may not total exactly due to rounding.

PART 2 – FY 2020 BUDGET REQUEST – ADDITIONAL INFORMATION

OSC is requesting **\$26,252,000** to fund 155 FTEs and related non-personnel costs for FY 2020. This number of FTEs is necessary to manage and process the agency’s rising caseload, particularly prohibited personnel practice complaints and whistleblower disclosures. OSC expects to see increases in its backlog due to the record number of complaints outpacing staffing resources, even with the requested level of funding. Providing funding to support 155 FTEs will allow OSC to more effectively address rising caseloads and improve efficiency of programs and processes. Our requested funding level will also enable OSC to execute critical IT projects in FY 2020 to enhance operations and improve cyber security.

Primary Driver of the FY 2020 increase:

Costs for Current Salaries and Benefits

Total personnel compensation costs will increase, primarily due to operating with an increased number of FTEs. We anticipate the agency will have 155 FTEs in FY 2020, an increase of 11 FTEs versus the estimated FY 2019 staffing level. Salaries and benefits will be approximately 84 percent of OSC’s total costs in FY 2020, up nine percent from 75 percent six years ago. Further, the impact of pay raises, step increases, and career ladder promotions are significant in an agency in which over three-quarters of the budget funds salaries and benefits, as well as employee awards.

FY 2020 Budget Request by Budget Object Class

Below is a detailed projection of the expenditures that will be required in each Budget Object Class (BOC) during FY 2020, along with the actuals for FY 2018 and the projection for the current year, FY 2019.

Budget Table 1 – Budget Object Classification of Obligations: FY 2018–2020 <i>(in thousands of dollars)</i>			
Budget Object Classification of Obligations	FY 2018 (Actual)	FY 2019 (Annualized CR)	FY 2020 (projected)
11.0 Personnel compensation	15,355	16,272	17,021
12.0 Civilian Personnel Benefits	4,724	4,855	5,229
21.0 Travel and transportation of persons	133	143	154
22.0 Transportation of things	16	32	35
23.1 Rental payments to GSA	2,045	2,192	557
23.3 Communications, utilities and misc. charges	250	299	242
24.0 Printing and reproduction	18	17	17
25.0 Other services	3,219	2,250	2,471
26.0 Supplies and materials	143	186	180
31.0 Equipment	451	289	346
32.0 Leasehold improvements	0	0	0
Total	26,354	26,535	26,252

Notes Concerning the Above BOC Line Items:

Object Class 11.0 Personnel Compensation Costs:

As projected, overall personnel compensation will increase in FY 2020 as compared to FY 2019 because OSC will be supporting 155 FTEs in FY 2020 versus 131 in FY 2018 and 144 in FY 2019. The primary driver of increased staffing levels is OSC's ever-increasing caseload. OSC has seen or will see:

- record levels of incoming cases, projected to again be more than 6,000 cases in FY 2019 and beyond;
- a 57 percent increase in new matters in FY 2018 over the historical case average, with similar elevated case levels expected in future years;
- an average pay raise of 1.9 percent for the agency in FY 2019 including locality pay; this pay level will be sustained within the salaries (not increased) carried into FY 2020; and
- approximately 96 within-grade salary increases and career ladder promotions projected in FY 2020.

Object Class 12.0 Civilian Personnel Benefits Costs:

These costs are for employee benefits, including Medicare, Federal Employees' Group Life Insurance (FEGLI), health benefit contributions, old age survivors and disability insurance, and retirement plan contributions. Total benefits costs in FY 2020 are increasing primarily due to the addition of new staff.

Object Class 21.0 Travel and Transportation of People:

During FY 2020, we expect travel to be conducted at the full and appropriate levels required for OSC's investigations and mediations.

Object Class 23.1 Rental Payments to GSA:

This category reflects the lease costs of the agency's headquarters facility and OSC field offices along with rent and tax escalations. OSC estimates that total agency rent will be approximately \$2.19 million for FY 19 and \$.56 million for FY 2020. OSC's headquarters lease was recently re-competed, and as part of the negotiations and its 10-year awarded lease OSC will receive free rent in FY 2020, while remaining at the current location. This renewed lease saves OSC significant money and avoids the cost and disruption of a move.

Object Class 23.3 Communications and Utilities:

This category reflects the cost to sustain the agency's telephone and high-speed internet connections in FY 2020 for the headquarters and field office locations. OSC expects to see savings in FY 20 versus FY 19, after the migration off of GSA's Networx contracts and the consolidation of various communications contracts.

Object Class 25.0 Other Services:

OSC outsources its accounting services, financial and procurement systems, payroll services, travel services, and procurement services. The agency began to modernize our IT infrastructure in earlier years and that effort will continue into FY 2020, including improvements in the case management system and electronic case filing.

In FY 2019 OSC will continue to work on implementing multiple projects that will greatly enhance our IT security, including:

- multi-factor authentication
- data encryption

- migration away from legacy systems to more secure architectures
- enhanced backup and data recovery capability
- implementation of risk management and asset management tools
- continuation of Federal Information Security Management Act (FISMA) audit services
- mobile device management tools
- electronic records management
- IT unified management – across on-premises, service provider and Microsoft Azure environments

Object Class 31.0 Equipment:

OSC experienced moderate levels of equipment purchases (servers, computers, switches and routers, teleconferencing equipment, and copiers) in FY 2017 in order to refresh its IT infrastructure and support modernization projects. These costs were reduced significantly in FY 2018 at the CR funding levels. However, we expect these costs to increase in FY’s 2019-2020 as a refresh of certain equipment will be required.

Analysis of Resources – Fiscal Year’s 2018-2020

For a high-level summary of resources during FY’s 2018-2020, see Budget Table 2 below.

Budget Table 2 – Analysis of Resources				
FY 2018-2020				
<i>(in thousands of dollars)</i>				
Description		FY 2018 (Actual)	FY 2019 (Annualized CR)	FY 2020 (Projected)
Budget authority	Direct	26,535	26,535	26,252
	Reimbursable	0	0	0
	Total	26,535	26,535	26,252
Outlays		24,608	25,101	26,705
Employment	Direct-full time equivalent	131	144	155
	Reimbursable-full time equivalent	0	0	0
	Total	131	144	155

PART 3 – BUDGET PROGRAMS AND PERFORMANCE PLAN

FY 2018 Case Activity and Results – All Programs

Word of OSC’s effectiveness in achieving positive results for the federal community is spreading. The number of new cases before the agency has risen dramatically in concert with OSC’s success. In FY 2018 for example, OSC resolved 6,005 cases, the 2nd highest level the agency’s history, and a 61 percent increase over agency historical levels since FY 2001 levels. However, despite OSC’s best efforts, absent additional resources, the backlog of cases is projected to increase again this year. Given the sharply increased numbers of whistleblower disclosure and PPP cases, as well as Hatch Act and USERRA matters, OSC will need the resource levels requested in its FY 2020 Budget request in order to maintain the agency’s record of success.

During FY 2018, OSC received 6,015 new matters across its program areas. **Table 1** below summarizes overall OSC case intake and dispositions thus far in FY 2018, with comparative data for the previous seven fiscal years. More detailed data can be found in **Tables 2-7**, in sections below relating to the four specific components of OSC’s mission—PPP cases, Hatch Act matters, whistleblower disclosures, and USERRA cases.

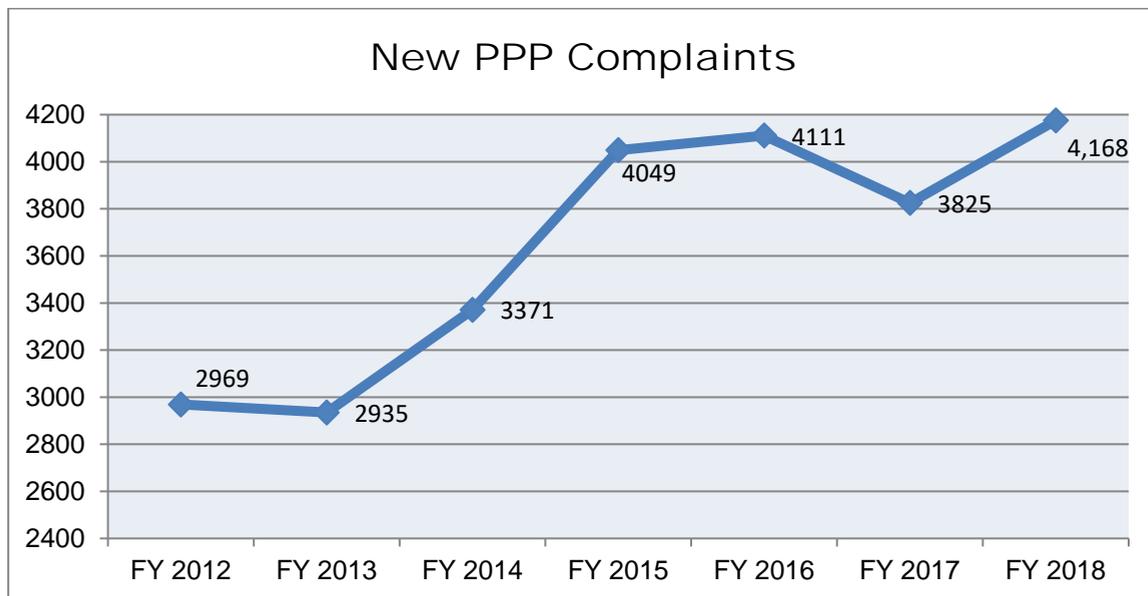
TABLE 1 Summary of All OSC Case Activity								
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Matters³ pending at start of fiscal year	1,357	1,320	1,744	1,399	1,967	1,901	2,271	2,592
New matters received	4,027	4,796	4,486	5,236	6,140	6,041	5,875	6,015
Matters closed	4,051	4,374	4,833	4,666	6,208	5,661	5,560	6,005
Matters pending at end of fiscal year	1,331	1,729	1,397	1,970	1,900	2,272	2,590	2,607
Hatch Act advisory opinions issued	3,110	3,448	1,767	1,382	1,023	1,641	1,325	1,386

³ “Matters” in this table includes prohibited personnel practice cases, whistleblower disclosures, and USERRA cases.

Investigation and Prosecution of Prohibited Personnel Practices

- OSC has experienced a 42 percent growth in new PPP matters in the past five years (from FY 2013 to FY 2018), and we project new case levels to remain high. In 2019, OSC expects to receive over 4,000 new PPP matters, similar to FY 2018’s 4,168 new matters.
- The case levels OSC has seen in the past four years are unprecedented and have required the agency to adjust its approach to executing its mission. From FY 2015 to FY 2018, OSC has received an average of 6,016 cases a year. This average during the past four fiscal years is a **79 percent increase over OSC’s historical average from FY 2001 to FY 2014.**
- New PPP complaints now regularly surpass 3,800 cases each year, a level unheard of just five years ago. PPP cases are the most time- and resource-intensive cases the agency has. PPP cases also represent a critical route through which OSC builds whistleblower confidence by ensuring whistleblowers are protected from retaliation for a disclosure.

(See chart below and Table 2 on page 23.)



- Strains on resources, particularly limited staffing, in conjunction with an increased demand for OSC’s services negatively affect OSC’s ability to meet statutory deadlines in resolving cases. The percentage of PPP complaints processed within 240 days decreased from 77 percent in FY 2017 to 76 percent in FY 2018—the lowest percentage in over a decade. OSC is also struggling to meet statutory deadlines for whistleblower disclosures. Congress took action during the first quarter of FY 2018 to extend from 15 days to 45 days the statutory timeframe within which OSC is required to make a determination on whether to refer disclosures to the appropriate agencies or close them without action. While OSC closed 37 percent of cases in the 15-day statutory time frame in FY 2017—an all-time low during the past decade—extending the time frame to 45 days has resulted in the requirement being met in only 59 percent of cases in FY 2018.
- In FY 2018, the VA accounted for 35 percent of OSC’s cases - more than one-third of OSC’s work - up from approximately 19 percent of the caseload just six years ago. Through resolution and processing of these cases,

OSC has played a critical role in reestablishing trust in the VA and encouraging employees to identify and address chronic threats to patient care.

- As OSC's experience with the VA underscores, when an agency is experiencing crisis and tumult or government downsizes, OSC's workload grows. With efforts underway to overhaul the Civil Service and to restructure agencies throughout the government, OSC will likely see further increases in its case filings.
- Agencies' required participation in OSC's Section 2302(c) Certification Program is an excellent opportunity to conduct training for a growing number of federal employees and promote adherence to the law. Forty-three agencies were certified in FY 2017 and an additional twenty-three certified in FY 2018. However, managing this program and handling the increasing number of cases that result from greater awareness of OSC requires additional resources.
- OSC conducted 148 outreach events in FY 2017 and in FY 2018 conducted an agency record 198 events. The primary focus of these efforts is prevention of Hatch Act and PPP violations. These efforts also inform the federal workforce that OSC is a secure channel to disclose evidence of waste, fraud, and abuse.
- OSC's success and outreach efforts have increased OSC's profile among federal employees, resulting in increased awareness of OSC as an avenue for disclosing wrongdoing and seeking redress from PPP actions. OSC struggles to keep up with the increased new case filings at current staffing and resource levels, and as a result **backlogs are at historic levels—87 percent higher** than five years earlier.

Resource Estimates

During FY 2020, OSC’s Case Review Division will use approximately 8 FTE at a cost of \$1,355,000. During FY 2019, we estimate the program will require 8 FTE at a cost of \$1,474,000.

During FY 2020, OSC’s Investigation and Prosecution Division will use approximately 72 FTE at a cost of \$12,194,000. During FY 2019, we estimate the program will require 67.5 FTE at a cost of \$12,438,000.

During FY 2020, OSC’s Retaliation and Disclosure Unit will use approximately 8 FTE at a cost of \$1,355,000. During FY 2019, we estimate the program will require 7 FTE at a cost of \$1,290,000.

TABLE 2 Summary of All Prohibited Personnel Practice Complaints Activity – Receipts and Processing⁴									
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	
Pending complaints carried over from prior fiscal year	863	934	1,152	1,045	1,414	1,405	1,657	1,969	
New complaints received⁵	2,583	2,969	2,936	3,371	4,051	4,124	3,825	4,168	
Total complaints	3,446	3,903	4,088	4,416	5,465	5,529	5,482	6,137	
Complaints referred by CEU for investigation by IPD	270	252	255	275	264	212	273	399	
Complaints processed by IPD	190	274	266	278	307	253	201	344	
Complaints pending in IPD at end of fiscal year	331	325	316	321	279	266	343	407	
Total complaints processed and closed (CEU and IPD combined)	2,508	2,750	3,041	3,003	4,058	3,870	3,512	4,073	
Complaint processing times	Within 240 days	2,327	2,570	2,594	2,577	3,380	3,307	2,716	3,100
	Over 240 days	175	439	440	422	665	554	782	967
Percentage processed within 240 days	92%	88%	85%	85%	83%	85%	77%	76%	

Table 3 below provides information regarding the numbers of corrective actions obtained in prohibited personnel practice cases.

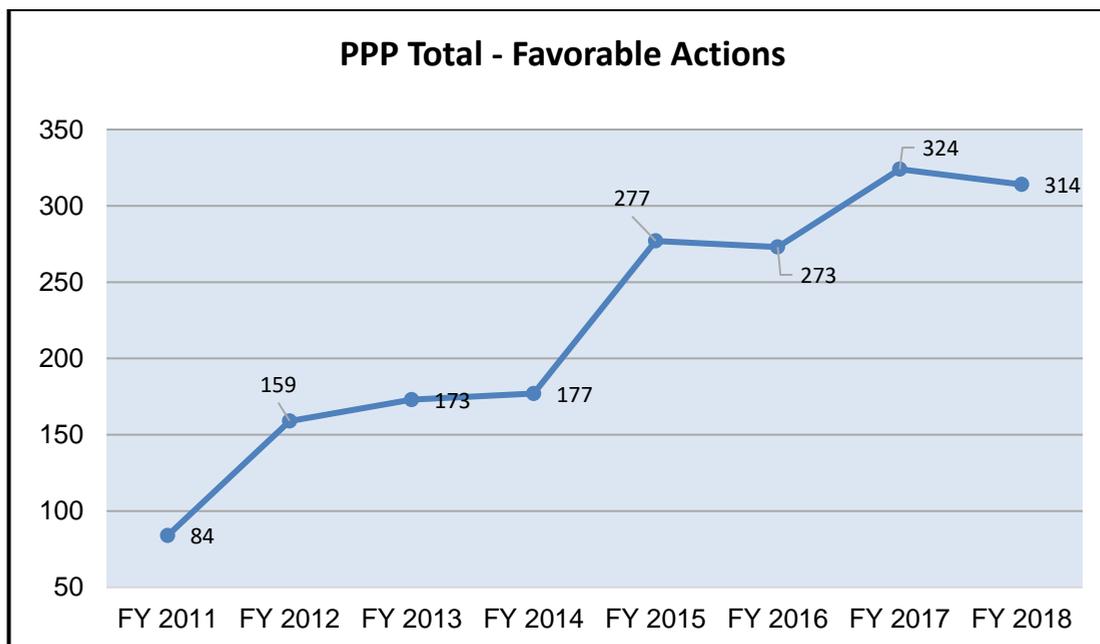
⁴ Complaints frequently contain more than one type of allegation. This table, however, records all allegations received in a complaint as a single matter.
⁵ “New complaints received” includes a few re-opened cases each year, as well as prohibited personnel practice cases referred by the MSPB for possible disciplinary action.

TABLE 3 Summary of All Favorable Actions – Prohibited Personnel Practice Complaints									
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Total favorable actions negotiated with agencies (all PPPs)	No. of actions⁶	84	159	173	177	277	273	324	314
	No. of matters	65	128	124	144	212	216	264	249
Total favorable actions negotiated with agencies (reprisal for whistleblowing)	No. of actions	64	112	104	138	233	215	244	236
	No. of matters	50	95	91	114	175	173	209	196
Disciplinary actions negotiated with agencies		6	19	27	23	9	15	16	22
Stays negotiated with agencies		12	27	28	23	62	40	45	47
Stays obtained from MSPB		4	8	5	2	3	7	7	2
Stay extensions obtained from MSPB		1	1	7	0	1	4	10	10
Corrective action petitions filed with the MSPB		1	0	2	0	0	0	0	1
Disciplinary action complaints filed with the MSPB		0	0	0	3	0	0	0	0

Goals and Results – Prohibited Personnel Practices

In FY 2018, OSC received 4,168 new PPP complaints, the most in agency history. OSC achieved 314 favorable actions in FY 2018, the second most in agency history and a 143 percent increase over the historical average since FY 2001.

⁶ The number of actions refers to how many corrective actions are applied to the case; the number of matters consists of how many individuals were involved in the original case.



In FY 2016 OSC finalized a new Strategic Plan for fiscal years 2017 – 2022. (See Appendix B for the new Strategic Plan.) OSC’s Strategic Goal 1 under this new plan is to protect and promote the integrity and fairness of the federal workforce through investigation and prosecution of prohibited personnel practice cases. New goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix C.

Notable FY 2018 Case Summaries

- Complainant, the then-Chief of Staff of an agency component, alleged she was retaliated against for reporting the misappropriation of tens of millions of dollars. The complainant’s leadership had authorized her to work remotely abroad with her family and then, following her protected activity, revoked the agreement and threatened her with AWOL if she did not return with several days’ notice. OSC worked with the complainant and the agency to negotiate an agreement to compensate the complainant, among other favorable terms, when she elected to resign.
- Complainant, an environmental officer, alleged that he reported to management and to the OIG that his agency violated environmental laws and regulations in a rush to approve oil drilling in the Arctic Ocean. OSC’s investigation determined a senior official not in the complainant’s supervisory chain requested that he be investigated for unspecified misconduct within hours of learning of the OIG investigation. Based on the investigation, the agency removed him. OSC determined that the removal was based on a retaliatory investigation and petitioned the MSPB for a stay of the removal, which was granted and repeatedly extended. OSC has issued a statutory finding of reprisal and a recommendation to the agency for corrective and disciplinary action.
- Complainants, high level security officials at the Transportation Security Administration (TSA), alleged that after making several safety and security protocol disclosures, the TSA geographically reassigned them. One of the complainants was reassigned twice more, issued a failing evaluation, and informed she would be demoted. She resigned under duress. With OSC’s assistance, the parties entered into an agreement, which included monetary damages of approximately \$1 million combined for all three complainants.
- Complainant, a law enforcement officer, alleged that the agency subjected him to a retaliatory investigation and ended his detail assignment because the agency suspected that he had made protected disclosures to the press. In addition to an earlier corrective action settlement, OSC obtained systemic corrective action to help ensure that

the agency's guidance regarding whistleblower rights is correct and updated. The agency agreed to update its policies, which are posted on its intranet, to clarify that its media release policy does not prohibit employees from making protected disclosures; its anti-discrimination policy also prohibits retaliation against employees for making protected disclosures; and its policy on reporting violations does not limit where employees can make protected disclosures.

- Complainant, a director of business operations and chief master sergeant (retired), alleged she was retaliated against for reporting a sexual assault against one of her subordinates among other protected activity. The agency issued complainant a "no contact" order as to employees, transferred her out of her job, and threatened her with an investigation. OSC obtained a stay of a hiring action after one of the subject officials tried to block complainant's selection. OSC investigated, including an on-site visit, and ultimately negotiated a settlement where complainant was promoted to one of the top ten leadership positions (with 10 percent salary increase) at the facility, and complainant received compensatory damages and corrected personnel records. The agency also agreed to suspend one subject official for 10 days and reassign him to a non-leadership position. Another subject official, who was in senior management and was accused of the most significant wrongdoing, resigned during the course of OSC's investigation.
- Complainant, a staff dentist, alleged that the agency initiated an administrative investigation, suspended his clinical privileges, and proposed his removal in retaliation for disclosures he made regarding recordkeeping failures that compromised patient care and treatment outcomes. Following a finding of retaliation by both OSC and an internal investigative body, the agency agreed to rescind the proposed removal; fully restore complainant's clinical privileges; and reverse any prior reporting actions to the National Practitioner Data Bank and/or state licensing boards. The agency agreed to propose a removal and a reprimand against the responsible officials.
- OSC received allegations that an agency had an anti-leak poster displayed with a slogan and imagery that may discourage lawful whistleblowing. The allegations also asserted that since the poster was akin to implementing a non-disclosure agreement, the poster needed to mention the language required by 5 U.S.C. § 2302(b)(13). OSC verified that the poster had been removed from the agency's facilities and would no longer be used in any of facilities or publications. OSC also updated a 2012 memorandum on agency monitoring practices, as well as a 2013 memorandum on non-disclosure agreements, and re-circulated these memoranda to the federal community. In addition, OSC contacted the agency that created the poster, and that agency agreed to remove the poster from circulation. Last, OSC provided training on the prohibited personnel practices to agency officials.
- OSC received allegations of several possible recruitment violations at an agency. Earlier, an audit revealed that the agency attempted to use improper criteria to hire only attorneys for six separate non-attorney positions. As agency leadership expressed confusion about how their actions were improper and questions remained about the guidance they received, OSC issued a PPP report to clarify the standards applicable to this type of hiring manipulation. The agency accepted OSC's findings and agreed to training. OSC published the redacted PPP report in this case to educate the federal community.

Notable FY 2018 Amicus Curiae Briefs

- OSC filed an amicus brief with the U.S. Court of Appeals for the Federal Circuit. The MSPB found that the complainant did not exhaust administrative remedies in his whistleblower retaliation complaint before OSC because he provided only vague disclosures and insufficient information. The MSPB also found that the complainant's prior OSC complaint did not constitute protected activity because it could not affirmatively determine that the prior complaint was made "in accordance with applicable provisions of law." In the brief, OSC first argued that the MSPB conflated exhaustion with the statutory requirements of a protected disclosure. Our brief also argued that the MSPB's approach transforms a general obligation not to violate the law into a new

legal burden on whistleblowers and is inconsistent with MSPB precedent or congressional intent. We are awaiting the court's decision.

- OSC filed an amicus brief in a petition for review pending before the MSPB. The MSPB found that the complainant's disclosures were not protected because he was motivated to make them by "interpersonal squabbling" and not by a genuine desire to report wrongdoing. In the brief, OSC argued that the statute clearly states that disclosures cannot be excluded from protection based on a whistleblower's motive. Since the MSPB's decision is inconsistent with the statute, OSC asked the MSPB to correct this legal error in its resolution of the case. We are awaiting the MSPB's decision.
- OSC filed an amicus brief in a petition for review pending before the MSPB. The MSPB found that the complainant did not exhaust administrative remedies in his whistleblower retaliation complaint before OSC because he did not respond to OSC's pre-determination letter. In the brief, OSC argued that the complainant's failure to respond to OSC's pre-determination letter is not required to demonstrate exhaustion. We are awaiting the MSPB's decision.

Improper Selection Practices and Other Violations

- OSC received a referral involving allegations of several possible recruitment violations at an agency. Before the case was referred to OSC, an audit revealed that the agency attempted to use improper criteria to hire only attorneys for six separate non-attorney positions. As agency leaders expressed confusion about how their actions were improper and questions remained about the guidance they received, OSC issued a PPP report to clarify the standards applicable to this type of hiring manipulation. The agency accepted OSC's findings and agreed to training. OSC published the redacted PPP report in this case to educate the federal community.
- Complainant, a branch head, alleged that his former supervisor influenced him to withdraw from competition for a position at a higher grade level in a different division at the same agency. The supervisor valued the complainant's work and did not want to lose him to the other division. In exchange for the withdrawal, the supervisor promised that, based on the work the complainant was performing, he would promote him. But the complainant was not promoted as promised. OSC issued a PPP report to the agency requesting corrective action. In a settlement agreement, the agency agreed to award the complainant a promotion and provide him with back pay.
- Complainant, an equal employment opportunity (EEO) specialist, alleged that his supervisor granted an unauthorized advantage to a favored applicant to improve the applicant's prospects for selection. OSC determined that the supervisor, a member of an interview panel, actively prepared the applicant for the panel interview by providing the panel's questions and offering sample best answers to advance the applicant's prospects. Because the supervisor accepted responsibility for his actions, OSC approved the agency's 14-day suspension of him.
- Complainant, an officer, alleged discrimination when she was removed from her probationary supervisory position after telling her supervisor she was pregnant. With OSC's assistance, the parties entered into a settlement agreement that included the complainant's voluntary return to a non-supervisory position and a performance award.
- Two complainants alleged that their agency hired and promoted employees without regard to required experience standards. After OSC's investigation, the agency corrected this systemic problem by implementing a new plan to bring all existing employees into compliance with applicable qualification standards and to ensure that job-specific requirements would be satisfied in the future.

- Complainant alleged that the subject official, a GS-15 supervisor, engaged in nepotism when she participated in personnel actions involving family members. At the conclusion of OSC's investigation, the parties agreed that the subject official would move to a non-supervisory GS-14 position and not seek or accept a position involving supervisory duties with the federal government for one year.
- Complainant alleged that she was discharged because her agency concluded she had failed to maintain her nursing license. OSC showed, however, that the licensing state had a grace period and that she renewed her license within the applicable period. Based on OSC's investigation, the agency reinstated the employee, removed derogatory information from its records, paid back pay of approximately \$195,000, reimbursed her for tuition expenses she incurred for training, forgave debts accrued because of the discharge, provided her with orientation training, and issued a letter attesting to her employment status at the facility.
- Complainant, a manager, alleged that a member of the agency's human resources department gave him inaccurate information about his EEO and MSPB appeal rights: namely, that he could only appeal to one, and not both. OSC obtained systemic corrective action wherein the agency agreed to train the relevant human resources division on EEO and MSPB appeal rights.

Stays of Personnel Actions

- Complainants, two deputy assistant directors, alleged that agency officials met with them and asked if they would withdraw from competition for two assistant director positions. After the complainants did not withdraw, the agency re-announced the vacancies with new qualification requirements that the complainants did not possess. OSC sought a formal stay from the MSPB to prevent the agency from moving forward with the hiring actions pending OSC's investigation. The MSPB granted OSC's request and another request to extend the stay. OSC issued a PPP report finding that agency officials improperly asked the complainants to withdraw from competition and recommended the selection of a non-veteran in violation of a veterans' preference requirement. The agency took action consistent with OSC's recommendation; officials were disciplined, and OSC conducted PPP training at the agency. OSC also published the redacted PPP report in this case to educate the Federal community.
- Complainant, a utility systems operator and union steward, alleged that his tour of duty was changed in retaliation for assisting a coworker with filing claims and complaints with, among others, OSHA, the Department of Labor, and the OIG against their supervisor. OSC filed a formal stay with the MSPB to stay the change in the complainant's tour of duty. The MSPB granted OSC's request and another request to extend the stay.
- Complainant alleged that after she reported that management secretly allowed a single employee to complete mandatory on-line training for others and falsified training records, she was subjected to a hostile work environment and eventually fired. OSC obtained a formal stay from the MSPB to return the employee to work. The agency later agreed to stay the termination indefinitely until it completed an internal investigation of the training irregularities. The agency eventually provided back pay to the complainant for lost wages and removed documentation of the termination from her personnel file.
- Complainant alleged that he was removed during his probationary period after disclosing to OSHA inadequate fall-protection measures and non-compliance with OSHA's reporting requirements at the agency where he worked. The complainant told OSHA in one case that an employee was hospitalized after suffering an unreported fall. OSC obtained a formal stay from the MSPB that helped the employee avoid the foreclosure of his home.
- Complainant, a physician, alleged that he was terminated during his probationary period in retaliation for reporting patient care concerns to management and the OIG. OSC obtained a formal stay from the MSPB of the

termination and obtained extensions of the formal stay while OSC completed its investigation.

- Complainant alleged that she reported an agency official to management and to the OIG for suspected theft. OSC's investigation determined that the official demoted the complainant to the lowest position available in retaliation for her disclosures. OSC obtained a formal stay of the complainant's demotion from the MSPB. The agency ultimately agreed to provide the complainant with full corrective action including reinstatement, back pay, and compensatory damages. Based on OSC's investigation and PPP report, the agency decided to suspend the agency official for 14 days and reassign her. In lieu of accepting the discipline, the official resigned from service.
- Complainant, a law enforcement officer, alleged the agency suspended his law enforcement authority and proposed his removal in retaliation for emails to high-level officials disclosing alleged mismanagement and waste. The proposed removal cites the complainant's inability to maintain a government credit card—a requirement for his position—but the agency appears to have some discretion regarding how to deal with such situations. OSC obtained an informal stay of the proposed removal while it investigates the matter.
- Complainant, an assistant Chief of Human Resources, alleged that the agency proposed her removal in retaliation for disclosing that the Chief Financial Officer and other high-level officials repeatedly pressured her to qualify the Chief Financial Officer's husband for a position. OSC obtained an informal stay of the proposed removal and a new supervisor for the complainant.
- Complainant, a senior scientist, alleged that agency management attempted to discredit and suppress his research in response to pressure from industry lobbying efforts and a pending lawsuit. Several weeks after he filed an internal scientific integrity complaint, management advised him that he would lose the supervisory role he held for approximately 14 years. OSC obtained an informal stay of the reassignment pending the conclusion of the investigation. The agency also agreed to further investigate the complainant's disclosure that management took actions to improperly influence his research.

Mediation – see Alternative Dispute Resolution section

USERRA Unit

OSC protects the civilian employment rights of federal workers who are veterans or serve in the National Guard and Reserves by enforcing USERRA. USERRA provides for prompt reemployment of service members in their civilian jobs after they return from military duty. Approximately 170,000 (20 percent) of Guard and Reserve members are federal civilian employees, and Congress intends for the federal government to be a “model employer” under USERRA.

Under USERRA, a claimant alleging a violation by a federal executive agency may either file an appeal with the MSPB or file a complaint with the Department of Labor, Veterans' Employment and Training Service (VETS). If the claimant chooses to file a complaint with VETS, VETS must investigate and attempt to resolve the complaint. If it cannot resolve the matter, the claimant may direct VETS to refer the complaint to OSC for possible representation before the MSPB. If, after reviewing the complaint and investigative file and conducting any necessary follow-up investigation, OSC is reasonably satisfied that the claimant is entitled to relief under USERRA, it may act as the claimant's attorney and initiate an action before the MSPB. OSC may also provide representation, when warranted, before the U.S. Court of Appeals for the Federal Circuit. During the course of the past two fiscal years, OSC has received 38 of these cases and obtained corrective actions in six cases during that time. OSC currently also has one USERRA case in litigation.

In addition to resolving and litigating individual USERRA cases, OSC also provides training and technical assistance to help federal agencies better comply with USERRA. For example, OSC has worked with DoD to ensure that its

administration of the “key employee” program does not violate USERRA and conducted USERRA training for employees of the Federal Emergency Management Agency (FEMA) and the State Department. OSC also maintains telephonic and email hotlines to answer USERRA questions from service members and employers.

Resource Estimates

During FY 2020 the USERRA program will have 1 FTE at a cost of approximately \$169,000. During FY 2019 we expect the USERRA program will have 1 FTE at a cost of \$184,000.

Goals and Results – USERRA Unit

TABLE 4 Summary of USERRA Referral and Litigation Activity ⁷								
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Pending referrals carried over from prior fiscal year	12	17	11	6	7	4	5	3
New referrals received from VETS during fiscal year	36	24	7	14	18	16	17	25
Referrals closed	31	30	12	13	21	15	19	22
Referrals closed with corrective action	2	4	2	2	2	0	3	2
Referrals closed with no corrective action	29	26	10	11	19	15	16	20
Referrals pending at end of fiscal year	17	11	6	7	4	5	3	6
Litigation cases carried over from prior fiscal year	1	0	0	0	0	0	0	0
Litigation cases closed	1	0	0	0	0	0	0	0
Litigation closed with corrective action	1	0	0	0	0	0	0	0
Litigation closed with no corrective action	0	0	0	0	0	0	0	0
Litigation pending at end of fiscal year	0	0	0	0	0	0	0	1

USERRA requires that complaints be investigated, and the claimant be notified of the results within 90 days, unless the claimant grants an extension. Such investigations may include obtaining information from the claimant, requesting and reviewing documents from the agency, interviewing witnesses, and conducting legal research and analysis. All the information gathered must then be synthesized to make a determination about whether the complaint is meritorious. In some cases, there are delays in receiving documents or interviewing witnesses that are beyond OSC’s control. Cases also vary in complexity.

OSC’s Strategic Goal 1 under its new Strategic Plan is to protect and promote the integrity and fairness of the federal workforce, including through investigation and prosecution of USERRA cases. (*See Appendix B for the new Strategic Plan.*) New goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

⁷ This table has been reorganized with some categories and figures changed from prior reports to correct discrepancies and more clearly present relevant information.

USERRA Successes

OSC plays a key role in ensuring that the federal government upholds its responsibility to be a model employer under USERRA, especially with so many military personnel returning from overseas deployment. Examples of recent USERRA successes include:

Notable FY 2018 Case Summaries

- OSC filed a USERRA appeal with the MSPB on behalf of a U.S. Postal Service (USPS) letter carrier and retired Lieutenant Colonel with the Air National Guard. After the terror attacks of September 11, 2001, the employee served in the military continuously for approximately 14 years, but most of his service was exempt from USERRA's "five-year limit" for reemployment rights because it was in support of the Global War on Terror. After his orders ended and he requested reemployment, USPS refused to reemploy him, asserting that he "abandoned" his civilian job in favor of a military career. OSC argues that because the employee satisfied all statutory requirements, he is entitled to reemployment under USERRA. The case is pending before the MSPB.
- A civilian Navy employee stationed in Singapore requested to use paid "home leave" he had accrued to perform Air Force Reserve duty in the domestic U.S. from June to September 2017. After the Navy denied his request, he was forced to use other types of leave to cover his duty. He filed a USERRA complaint with DOL, which investigated and attempted to resolve his claim. When the Navy refused to provide him any relief, he requested that DOL refer his claim to OSC. After OSC contacted the Navy and explained why its refusal potentially violated USERRA, it agreed to retroactively award him the "home leave" he requested and to adjust his pay records accordingly.
- A U.S. Army Corps of Engineers park ranger in Pittsburgh, Pennsylvania, was deployed to Iraq with the Army Reserve for almost three years. When he returned to work, he found that many of his peers had been reclassified to new positions and/or promoted during his absence, but the agency refused to do the same for him for two more years. After receiving his USERRA complaint from DOL, OSC negotiated an agreement whereby he received a lump sum payment approximating what he would have received had he been reclassified and promoted upon his return from military duty.
- A Federal Emergency Management Agency (FEMA) employee deployed with the Navy Reserve for almost one year continued to be charged premiums for federal employee health insurance, even though she had elected military healthcare coverage. After she was unable to resolve the issue on her own, she filed a USERRA complaint with DOL, which referred it to OSC. At OSC's request, FEMA agreed to fully reimburse her for the mischarged premiums.

Alternative Dispute Resolution

Effective and efficient relations between managers and employees go hand-in-hand with an effective and efficient government. OSC plays a unique role in fostering a healthy federal workplace by investigating allegations of PPPs, such as nepotism, discrimination, retaliation, and violations of merit systems principles. As discussed above, these cases are typically resolved by negotiation, mediation, and settlement rather than by prosecution. OSC's ADR program has been a highlight of its dispute resolution success. Not only does mediation ensure fairness and due process to employees while preventing paralyzing stalemates and disruptions to the conduct of government business, it also provides OSC significant savings by reducing the amount of time required to investigate and resolve a case. ADR has a high impact on government efficiency.

Among the factors that determine mediation-appropriate cases are the complexity of the issues, the nature of the personnel action, and the relief sought by the complainant. Once a case has been identified as appropriate for

mediation, an OSC ADR specialist contacts the parties to discuss the voluntary program and process. Pre-mediation discussions are designed to help the parties form realistic expectations and well-defined objectives regarding the mediation process.

Altogether, OSC's ADR program currently has averaged a 78 percent rate of successful settlement during the past 5 years. This translates to large savings of time and money to the government. In a recent survey conducted by OSC's ADR Unit, agency representatives asserted that on average, they saved \$91,250 per case by using mediation rather than the investigation and prosecution process.

Goals and Results

During FY 2018, 86 cases were offered for mediation by OSC after referral to the ADR Unit. In 62 cases, mediation was accepted by the complainants and, from those cases, agencies accepted mediation in 41 cases. During FY 2018 OSC conducted 32 mediations, of which 21 settled, and in FY 2018 the agency has already conducted 29 mediations, of which 22 have settled. Mediation has yielded some outstanding results: 72 percent of completed mediations resulted in settlements during FY 2018, with mediation again proving to be an efficient use of resources. (*See Table 6.*)

Table 6 – ADR Program Activity – Mediation of Prohibited Personnel Practice Complaints

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Number of cases in which mediation offered after referral from CEU, IPD, RDU, and USERRAP⁸	80	83	71	92	86
Mediation offers accepted by complainants	56	59	59	76	62
Mediation offers accepted by agencies and by complainants	39	46	41	68	41
Number of mediations conducted by OSC⁹	39	26	25	40	32
Number of mediations withdrawn by either OSC or the agency after acceptance	8	13	18	30	11
Number of mediations withdrawn after at least one mediation session	1	0	3	3	3
Number of completed mediations	38	26	22	37	29
Number of completed mediations that yielded settlement	30	21	16	31	21
Percentage of completed mediations that resulted in settlement¹⁰	79%	81%	73%	84%	72%
Cases in process¹¹ - carryover from previous FY	10	12	17	18	20
Carryover to next FY – in process	12	17	18	20	19
Carryover to next FY – offer pending¹²	4	2	3	1	1
Carryover to next FY – pending review	10	0	1	10	1

FY 2018 Note: In Q1, one complaint was mediated and the parties informally agreed on corrective action. A settlement agreement was not necessary.

Resource Estimates

During FY 2020, the ADR program will have 4 FTE at a cost of approximately \$677,000. During FY 2019, we expect the ADR program will have 3 FTE at a cost of \$553,000.

OSC’s Strategic Goal 1 under its new Strategic Plan is to protect and promote the integrity and fairness of the federal workforce, including by obtaining timely and effective relief in ADR cases. (*See Appendix B for the new Strategic Plan.*) New goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2018 Case Summaries

⁸ Category includes complaints settled through mediation by OSC (including “reverse-referrals”- *i.e.*, cases referred back to ADR program staff by IPD after investigation had begun, due to the apparent potential for a mediated resolution). Category also includes complaints that entered the initial OSC mediation process and were then resolved by withdrawal of the complaint or through mediation by an agency other than OSC.

⁹ Includes cases completed or withdrawn after at least one mediation session.

¹⁰ Starting in FY 2012, we no longer counted withdrawn cases as part of the number of mediations conducted by OSC when calculating the percentage of successful mediations.

¹¹ “In process” means parties have agreed to mediate and the mediation process is ongoing.

¹² Cases in which OSC will be or is in the process of offering mediation to the parties.

Below are some significant case summaries from our ADR Unit. Please note that mediation settlement agreements are confidential unless otherwise agreed upon.

- Complainant, a law enforcement officer, alleged retaliation for disclosing investigative improprieties and unethical, unprofessional, and inappropriate behavior by agency law enforcement officers. Through mediation, the parties agreed to a lateral transfer to a position in a mutually-agreeable location, with paid moving expenses. The agency also agreed to raise the complainant's performance rating, provide OSC-led whistleblower training to supervisors, pay a lump sum, and provide training appropriate to the complainant's new position. Additionally, the mediation session provided an opportunity for the complainant and the agency to rebuild trust and create a more positive dynamic for the future.
- Complainant, a medical professional in an intern program, refused to record what she considered to be false inventory numbers as directed by her supervisor. Thereafter, she claims, her supervisor substantially changed her duties and eventually terminated her during her probationary period. Complainant and agency officials worked with OSC mediators to reinstate complainant into the intern program in a location acceptable to her. The agency also provided back pay and a monetary payment to assist with relocation and miscellaneous expenses.
- A senior employee disclosed improper hiring practices to senior management. As a result, she alleges, the agency removed her supervisory responsibilities, lowered her performance evaluation, denied her permission to telework, and significantly changed her duties. Through mediation, the agency and complainant agreed upon a new position for her. The agency also raised complainant's performance rating and restored the leave that she took during the alleged retaliatory period.
- Complainant, a trade worker, alleged he was retaliated against for whistleblowing on OSHA violations, when his supervisor assigned him tasks he could not perform due to his disability. With OSC's help, the parties agreed to a settlement that included cooperation with complainant's application for a disability retirement, agreement to refrain from making disparaging or adverse comments pertaining to complainant, and a monetary payment for compensatory damages.
- An agency revoked complainant's job offer when it learned that she was a debtor in a Chapter 13 bankruptcy process, indicating she should re-apply after her bankruptcy was complete. OSC helped both parties communicate and review federal law that prohibits against discrimination against debtors on the basis of their status as a debtor in a federal bankruptcy proceeding. The agency again offered the position to complainant and agreed to destroy earlier records indicating she was previously denied the position.

Whistleblower Disclosure Program

The vast size of the American government means that agencies are not always able to identify and address wrongdoing or wasteful spending. Whistleblowers, and by extension OSC, therefore represent a vital resource for agencies to ensure that they act as good stewards of resources provided to them. Over the past year, OSC has worked with many whistleblowers to help agencies identify waste and achieve significant cost savings.

Under 5 U.S.C. §1213(a), federal employees, former federal employees, or applicants for federal employment may disclose information they reasonably believe evidences a violation of law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. OSC reviews the information submitted by whistleblowers and advises the Special Counsel whether there is a substantial likelihood that the type of wrongdoing described in § 1213(a) has occurred or is occurring. When the Special Counsel makes a substantial likelihood determination, OSC transmits the disclosure to the head of the relevant agency for action. The agency is required to conduct an investigation and submit a report to OSC describing the results of the investigation and the steps taken in response to the investigative findings. Under § 1213(e), the whistleblower is also provided with a copy of the report for comment. The Special Counsel is required to review the report in order to determine whether it meets the requirements of the statute and its findings appear reasonable. OSC

forwards the report to the President and appropriate congressional oversight committees. (An alternative process is available by statute for OSC to refer matters to agencies for investigation without the Special Counsel making a substantial likelihood determination.)

OSC has worked with whistleblowers to identify millions of dollars in mismanaged or wasteful spending at agencies. For example, a whistleblower recently came forward alleging that the Army was wasting funds in an aircraft engine oil program. Following OSC's referral, the Army determined that due to an improper maintenance program involving aircraft engine oil, they may not be taking advantage of programs that would result in savings of \$1.5 million to \$6.9 million annually. This is just one of many cases where OSC's work with whistleblowers identified direct savings for federal agencies.

Although OSC provides a direct avenue for achieving cost savings throughout the government, the true value of OSC's work is in providing a process to identify problems before they become too costly. By providing a safe channel for whistleblower disclosures, OSC regularly reins in waste, fraud, abuse, and threats to public health and safety that pose the very real risk of catastrophic harm to the public and potentially huge remedial and liability costs for the government. For example, OSC has worked with numerous whistleblowers who have identified the VA's violation of scheduling protocols for patients, which resulted in significant risks to the health and safety of our nation's veterans. This past year OSC also worked with whistleblowers to identify instances where VA patients and employees have been exposed to asbestos contamination at VA medical centers. As a result of this work, VA has taken preventive measures to improve safety.

OSC will receive around 1,650 new whistleblower disclosures in FY 2018. During the first nine months of FY 2018, OSC referred 107 of those disclosures to agency heads for investigation under § 1213(c). (*See Table 7.*) As a result, the government will gain substantial savings through the elimination of waste, mismanagement, and fraud. Disclosures processed by OSC have resulted in improved aviation safety, better care for veterans at VA hospitals, safer workplaces, and lives saved.

Despite express statutory time limits for resolving disclosures, some cases take more than a year to fully complete if agencies demonstrate a need for additional time to conduct their investigation and write their report, or the whistleblowers request additional time to prepare their comments. OSC must also diligently review the agency report to determine whether it contains the information required by statute, decide whether its findings appear reasonable, and prepare any comments the Special Counsel may have on the report.

With additional resources, OSC can process more cases, further expand awareness, and help agencies identify more areas of waste, fraud, abuse, or wrongdoing.

Resource Estimates

During FY 2020, OSC's disclosure program will use approximately 19 FTE at a cost of \$3,218,000. During FY 2019, we estimate the program will require 17 FTE at a cost of \$3,133,000.

Goals and Results – Whistleblower Disclosures

OSC's Strategic Objective 2 is to ensure government accountability by acting as a channel for whistleblowers in the federal workforce to disclose information. The following tables describe the two operational goals supporting this strategic objective. Disclosure cases have risen dramatically in recent years. From 2015 through to FY 2018, the unit has received disclosures at levels ranging from 50 -100 percent higher than the levels seen earlier in the decade. Consequently, the Unit's backlog remains a challenge.

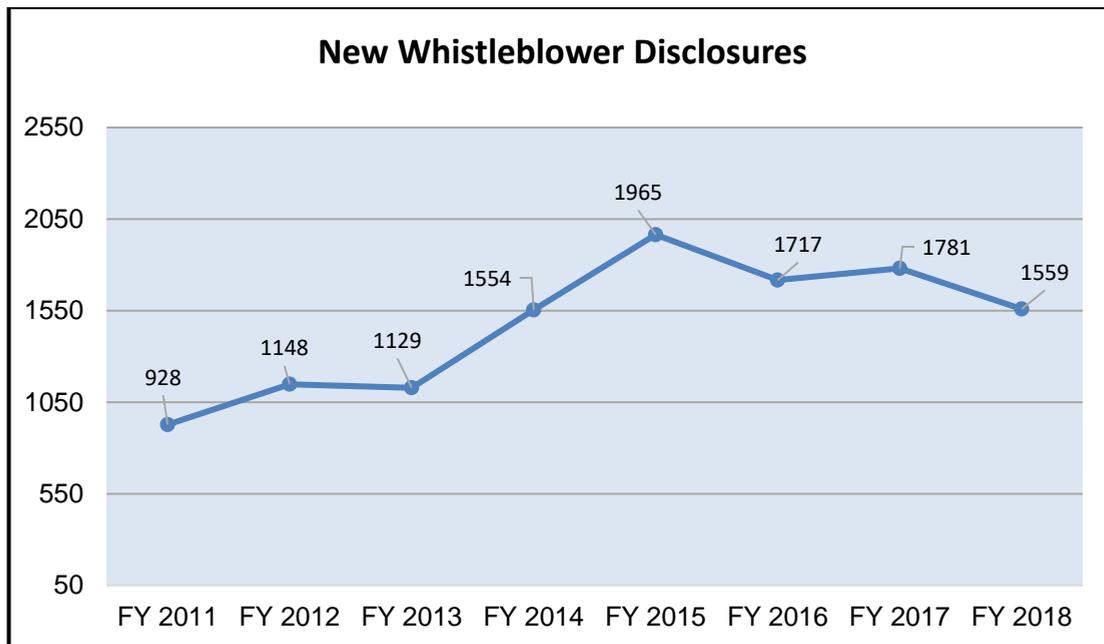


TABLE 7 Summary of Whistleblower Disclosure Activity – Receipts and Dispositions¹³

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	
Pending disclosures carried over from prior fiscal year	83	132	225	193	433	449	497	493	
New disclosures received	928	1,148	1,129	1,554	1,965	1,717	1,781	1,559	
Total disclosures	1,011	1,280	1,354	1,747	2,398	2,166	2,278	2,052	
Disclosures referred to agency heads for investigation and report	47	39	51	92	62	40	59	139	
Referrals to agency IGs	5	6	2	0	0	0	1	0	
Agency head reports sent to President and Congress	22	36	54	26	72	78	66	41	
Results of agency investigations and reports	Disclosures substantiated in whole or in part	21	31	49	25	63	68	50	36
	Disclosures unsubstantiated	1	5	5	1	9	10	15	5
Disclosure processing times	Within 15 days	555	583	575	731	830	654	733	
	Over 15 days	315	470	585	584	1,117	1,015	1,056	
	Within 45 days¹⁴								968
	Over 45 days								656
Percentage of disclosures processed within 15 days	63%	55%	49%	55%	42%	39%	40%		
Percentage of disclosures processed within 45 days								59%	
Disclosures processed and closed	870	1,053	1,160	1,315	1,947	1,669	1,789	1,624	

¹³ Many disclosures contain more than one type of allegation. This table, however, records each whistleblower disclosure as a single matter, even if multiple allegations were included.

¹⁴ The FY 2018 National Defense Authorization Act altered disclosure processing time standards from 15 to 45 days. OSC will use 45 days as a metric beginning in FY 2018.

OSC's Strategic Goal 2 under its new Strategic Plan is to ensure government accountability by providing an effective and efficient channel to report government wrongdoing through whistleblower disclosures. (See *Appendix B for the new Strategic Plan.*) New goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2018 Case Summaries

OSC is authorized to refer whistleblower disclosures of wrongdoing in five areas: (1) violations of a law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; and (5) substantial and specific danger to public health or safety. In FY 2018, examples of OSC successes involving whistleblower disclosures include the following:

Violation of Law, Rule or Regulation, Gross Mismanagement, Gross Waste of Funds, and Substantial and Specific Danger to Public Health or Safety

- OSC referred to the Secretary of the Navy allegations that employees of the Naval Seas Systems Command, Port Hueneme, California, grossly mismanaged the inventory of the facility's operating materials and supplies (OM&S). The whistleblower disclosed that Port Hueneme employees failed to properly maintain and record inventory over a number of years and that classified inventory items were not identified and stored in a secure manner in accordance with Department of Defense and Navy regulations. The whistleblower also alleged that management failed to properly respond to and remedy these inventory shortcomings and that these failures resulted in a loss of over \$20 million to the Navy and resulted in readiness issues for Navy ships requesting parts. The agency report substantiated three of the four allegations. Specifically, the agency found that employees failed to properly maintain and record OM&S inventory over a number of years, resulting in more than \$32,250,000 of unaccounted for material, in violation of Navy Instructions. The agency also substantiated that employees failed to properly identify, and store classified material in violation of Department of Defense Manual 4140.01 and failed to properly investigate instances in which classified and Level 1/Submarine Safety inventory items were identified as unaccounted for, in violation of Navy Manual 5510.36. The Navy transferred responsibility for management of the warehouse and installed appropriate areas for storing classified and SubSafe material. The Navy also relocated all classified material and is drafting specific guidance regarding classified materials.
- OSC referred to the Secretary of the Army a disclosure alleging that Army leadership at Redstone Arsenal, Alabama, and Washington, D.C. failed to employ available state-of-the-art oil analysis technology on T700 aircraft engines, resulting in significant costs to the agency. The whistleblower disclosed that Army leadership failed to direct aircraft program managers to use test processes offered by the Army Oil Analysis Program (AOAP) despite Army policies requiring participation and that the failure to employ AOAP resources resulted in the gross waste of approximately \$95 million annually and prevented AOAP from fully meeting its mission objectives. The Army partially substantiated the allegations. The Army determined that the T700 engine is not subject to the requirement to use AOAP processes because it has a high-performance engine oil filter and other components that permit an accurate assessment of required maintenance. However, the Army investigation determined the T700 was never formally exempted from AOAP. The Army initiated corrective actions to complete an administrative exemption. The Army further determined that the costs of leadership's refusal to enroll the T700 in AOAP were significantly lower than the amount alleged, finding expenses between \$6.9 million and \$1.5 million. Regardless of the dollar amounts, the Army averred that costs could not be characterized as a gross waste of funds because the associated engine maintenance was intended to ensure personnel and aircraft safety. The Army acknowledged a professional disagreement between T700 and AOAP leadership regarding the efficacy of AOAP's proposed pilot program to test state-of-the-art analysis technology.

Nevertheless, the Army began a reassessment of AOAP's proposal to ensure that the Army is taking advantage of the best available technology.

- OSC referred to the Secretary of Veterans Affairs (VA) allegations that employees of the Durham VA Medical Center (Durham VAMC), Durham, North Carolina, that Durham VAMC employees handled medical and information technology (IT) equipment turn-ins improperly, purchased and stored unused computer equipment, and violated VHA food storage policy. The whistleblower disclosed that Durham VAMC Logistics employees failed to properly account for approximately 900 equipment turn-ins and failed to properly document turn-ins on bills of lading and that Logistics management directed employees to fabricate final dispositions for the turn-ins in order to close them out. The whistleblower also alleged that Veterans Integrated Service Network (VISN) employees directed facility employees to request turn-ins for equipment they did not intend to turn in, in order to manipulate budget options. The whistleblower further alleged that, in 2014, the Durham VAMC spent approximately \$385,000 to purchase computer equipment that was never used, along with other unused equipment; and that the facility stored and distributed to patients long-expired bottled water in violation of VHA Handbook 1109.04. The VA substantiated the allegation that in 2014, the Durham VAMC purchased approximately \$385,000 of anesthesia computer equipment and approximately \$1 million in new, unboxed equipment, including vital signs machines, a sterilizer, dental chairs, a dental sink, and cabinets. The agency recommended that the facility develop an immediate action plan to put all new, unused equipment to use within the facility, or to reutilize it at another VA facility. The agency further recommended that the local VISN improve its processes to ensure that purchasing facilities have a valid need for equipment procurements and are capable of using the equipment for patient care. The agency also substantiated that the Durham VAMC stored and distributed bottled water that expired in September 2010, in violation of agency policy. Based on these findings, the agency recommended that the facility immediately dispose of the expired water and ensure compliance with relevant agency policy in the future. The report found the Chief Logistics Officer (CLO) responsible for the shortcomings and took appropriate action. While the agency did not substantiate allegations regarding equipment turn-ins, the report acknowledged management shortcomings within the Logistics department.
- OSC referred to the Secretary of the VA a disclosure alleging employee wrongdoing at the Bedford VA Medical Center (Bedford VAMC), Bedford, Massachusetts. The whistleblower disclosed that employees engaged in widespread and serious misconduct in the purchase and acquisition of landscaping and building materials. He asserted that purchasing agents made suspicious, frequent, and significant purchase orders for landscaping materials, such as rock salt, mulch, and crushed stone, and that the majority of these orders were never delivered to the facility, despite payment. The whistleblower contended that these purchases and payments were part of a kickback arrangement, whereby purchase orders to local companies were made in exchange for pecuniary benefits to VA employees. The investigation largely substantiated the whistleblower's allegations, finding that at the direction of the former-Bedford VAMC Maintenance and Grounds Supervisor, the unit purchased in excess of \$200,000 for snow removal and grounds keeping materials from Earth Creations Landscaping, a company owned by his son. The daughter of the Bedford VAMC Maintenance and Grounds Supervisor was also a VA employee and was directly involved in purchase orders made to Earth Creations Landscaping, as a temporary purchase card holder. The investigation determined this was a violation of VA and government ethics regulations. See 18 U.S.C. § 208 and 5 C.F.R. § 2635. The investigation found that since FY2011, at the direction of the supervisor, Maintenance and Grounds purchasing agents ordered over \$750,000 in landscaping materials in a manner that violated VA and government wide acquisition integrity policies. During the investigation, the supervisor's daughter provided inaccurate statements to federal special agents concerning this conduct. During a 2016 interview with criminal investigators, she claimed that she was unaware that Earth Creations Landscaping was owned by her brother and noted that she had never discussed the company with family members. She explained that she first learned of this association after seeing an Earth Creations truck parked at a residence hosting a family party in either 2012 or 2013. Subsequently discovered email communications determined that despite her statements to agents, she corresponded via email with family members about the VA making payments to Earth Creations as early as May 2011. Investigators provided

evidence to the VA OIG for criminal investigation in the summer of 2015 and the matter was presented by the VA OIG to the U.S. Attorney for the District of Massachusetts, who declined prosecution in August of 2017. After the criminal component of this matter concluded, the VA proposed disciplinary action against in October 2017 charging the supervisor's daughter with lack of candor and conduct unbecoming a VA employee, and demoted her from a GS-12 to a GS-11. The Special Counsel determined that while the reports meet the statutory requirements and the investigatory findings appeared reasonable, the agency's response to the findings and employee misconduct did not appear reasonable.

- OSC referred to the Secretary of the VA disclosures submitted by four whistleblowers on wrongdoing at the VA Medical Center Manchester (VAMC Manchester), Manchester, New Hampshire. The whistleblowers disclosed that a large number of VAMC Manchester patients developed serious spinal cord disease as a result of clinical neglect at the VA; that the former Chief of the Spinal Cord Unit improperly copied and pasted patient chart notes for over 10 years; and that VAMC Manchester's operating room has repeatedly been infested with flies. VA investigators found that in fiscal years 2015 and 2016, 11 consult appointments, or 20 percent of appointments, were not made in the required time, and in more than half of these instances there was no documented reason for the delay. In spite of these findings, VA Investigators were "unable to substantiate" that the referral process from VAMC Manchester to the Boston SCI/D Center created undue delays in care. Regarding a patient who died from surgical complications, the VA noted it was "unclear" if the surgery contributed to his disease progression, but later concluded that his care was appropriate. Nevertheless, the VA stated that the treatment of this patient, as well as six others, would be reviewed by an independent, non-VA external reviewer, raising questions regarding the sufficiency in the initial review of this information. The report first acknowledged that the former Chief of the Spinal Cord Unit inappropriately copied and pasted chart notes between 2008 and 2012, but asserted no harm resulted because associated patient records did not contain any indicia of adverse patient outcomes. The report subsequently acknowledged that investigators only reviewed his charts from a limited time period, yet claimed they had sufficient information to broadly conclude that no patients were harmed. The Special Counsel determined these findings did not appear reasonable and took issue with the VA's response to these allegations when they were featured in a Boston Globe article, noting that the VA did not initiate substantive changes to resolve identified issues until over seven months had elapsed, and only after widespread public attention focused on these matters.
- OSC referred to the Secretary of Agriculture a disclosure alleging wrongdoing at the Animal and Plant Health Inspection Service (APHIS), Riverdale, Maryland. The whistleblower disclosed that APHIS personnel improperly exposed Department of Homeland Security (DHS), U.S. Customs and Border Patrol (CBP) horses to toxic chemical sprays. The whistleblower, manager of the CBP Horse Patrol Program, learned that several CBP horses patrolling the U.S. border in western Texas began to exhibit serious health problems. The patrolled area serves as a tick quarantine zone, with APHIS personnel providing chemical treatments for all livestock who enter the area. As a result, APHIS mandated that all CBP horses patrolling the zone undergo a spray-cycle of an organophosphate compound known as Co-Ral. The whistleblower worked with several veterinarians to identify the cause of the CBP horses' symptoms. Ultimately, he received a diagnosis of organophosphate poisoning from a private veterinarian, and immediately stopped the spray of the CBP horses. APHIS personnel authorized an interim treatment program, allowing the CBP to temporarily switch to an alternative chemical; nevertheless, the whistleblower asserted that APHIS personnel failed to provide CBP with the Material Safety Data Sheet (MSDS) of the Co-Ral spray solutions and other pertinent information. He also disclosed that APHIS personnel did not provide the CBP agents with personal protective equipment (PPE) when they were required to physically restrain the horses during the Co-Ral spray cycles. USDA did not substantiate the whistleblower's allegation that APHIS engaged in misconduct by spraying CBP horses with Co-Ral. The report found that while the CBP horses' symptoms could be associated with organophosphate toxicity caused by Co-Ral, other causes could not be ruled out. Due to substantial technical and scientific disagreement, the evidence was insufficient to find that APHIS personnel engaged in gross misconduct in applying the Co-Ral spray. However, USDA did find that APHIS personnel were not fully cooperative and forthcoming with CBP personnel. The report also substantiated the allegation that APHIS personnel did not direct CBP personnel to take proper precautions when handling horses

treated with Co-Ral. While neither APHIS nor CBP personnel were found to have suffered any ill effects from Co-Ral exposure, USDA determined that all personnel should have been using PPE or taking other appropriate precautions. In response, the agency implemented several corrective actions. USDA required that APHIS personnel reach an amicable solution with CBP personnel for future tick treatment of CBP horses; the agency confirmed that APHIS personnel will use permethrin, a less potent chemical solution, to treat the CBP horses moving forward. APHIS also provided the MSDS of the Co-Ral chemical spray and all requested information to CBP. Finally, USDA established requirements for all personnel present during any application of chemicals on CBP horses, including implementation of standard operating procedures and the use of PPE. The Special Counsel also commended the USDA Secretary for a prompt and thorough response and his recognition that both DHS and USDA must work together to protect public safety.

- OSC referred to the Secretary of the Army allegations that the DoD and Army Office of the Provost Marshal General in Washington, D.C. implemented policies that appeared to violate federal law. Specifically, the whistleblower alleged DoD instructions allowed components to implement instructions that improperly imposed additional criteria on qualified law enforcement officer status, a designation explicitly defined by the Amended Law Enforcement Officers Safety Act of 2004 (LEOSA). See 18 U.S.C. § 926B. The whistleblower further asserted that an Army Directive (the Directive) created an additional requirement that appeared to violate LEOSA. DoD's investigation substantiated that the Directive violated LEOSA. The report noted that, while well-intentioned, the Directive improperly imposed additional restrictions on Army law enforcement officers to obtain "qualified law enforcement officer status." The agency confirmed that the addition of the experience requirement violated LEOSA, which does not contemplate additional restrictions on eligibility beyond those enumerated in the statute. The investigation did not substantiate the allegation that DoD instructions improperly granted components the authority to impose additional criteria. In response, DoD is rewriting its policy to clarify conditions under which DoD components may supplement department-wide instructions. The Secretary of Defense directed the Army to revise the Directive to remove the impermissible LEOSA eligibility criteria. DoD is also reviewing the LEOSA policies of all DoD components.
- OSC referred a whistleblower's disclosure that an Environmental Protection Agency (EPA) regional office had failed to conduct proper lead-based paint inspections as required by law. The EPA OIG investigated and largely substantiated the whistleblower's disclosures. The EPA agreed to multiple systemic improvements, including forming an annual national audit program to increase oversight and accountability; hiring new staff; and issuing national policy guidance to reinforce the importance of checking for women and children occupants at lead-exposed renovation sites—a central thrust of the EPA's mandate.

Hatch Act Unit

The Hatch Act of 1939 aims to insulate the merit system from improper partisan political influence. In FY 2017, OSC received 252 new Hatch Act complaints, and in FY 2018 received 263 complaints. Both years represent record levels of cases received since the passage of the Hatch Act Modernization Act of 2012. We believe this increase reflects a growing awareness of the Hatch Act and vigilance for apparent violations. OSC strongly expects this trend will continue in FY 2020, a presidential election year.

OSC enforces compliance with the Hatch Act by investigating allegations to determine whether the evidence supports a determination that a violation has occurred. If so, OSC will issue a warning letter to the subject, attempt to informally resolve the violation, negotiate a settlement, or prosecute the case before the MSPB. OSC projects that it will resolve 266 Hatch Act complaints by the end of FY 2018 based on achieving resolutions in 222 cases through July 31st. (*See Table 8.*)

OSC also provides federal, state, and local (including Washington, D.C.) government employees, as well as the public at large, with advisory opinions and advice on the Hatch Act, enabling individuals to determine whether they are covered by the Act and whether their contemplated activities are permitted under the Act. In this role, OSC

regularly advises the White House, cabinet members, and other senior management officials throughout the federal government, as well as state and local government officials and the media.

Investigations

OSC investigates allegations to determine whether the evidence of a Hatch Act violation supports corrective and disciplinary action. If a determination is made that a violation has occurred, OSC can issue a warning letter to the subject, attempt to informally resolve the violation, negotiate a settlement, or prosecute the case before the MSPB.

As anticipated, the Hatch Act Modernization Act resulted in a substantial reduction in the number of allegations of Hatch Act violations related to state and local political campaigns, and fewer requests for advisory opinions. In FY 2018, OSC closed 286 complaints.

Advisory Opinions

OSC has the unique responsibility of providing Hatch Act information and advice to the White House and congressional offices, cabinet members and other senior management officials, as well as state and local (including Washington, D.C.) Government employees, the public at large, and the news media. OSC advises individuals on whether they are covered by the Hatch Act and whether their political activities are permitted. During FY 2018, OSC issued 1,386 total advisory opinions, including 46 formal written advisory opinions.

Resource Estimates

During FY 2020, the Hatch Act program will use approximately 6 FTE at a cost of approximately \$1,016,000. During FY 2019, we estimate the cost of this program to be \$737,000 with 4 FTE.

Outreach and Training

To further its advisory role, OSC is very active in training and outreach efforts. In FY 2018, OSC fulfilled 100 percent of training requests it received. OSC also conducted training and outreach presentations to various Federal agencies and employees concerning the rights and responsibilities under the Hatch Act. Many of these programs involved high-level agency officials.

Goals and Results – Hatch Act Unit

OSC's caseload began to decrease during FY 2013 in response to legislative reform and the agency began reducing its Hatch Act staffing accordingly. Nonetheless, OSC processed and closed complaints at a near-record rate, allowing OSC to significantly decrease its case backlog for several years. In recent years OSC has been efficient at resolving cases, even with a smaller Hatch Act Unit staff, and resultantly has brought the case backlog down.

TABLE 8 Summary of Hatch Act Complaint and Advisory Opinion Activity

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	
Formal written advisory opinion requests received	283	257	107	64	64	45	26	52	
Formal written advisory opinions issued	335	262	129	60	60	43	24	46	
Total advisory opinions issued¹⁵	3,110	3,448	1,767	1,382	1,023	1,641	1,325	1,155	
New complaints received¹⁶	451	503	277	151	106	197	253	263	
Complaints processed and closed	635	449	465	182	131	98	234	286	
Warning letters issued	164	142	150	44	28	21	37	49	
Corrective actions taken by cure letter recipients	Withdrawal from partisan races	23	5	5	7	8	4	6	5
	Resignation from covered employment	16	2	2	0	3	1	2	2
	Other	5	4	4	1	0	5	2	3
	Total	44	11	11	8	11	10	10	10
Disciplinary action complaints filed with MSPB	3	0	2	1	2	3	0	2	
Disciplinary actions obtained (by negotiation or ordered by MSPB)	5	4	7	15	9	5	4	6	
Complaints pending at end of fiscal year	233	286	96	65	40	139	156	133	

OSC’s Strategic Goal 1 under its new Strategic Plan is to protect and promote the integrity and fairness of the Federal workforce, including by providing timely and quality Hatch Act advisory opinions and guidance. (*See Appendix B for the new Strategic Plan.*) New goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2018 Case Summaries

- OSC filed a complaint with the MSPB against a VA doctor alleging that he violated the Hatch Act when he ran as an independent candidate in the 2014 partisan election for the U.S. Senate (Tennessee) and promoted his candidacy by distributing business cards featuring the VA’s official seal and touting his campaign video, which included a testimonial from a patient he had treated at the VA. The complaint also alleged that the doctor encouraged several VA colleagues and at least one patient to watch his campaign video; solicited campaign contributions both online and in person; and invited at least one patient to a campaign event. The case is pending before the MSPB.
- OSC filed a complaint with the MSPB against a U.S. Department of Justice Immigration Judge alleging that she violated the Hatch Act when she promoted then-presidential candidate Hillary Clinton’s plan for immigration

¹⁵ All oral, e-mail, and written advisory opinions issued by OSC.

¹⁶ Includes cases that were reopened.

reform and advocated against the Republican Party's immigration plans during a deportation hearing over which the judge was presiding. The case is pending before the MSPB.

- OSC entered into a settlement agreement with a U.S. Postal Service (USPS) employee who violated the Hatch Act by making at least 116 partisan political Facebook postings while on duty. Nearly all of the employee's actions were in the form of a "share" posting from pro-Bernie Sanders, anti-Hillary Clinton, or anti-Donald Trump Facebook accounts. The employee also wore in and out of work for at least a week a USPS-logoed cardigan sweater with a Bernie Sanders campaign sticker on it and draped the cardigan on the back of a work chair, where it was visible to others. USPS had provided the employee with information and training about the Hatch Act prior to these violations. As disciplinary action for her violations, the employee agreed to accept a 50-day suspension without pay.
- OSC entered into a settlement agreement with a U.S. Coast Guard employee who violated the Hatch Act by posting numerous partisan political messages on Facebook while on duty or in the workplace. Several of her Facebook "friends" were subordinate employees. The employee knew about the Hatch Act's prohibitions when she posted the messages; in fact, she earlier had consulted OSC about the prohibition against engaging in political activity on duty. As disciplinary action for her violations, she agreed to serve a 10-day suspension without pay.
- OSC entered into a settlement agreement with an Immigration and Customs Enforcement employee who while at work posted more than 100 partisan political messages to Facebook and Twitter that supported then-presidential candidate Hillary Clinton and/or opposed then-presidential candidate Donald Trump. The employee had significant knowledge of the Hatch Act and had even previously accused a coworker of violating the Act. And the employee continued to engage in prohibited political activity despite knowing that she was under investigation. As disciplinary action for her violations, the employee agreed to resign her federal employment and accepted a five-year debarment from returning to federal service.
- OSC sent an investigative report to President Donald Trump finding that Counselor to the President Kellyanne Conway violated the Hatch Act during two television interviews in which she appeared in her official capacity. In the first interview, Conway advocated against one Senate candidate and gave an implied endorsement of another candidate. In the second interview, she advocated for the defeat of one Senate candidate and the election of another candidate. Both instances constituted prohibited political activity and occurred after Conway received significant training on Hatch Act prohibitions. OSC sent a report to the President because some presidentially appointed White House employees, such as Conway, fall under the President's authority to discipline for Hatch Act violations.

Outreach and Education Program

OSC's outreach and education program assists agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c) and separately provides training to federal entities and stakeholders in each of the areas within OSC's jurisdiction: PPPs under the Civil Service Reform Act, the Hatch Act, whistleblower disclosures, and USERRA. OSC designed and created a five-step educational program, the 2302(c) Certification Program, in FY 2002. This program gives guidance to agencies and provides easy-to-use methods and training resources to assist agencies in fulfilling their statutory obligation, including an online training quiz. The 2302(c) Certification Program was reinvigorated in 2014 primarily based on the new obligation that required all federal agencies to develop a plan for completing OSC's 2302(c) Certification Program.

One of the primary goals of OSC's 2302(c) Certification Program is to ensure that federal agencies inform their workforces, in consultation with OSC, about the rights and remedies available to them under the whistleblower protection and PPP provisions of the Civil Service Reform Act. Another primary goal of the program is training

supervisors to prevent violations of the statutes. Agencies that complete the program receive a certificate of compliance from OSC. Currently, 150 agencies and agency components are either certified or registered for certification.

As noted above, OSC also conducts formal and informal training/outreach presentations to educate the federal workforce in each of the areas within OSC's jurisdiction, as well as train supervisors on their particular obligations under the relevant statutes. OSC conducted 148 training presentations in FY 2017 and then conducted 198 presentations in FY 2018. One hundred and five of these FY 2018 presentations focused on the prohibited personnel practices.

In late 2017, two statutes were signed into law that highlighted the importance of the Certification Program: the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 and OSC's Reauthorization Act, part of the National Defense Authorization Act of Fiscal Year 2018. These statutes, in part, imposed new education requirements on agencies. OSC drafted new information sheets and posters and continues to answer questions and provide guidance to the federal sector in order to assist agencies with meeting the new requirements.

Several agencies, including the Department of Commerce OIG, the Federal Trade Commission, and the Department of Health and Human Services OIG, asked OSC to conduct multiple training presentations over a period of weeks to maximize attendance for compliance with the program's supervisory training requirement. At the request of the Centers for Disease Control and Prevention (CDC) in Atlanta, Georgia, OSC provided in-person training for nearly 2,000 supervisors and managers at CDC in the Atlanta metropolitan area on PPPs, including whistleblower protections. OSC also conducted a Hatch Act training session for the Office of Personnel Management's roundtable series, which was broadcast to thousands of federal employees during the presidential election year.

Finally, OSC has continued its policy of issuing press releases when OSC files a significant litigation petition, achieves significant corrective or disciplinary action through settlement, or publicly issues a PPP report. Many of these cases generate considerable press coverage, which contributes to federal employees' and managers' awareness of the prohibitions under, for instance, the Hatch Act or whistleblower protection laws. In addition, both training and press coverage serve to educate federal employees about their ability to make disclosures, which can save lives and billions of taxpayer dollars as well as hold managers accountable for wrongdoing.

OSC's Strategic Goal 1 under its new Strategic Plan is to protect and promote the integrity and fairness of the Federal workforce, including by expanding training efforts nationwide and effectively communicating with stakeholders and the public. (*See Appendix B for the new Strategic Plan.*) New goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Resource Estimates

During FY 2020, we estimate the Outreach and Education program will use 2 FTEs at a cost of \$339,000. During FY 2019, we estimate the program will use 2 FTEs at a cost of \$369,000.

PART 4 – ENHANCEMENT OF OPERATIONS

Strategic Management of Human Capital

OSC's human capital strategy is aligned with its mission, goals, and organizational objectives. It is integrated into the budget and strategic plans and is consistent with human capital guidance from the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB). OSC has internal accountability systems to ensure effective merit-based human capital management as described below.

The agency is addressing gaps concerning specific skills in its program areas through internal development, upward mobility positions, legal internships, in-house mission-specific training, and by hiring additional personnel. We have also updated position descriptions for existing jobs in the agency. OSC has also hired approximately 40 staff to augment its workforce, including Presidential Management Fellows (on rotational assignment), legal fellows, and unpaid interns annually to help augment staff workloads and improve agency efficiency. Furthermore, OSC promotes cross-training programs to enable employees to learn new skills and participate in the work of several units. OSC also captures valuable information and ideas from the annual Federal Employee Viewpoint Survey (FEVS), which management uses to refine and improve our work. OSC has implemented a new performance management system that allows managers to differentiate between high and low performers using appropriate incentives and accountability measures. We have developed performance plans for SES employees that link to the agency's mission and strategic goals. OSC has implemented appropriate, measurable performance goals for each employee and uses personnel flexibilities and tools, including leave flexibilities, alternative work schedules, and a liberal telework program.

Improved Financial Performance

OSC has continued its success in improving its financial foundation. An independent accounting firm evaluated OSC's financial statements for the last 15 years of audited financial statements. The auditors spent time at OSC headquarters and in Denver with personnel from the Department of Interior's Interior Business Center (IBC), which has performed the accounting, payments, travel system operations, and financial system operations and maintenance functions for OSC. OSC has received unqualified opinions during its first fourteen audits since the inception of formal Financial Statement Audits as required by the Accountability for Tax Dollars Act (ATDA) of 2002. During the FY 2018 financial audits an issue related to the timing of expenses was identified as a material weakness, and OSC has since mitigated this weakness and has put in place corrective procedures going forward.

As mentioned above, OSC contracts out certain work under an interagency agreement, which allows OSC to obtain specialized expertise at a lower cost than it could internally. OSC was involved in the effort to design the processes used for its accounting system and to design specific customized reports that reflect exactly the information most helpful to OSC funds management. IBC routinely provides financial reports to OSC and a detailed financial review every quarter. IBC also provides current financial information on day-to-day operations for payroll, procurement, and travel as needed.

As a small agency without an OIG, OSC relies on audits and other reviews of IBC operations by IBC's OIG and the Office of the Chief Financial Officer, as well as information we receive directly from IBC, for information about any significant issues relating to the services provided to OSC. IBC has a formal management and control and compliance program, including OMB Circular A123 audits, A123 Accounting Transactions testing, SAS70 Type II audits, and financial statements audits. Furthermore, it conducts IT audits, including Federal Information Security Management Act (FISMA) and internal controls reviews.

During FY 2017, OSC implemented within its financial system the capabilities and reporting required by the Digital Accountability and Transparency Act of 2014. OSC met the requirements of the DATA Act, working in cooperation with IBC and other participants. In FY 2018 OSC performed quarterly DATA Act reporting on a timely basis.

Information Technology (IT) Goals For FY 2019 – 2020:

1. Launch eCMS, bringing OSC's largest IT project in years to a successful launch.
2. Enhance and modernize OSC's public facing website.
3. Modernize and improve IT business processes and productivity tools such as:
 - a. Architect and implement data loss prevention.
 - b. HSPD-12 Two-factor Authentication – Implement and extend two-factor logical access to all computers and OSC's Office 365 portal.

- c. Microsoft Teams – Migrate OSC’s on-premises Skype for Business platform to a secure cloud-based platform to introduce a new one-stop portal for case and project discussions, document management, and team collaboration.
 - d. IT Service Management – introduce new tools to help OSC’s Administrative Services Division efficiently identify, track, and resolve IT support and procurement requests.
 - e. Data Backup and Recovery – Securely archive agency data and information in multiple instances to enhance restore and recovery functions.
4. Launch paperless initiatives – work closely with peers to map requirements and build IT solutions to meet government-wide paperless initiatives.
 5. Optimize Data Centers.

The above IT initiatives and operational strategies will advance OSC’s ability to deliver better services by leveraging industry standards and commercial-off-the-shelf products and services. The entire range of services forms a basis for sound enterprise technology architecture that connects OSC to its customers and improves the agency’s response to important cases.

Improving Employee Satisfaction and Wellness

Over the past several years, OSC has implemented several key initiatives to enhance employee satisfaction and wellness: OSC has offered a cost share program (the agency pays half of costs, up to \$35 maximum) for gym membership to encourage employees to have a healthier lifestyle and stay fit; made available on-site, no-fee flu vaccinations and blood pressure checks; organized a blood donor drive; conducted retirement benefits information sessions; and instituted a program to pay for professional credentials (bar membership fees) for attorneys. Additionally, OSC has provided nine CLE courses at no charge to enhance professional development and help staff meet bar credential requirements. OSC has also continued to administer the FEVS. Management was actively engaged in addressing employee awareness and participation through email, meetings, an internal electronic newsletter, promotions, and feedback sessions.

Telework Initiative

This fall OSC management updated its telework and flexible work schedule program. Special efforts were made to balance the needs of employee flexibility with the mission work requirements.

OSC has complied with the requirements of the Telework Enhancement Act by establishing criteria for determining eligibility of employees to participate in telework, notifying employees of their eligibility, and indicating under what conditions they may telework. OSC’s telework program is designed to benefit employees, managers, and the community by decreasing work trip vehicle miles, traffic and parking congestion, energy consumption, and air pollution, thus improving the quality of work life and performance and improving morale by assisting employees in balancing work and family demands.

OSC has a robust IT network setup that supports telework via a secure FedRamp-certified cloud-based portal environment. OSC continues to improve our environment to facilitate telework and streamline business processes. OSC has built out a Skype capability that enables employees to videoconference with each other. Furthermore, OSC is in the process of expanding our VoIP and SIP capabilities so that employees, from anywhere, will have secure access to all of the corporate resources, including telephone and video conferencing services, from their smart devices. OSC remains committed to improving its telework program and the infrastructure necessary to support it.

Continuity of Operations

Continuity of Operations (COOP) planning, mandated by Presidential Decision Directive 67, requires each federal agency to be capable of performing essential functions within 12 hours of a threat or the occurrence of a debilitating event. OSC established a Security and Emergency Preparedness team to manage and oversee low-level threats. We also created a Disaster Recovery Team (DRT) to ensure the continuous performance of OSC's mission-essential functions in the event of a building-specific, city-wide, catastrophic, or pandemic event affecting OSC personnel and/or facilities. The DRT is comprised of a number of the agency's senior leaders.

OSC must safeguard vital records and databases, establish an alternate operating site, and validate capability through tests, training, and exercises. OSC will continue to evaluate alternate methodologies to connect OSC's headquarters and field offices. Following the government-wide direction, OSC has moved to a cloud-computing approach. Planning is in progress for moving components and applications to the cloud. In the first segment, which started in FY 2015, OSC moved its entire email system to a secure, cloud environment that allows data to be easily accessible, particularly in the case of a COOP situation. OSC then moved all its shared and personal drives to the government cloud. In the next segment underway, OSC's case management system is being moved to the cloud, along with our SharePoint environment. This will continue until all appropriate applications that can be transferred to the cloud have been migrated. This cloud approach will provide additional safety and faster recovery time in the event of a debilitating event; agency functions and vital records will be further safeguarded. The new enterprise architecture will provide redundancy, along with automatic failover and enhancements in performance.

Management – Risk Management and Program Evaluation

Like many agencies, OSC has struggled to undertake large, complex initiatives to provide new programs and services and to adapt and improve ongoing programs in a rapidly changing environment.

As we implement the Program Management Improvement and Accountability Act of 2015, OSC is working to increase efficiency, reduce costs, and address high-risk areas via Enterprise Risk Management (ERM) efforts. OSC has also implemented an ERM Charter and has commenced work on the ERM Profile via the ERM Working Group. The ERM Working Group meets quarterly to address agency risks. The overarching goal is to highlight any underlying weaknesses, provide feasible mitigation strategies, and spur organizational improvement. The ERM documents are attached in MAX Community.

OSC has also implemented a structured program review process that will enable us to more consistently and efficiently achieve mission goals, save taxpayer dollars, and enhance service delivery. As a result of the program review process, OSC implemented a restructuring that will enhance the efficiency and effectiveness of the organization. OSC is focused on dedicating more time to gaining program efficiencies and effectively handling complex change initiatives.

APPENDIX A

STATUTORY BACKGROUND

The Civil Service Reform Act of 1978 (CSRA) established OSC on January 1, 1979. Under the CSRA, OSC operated as an autonomous investigative and prosecutorial arm of the Merit Systems Protection Board (MSPB or Board). Pursuant to the CSRA, OSC: (1) received and investigated complaints alleging PPPs; (2) received and investigated complaints regarding the political activity of federal employees and covered state and local employees and provided advice on restrictions imposed by the Hatch Act on the political activity of covered federal, state, and local government employees; and (3) received disclosures from federal whistleblowers about government wrongdoing. Additionally, OSC, when appropriate, filed petitions for corrective or disciplinary action with the Board in PPP and Hatch Act cases.

A decade later, Congress enacted the Whistleblower Protection Act of 1989 (WPA). Under the WPA, OSC became an independent agency within the executive branch, with continued responsibility for the functions described above. The WPA also enhanced protections for employees who allege reprisal for whistleblowing and strengthened OSC's ability to enforce those protections.

Congress passed legislation in 1993 that significantly amended the Hatch Act provisions applicable to federal and District of Columbia government employees to enable them to have expanded roles in political campaigns. The 1993 amendments to the Hatch Act did not affect covered state and local government employees.

The following year, Congress enacted the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA protects the civilian employment and reemployment rights of those who serve or have served in the Armed Forces, including the National Guard and Reserve, and other uniformed services. It prohibits employment discrimination based on past, present, or future military service; requires prompt reinstatement in civilian employment upon return from military service; and prohibits retaliation for exercising USERRA rights. Under USERRA, OSC may seek corrective action for service members whose rights have been violated by federal agencies (*i.e.*, where a federal agency is the civilian employer).

OSC's 1994 Reauthorization Act expanded protections for federal employees and defined new responsibilities for OSC and other federal agencies. For example, the Reauthorization Act provided that within 240 days after receiving a PPP complaint, OSC should determine whether there are reasonable grounds to believe that a PPP has occurred, exists, or is to be taken. Also, the Reauthorization Act extended protections to approximately 60,000 employees at the VA, and whistleblower retaliation protections were extended to employees of listed government corporations. Further, the Reauthorization Act broadened the scope of personnel actions covered under these provisions. Finally, the Reauthorization Act required that federal agencies inform employees of their rights and remedies under the WPA in consultation with OSC.

The Whistleblower Protection Enhancement Act of 2012 (WPEA) was signed into law in November 2012 and strengthened the WPA. This law overturned legal precedents that narrowed protections for government whistleblowers; provided whistleblower protections to employees who were not previously covered, including Transportation Security Administration (TSA) officers; restored OSC's ability to seek disciplinary actions against supervisors who retaliate; and held agencies accountable for retaliatory investigations.

That same year, Congress passed the Hatch Act Modernization Act of 2012 (HAMA). HAMA modified the penalty provision of the Hatch Act to provide a range of possible disciplinary actions for federal employees. It also permitted

state or local government employees to run for partisan political office unless the employee's salary was entirely funded by the federal government. Lastly, it changed the status of District of Columbia government employees by including them in the prohibitions on state and local employees rather than treating them as federal employees.

In October 2017, the Dr. Chris Kirkpatrick Whistleblower Protection Act was signed into law. The Act created a new PPP for accessing medical records in furtherance of another PPP, and it required agencies to notify OSC if an agency employee committed suicide after making a protected disclosure and experiencing a personnel action by their agency in response. The Act also required agencies to train supervisors on how to handle complaints of whistleblower retaliation and mandated disciplinary action for supervisors who have violated specific sections of the WPEA. Finally, the Act required agencies to give priority to the transfer requests of employees who have been granted stays of personnel actions by the MSPB.

On December 12, 2017 legislation reauthorizing OSC was signed. The legislation, included in the National Defense Authorization Act for Fiscal Year 2018, reauthorizes OSC through 2023. Section 1097 of the bill clarifies that when complying with OSC's information requests, federal agencies may not withhold information and documents from OSC by asserting common law privileges such as attorney-client privilege. The reauthorization measure re-asserts OSC's ability to obtain needed information and documents. The reauthorization also promotes greater efficiency and accountability within OSC, improves protections against retaliatory investigations and other forms of reprisal for whistleblowing, and requires managers across the federal government to respond appropriately to disclosures of waste, fraud, and abuse.

APPENDIX B:
STRATEGIC PLAN
—for—
FISCAL YEARS
2017 – 2022

Introduction

Over the past five years, the U.S. Office of Special Counsel (OSC) has vigorously enforced its mandate to protect federal employees, applicants, and former employees from various unlawful employment practices, including retaliation for whistleblowing, and to hold the Government accountable by providing a safe and secure channel for whistleblower disclosures. OSC has worked to restore confidence in OSC within the federal community and among stakeholders. The success stories and statistics paint a clear picture: the positive outcomes and impact that OSC has obtained far surpass the agency's performance in past periods.

As the federal workforce's trust in OSC's ability to obtain corrective action has grown, the demand for OSC's services has hit record levels. Since 2010, the agency's workload has risen 58 percent with significant increases across all program areas, especially prohibited personnel practice complaints. Accordingly, OSC has had to be strategic in addressing the burgeoning workload. OSC has met these challenges, achieving a record number of favorable results. For example, in direct response to a dramatic surge in cases involving risks to the health and safety of patients at medical facilities in the Department of Veterans Affairs, OSC initiated a holistic approach that resulted in quicker and better resolutions. These cases have shed light on and helped correct systemic challenges at medical facilities across the country. They have also provided much-needed corrective action for victims of whistleblower retaliation. Moreover, OSC has augmented government accountability by securing disciplinary action against scores of officials at various agencies for violations of civil service laws.

In addition, OSC has boosted efforts to increase education and outreach to the federal community with the goal of preventing and deterring violations of civil service laws in the first instance. Most significantly, OSC recently reinvigorated the 2302(c) Certification Program, which agencies may use to provide statutorily mandated training on whistleblower rights and remedies to their employees. OSC also has started to publish reports of its investigatory findings (in redacted format) when doing so may serve an educational purpose. For example, in 2014, the agency published a report on a case of first impression, finding that an agency violated civil service laws when it unlawfully discriminated against a transgender employee. Equally important, OSC has improved communication with all of its federal stakeholders through its revamped website and enhanced use of social media.

Finally, OSC has worked with partners in Congress to modernize the laws it enforces, allowing OSC to be more effective in its role as a watchdog and guardian of employee rights. For example, in 2012, Congress passed the WPEA, which overturned several legal precedents that had narrowed protections for federal whistleblowers, provided whistleblower protections to employees who were not previously covered, and restored OSC's ability to seek disciplinary actions against agency officials who retaliate against whistleblowers. That same year, Congress passed the Hatch Act Modernization Act (HAMA), which modified the law to provide a range of possible disciplinary actions for federal employees, permitted state and local government employees to run for partisan political office unless the employee's salary is entirely funded by the federal government, and changed the status of DC government employees from federal employees to state and local government employees.

While OSC's recent achievements are significant, broad challenges remain and new ones have developed. Building on the successes already obtained over the last five years, OSC stands ready to meet these challenges.

About OSC

Background

OSC is an independent Federal investigative and prosecutorial agency. Its basic enforcement authorities come from several Federal statutes: The Civil Service Reform Act (CSRA), as amended by the Whistleblower Protection Act (WPA); the Hatch Act; and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

OSC's roots lie in the reform efforts of Gilded Age America. In 1883, Congress passed the Pendleton Act, creating the Civil Service Commission, which was intended to help ensure a stable, highly qualified Federal workforce free from partisan political pressure. Nearly a century later, in the wake of the Watergate scandal and well-publicized allegations of retaliation by agencies against employees who had blown the whistle on wasteful defense spending and revelations of partisan political coercion in the Federal Government, Congress enacted sweeping reform of the civil service system in 1978. As a result, the CSRA replaced the Civil Service Commission with the Office of Personnel Management (OPM), the Federal Labor Relations Authority, and the Merit Systems Protection Board (MSPB), with OSC serving as the investigative and prosecutorial arm of the MSPB for the next decade.

In 1989, Congress passed the WPA, making OSC an independent agency within the Federal executive branch. The WPA also strengthened protections against retaliation for employees who disclose Government wrongdoing and enhanced OSC's ability to enforce those protections. Enacting legislation such as the WPEA and HAMA—both passed in 2012—has significantly affected the agency's enforcement responsibilities.

Mission and Responsibilities

OSC's mission is to safeguard employee rights and hold the Government accountable. To achieve this mission and promote good Government in the Federal executive branch, OSC's obligations are, broadly speaking: (1) to uphold the merit system by protecting Federal employees, applicants, and former employees from prohibited personnel practices, curbing prohibited political activities in the workplace, and preserving the civilian jobs of Federal employees who are reservists and National Guardsmen; and (2) to provide a safe channel for Federal employees, applicants, and former employees to disclose wrongdoing at their agencies. These two responsibilities work in tandem to maintain the integrity and fairness of the Federal workplace and to make the Government more accountable.

CSRA – Prohibited Personnel Practices

The Federal merit system refers to laws and regulations designed to ensure that personnel decisions are made based on merit. Prohibited personnel practices (PPPs) are employment-related activities that are banned because they violate the merit system through some form of employment discrimination, retaliation, improper hiring practices, or failure to adhere to laws, rules, or regulations that directly concern the merit system principles. OSC has the authority to investigate and prosecute violations of the 13 PPPs in the CSRA, as amended.

CSRA – Whistleblower Disclosures

In addition to protecting whistleblowers from retaliation, the CSRA created OSC as a safe channel for most Federal workers to disclose information about violations of laws, gross mismanagement or waste of funds, abuse of authority, and substantial and specific dangers to public health and safety. Through its oversight of Government investigations of these whistleblower disclosures, OSC regularly reins in waste, fraud, abuse, illegality, and threats to

public health and safety that pose the risk of catastrophic harm to the public and large remedial and liability costs for the Government.

Hatch Act

The Hatch Act, passed in 1939, limits certain political activities of Federal employees, as well as some state, DC, and local Government employees who work in connection with Federally funded programs. The law was intended to protect Federal employees from political coercion, to ensure that Federal employees are advanced based on merit rather than political affiliation, and to make certain that Federal programs are administered in a non-partisan fashion. OSC has the authority to investigate and prosecute violations of, and to issue advisory opinions under, the Hatch Act.

USERRA

USERRA, passed in 1994, protects military service members and veterans from employment discrimination based on their service, and allows them to regain their civilian jobs following a period of uniformed service. OSC has the authority to litigate and otherwise resolve USERRA claims by Federal employees referred from the Department of Labor.

Organizational Structure

OSC is headquartered in Washington, DC. It has three field offices located in Dallas, Texas; Detroit, Michigan; and Oakland, California. The agency includes the following components:

Immediate Office of Special Counsel (IOSC). The Special Counsel and IOSC are responsible for policy-making and overall management of OSC. This responsibility encompasses supervision of the agency's congressional liaison and public affairs activities.

Complaints Examining Unit (CEU). This unit receives complaints alleging PPPs. CEU reviews and examines each PPP complaint to determine if it is within OSC's jurisdiction and, if so, whether the matter can be resolved at that stage or should be referred for mediation, further investigation, or prosecution.

Investigation and Prosecution Division (IPD). This division is comprised of the headquarters office and three field offices, and is primarily responsible for investigating and prosecuting PPPs. IPD determines whether the evidence is sufficient to establish that a violation has occurred and, if so, whether the matter warrants corrective action, disciplinary action, or both. If a meritorious case cannot be resolved informally, IPD may bring an enforcement action before the MSPB.

Hatch Act Unit (HAU). This unit investigates and resolves complaints of unlawful political activity under the Hatch Act, and may seek corrective and disciplinary action informally as well as before the MSPB. HAU also provides advisory opinions under the Hatch Act.

USERRA Unit. This unit reviews and resolves USERRA complaints by federal employees referred by the Department of Labor. The unit also may represent service members in USERRA appeals before the MSPB.

Alternative Dispute Resolution (ADR) Unit. This unit supports OSC's other program units by providing mediation and other forms of ADR services to resolve appropriate cases. Where the parties agree to mediation, the unit conducts mediation sessions seeking creative and effective resolutions.

Disclosure Unit (DU). This unit reviews whistleblower disclosures of government wrongdoing. DU may refer a whistleblower disclosure to the agency to investigate and report its findings to OSC. For referred whistleblower disclosures, DU reviews each agency report for sufficiency and reasonableness, and then OSC sends the

determination, the agency report, and any comments by the whistleblower to the President and responsible congressional oversight committees.

Retaliation and Disclosure Unit (RDU). This unit handles hybrid cases in which a single complainant alleges both whistleblower disclosures and retaliation. OSC created RDU to streamline its processes and provide a single point of contact for complainants with multiple claims. RDU performs the full range of action in these cases, including the referral of whistleblower disclosures to agencies and the investigation and prosecution of related retaliation claims, where appropriate.

Diversity, Outreach, and Training Unit. This unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c), which requires that agencies inform their workforces about whistleblower rights and remedies. The unit also provides external education and outreach sessions for the laws that OSC enforces, as well as develops and implements internal Equal Employment Opportunity and other skill-based training programs for OSC's staff.

Office of General Counsel. This office provides legal advice regarding management, policy, and administrative matters, including the Freedom of Information Act, the Privacy Act, and the ethics programs. The office also defends OSC's interests in litigation filed against the agency.

Administrative Services Division. This division manages OSC's budget and financial operations, and accomplishes the technical, analytical, and administrative needs of the agency. Component units include the Finance Branch, the Human Capital Office, the Administrative Services Office, and the Information Technology Branch.

An organizational chart for OSC may be found in Appendix D.

Strategic Planning Process

Congress requires that Executive Branch agencies develop and post strategic plans on their public websites. The strategic planning process offers an opportunity for an agency to reflect on its statutory mission and mandates, reassess prior goals and objectives, and identify new goals and objectives that will enable the agency to fulfill its mission and vision. This process—and the resulting strategic plan—also serves to notify Congress and stakeholders of major factors that may affect the agency's ability to meet its statutory obligations.

In April 2016, Special Counsel Carolyn N. Lerner launched the strategic planning process for OSC. To be successful, this strategic planning effort sought input from OSC employees as well as key stakeholders from outside the agency. Accordingly, Ms. Lerner assembled a Strategic Planning Team that is diverse and representative of the entire agency to work on this project. She also tasked Associate Special Counsel Louis Lopez with leading the agency's efforts to develop the new strategic plan. A full list of participants may be found in Appendix E.

This Strategic Planning Team met regularly over six-months to conduct an organizational review of OSC's programs and services, and then identify new strategic goals, objectives, strategies, and metrics for the strategic plan. OSC also set up a page on its intranet to provide all agency personnel with information and to solicit feedback during the strategic planning process.

In August 2016, OSC posted a draft of the strategic plan on OSC's intranet and external website for public comment by employees and stakeholders. The agency also delivered the draft strategic plan to OSC's oversight and appropriations committees in Congress. OSC held meetings regarding the draft strategic plan with its employees, the Office of Management and Budget, staff from the agency's congressional oversight and appropriations committees, and stakeholders.

OSC received 12 substantive comments from internal and external stakeholders in writing as well as during

the scheduled meetings: five submissions from employees, and seven submissions from good Government groups, a Federal management association, a public-sector union, and a private citizen. Comments that went beyond the scope of the draft strategic plan were reviewed and considered generally.

OSC received several comments regarding its investigation and prosecution functions. Some comments lauded OSC's efforts to apply consistent standards of review and investigative procedure to our cases involving PPPs, the Hatch Act, and USERRA. Of course, OSC utilizes a different statutory scheme for agency investigations and reports of referred whistleblower disclosures. Generally, comments expressed support for OSC's proposed working group charged with improving the efficiency of case handling procedures, including looking for ways to be more responsive to complainants and agency representatives during OSC's investigation process. OSC has already undertaken some efforts in this area. For example, OSC currently obtains early resolution in appropriate cases without a formal referral from CEU to IPD and without a formal written settlement agreement (instead opting to memorialize these resolutions in letters to the parties). In its press releases, annual reports, and performance and accountability reports, OSC also provides case narratives showcasing the qualitative results in successful resolutions. OSC will engage stakeholders on how the agency can share more data and related case information in the future to provide a better context within which to evaluate its performance.

Some comments suggested OSC provide more information regarding its use of ADR and litigation to resolve cases. The agency currently provides mediation information on its website, during training and outreach presentations, and in meetings with parties interested in early dispute resolution of their cases. OSC also will soon release a video explaining how mediation fits into its overall case processing system. In the same vein, OSC—like most parties to legal disputes—seeks to resolve meritorious cases without resorting unnecessarily to lengthy, expensive, and protracted litigation. To balance its roles of effective enforcer of the merit system and efficient steward of tax-payer dollars, OSC will continue to look for strategic ways to enhance public enforcement and development of the law through publicized PPP reports, *amicus curiae* briefs filed with the MSPB and the Federal courts, and litigation in cases that do not achieve voluntary resolution by the parties.

Some comments applauded OSC's efforts to expand training and outreach efforts nationwide and offered specific suggestions for OSC's 2302(c) Certification Program. In response to the comments, OSC notes that it currently posts a list of 2302(c)-certified agencies on its website, which provides an incentive for agencies to provide the mandated training on whistleblower rights, including those related to scientific integrity. However, OSC has no authority to penalize agencies for non-compliance. OSC's current training and outreach programs also emphasize the important role that Federal employees can play in reporting Government waste, fraud, and abuse. If there are developments in the Federal employee whistleblower laws, OSC will consider appropriate changes to its 2302(c) Certification Program. Finally, while OSC's training and outreach programs offer in-depth and interactive exercises to agencies, OSC looks forward to receiving ongoing feedback from stakeholders to evaluate and improve these efforts.

OSC also received several comments regarding its role of providing a safe channel to report Government wrongdoing, primarily with respect to the timeliness of the process. OSC is striving to reduce the amount of time it takes between referral of whistleblower disclosures to an agency for investigation and the publication of the results of that investigation. Timeliness is difficult to assess in a standardized way because it depends on a variety of factors. For example, many whistleblower disclosures are complex and technical in nature and, by statute, whistleblowers may review and comment on the agency's report. Throughout the process, OSC communicates with the whistleblower and the agency and thoroughly analyzes the agency's report and the whistleblower's comments to ensure the agency's findings are reasonable and contain all of the required information. OSC will seek to continue to streamline the process without sacrificing quality and complete reports on referred whistleblower disclosures.

Finally, OSC received a limited number of comments regarding its internal operations and efforts at achieving organizational excellence. In response to these comments, the agency expanded its strategy to identify best practices from all agency programs, as opposed to only from certain ones. One submission suggested OSC consider

having an ombudsperson to handle internal and external stakeholder disputes. In recent years, OSC has implemented several mechanisms to communicate better with employees, keep staff engaged, and resolve workplace disputes. These efforts have been well received. In addition, OSC has been successful in working closely with external Governmental and non-Governmental stakeholders on the agency's work, including promptly responding to concerns brought to OSC's attention. Nevertheless, the agency will consider this recommendation as it moves forward with the implementation of the strategic plan.

On September 27, 2016, OSC's final strategic plan was approved by the Special Counsel. Implementation of the new strategic plan began October 1, 2016.

Mission, Vision, Strategic Goals, and Core Values

Mission: *Safeguarding employee rights, holding Government accountable.*

Vision: *Fair and effective Government inspiring public confidence.*

Strategic Goals:

***Protect and promote the integrity and fairness of the Federal workplace.
Ensure Government accountability.
Achieve organizational excellence.***

OSC's Mission states: "Safeguarding Employee Rights, Holding Government Accountable." Strategic Goals 1 and 2, which focus on the agency's substantive program areas, work closely together to achieve a more responsible and merit-based Federal Government. Strategic Goal 3, which focuses on OSC's efforts to achieve organizational excellence, has the building blocks to make the agency a more agile, better-functioning organization. Collectively, all three Strategic Goals will help OSC to realize its Vision, which is "Fair and Effective Government Inspiring Public Confidence."

Core Values:

Commitment: We are dedicated to seeking justice through the enforcement of laws that OSC is charged with prosecuting and to being a safe channel for whistleblowers.

Excellence: We foster a model workplace with respect for employees and stakeholders, and provide clear, high-quality, and timely work product in our programs and services.

Independence: We conduct our work free from outside influence. We act fairly and without bias to honor the merit system.

Integrity: We adhere to the highest legal, professional, and ethical standards to earn and maintain the public's trust.

Vigilance: We aim for proactive and constant improvement of both our own processes and of the merit system. We strive to identify innovative and effective ways to address and prevent Government wrongdoing.

Strategic Goals, Objectives, Strategies, and Metrics

Strategic Goal 1 – Protect and promote the integrity and fairness of the Federal workplace.

Objective 1: Fairly and promptly investigate and prosecute cases.

Objective 2: Obtain timely and effective relief in cases.

OSC faces an increasing number of cases each year, particularly from Federal employees alleging whistleblower retaliation. To effectively remedy wrongs and hold agencies accountable, OSC will apply consistent standards of review and investigative procedure to each matter. Some cases will demand more time and resources than others, and will require a variety of investigative strategies and techniques to resolve. Applying broadly uniform procedures but handling each matter as the facts demand will allow OSC to remain efficient, fair, and effective. OSC will continue to use ADR and other dispute resolution methods to increase case-processing efficiency and better serve its stakeholders.

Strategies:

- Handle cases in a fair and unbiased manner.
- Form working group to improve efficiency of case handling procedures.
- Maximize effective use of ADR and other resolution methods in cases.

Data Points and Metrics:

General

- Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly.

PPP Enforcement

- Number of complaints received.
- Number/percent of whistleblower retaliation complaints received.
- Number/percent of whistleblower retaliation complaints closed within 240 days.
- Average age of complaints at closure.
- Number of complaints filed with MSPB.
- Number of successful prosecutions before MSPB.
- Number of informal stays obtained.
- Number of formal stays obtained.
- Number of complaints mediated.
- Number of complaints mediated resulting in settlement.
- Number of individual corrective actions obtained.
- Number of systemic corrective actions obtained.
- Number of disciplinary actions obtained.

Hatch Act Enforcement

- Number of complaints received.
- Number/percent of complaints closed within 240 days.
- Number of complaints filed with MSPB.
- Number of successful prosecutions before MSPB.
- Number of warning letters issued.
- Number of corrective actions obtained.
- Number of disciplinary actions obtained.

USERRA Enforcement

- Number of referrals received.
- Number of merit referrals.
- Number of non-merit referrals.
- Number/percent of referrals closed within 60 days.
- Number of offers of representation before MSPB.

- Number of corrective actions obtained (formally and informally).

Objective 3: Enhance strategic use of enforcement authority.

As a small agency responsible for safeguarding the merit system in a broad sector of the Federal community, OSC strives to maximize the impact of its enforcement actions and deter future violations. In addition to seeking corrective and/or disciplinary action for PPPs, Hatch Act, and USERRA complaints, OSC may issue PPP reports and provide technical assistance for policy and legislative changes affecting the laws it enforces. The WPEA also authorized OSC to file amicus curiae briefs in cases involving whistleblower rights and intervene in cases before the MSPB. OSC will use these authorities to advance its mission of safeguarding employee rights by educating the Federal community, working for systemic changes, and helping shape and clarify the law.

Strategies:

- Publish more PPP reports that serve educational purposes, as appropriate.
- Furnish expert technical assistance to aid Governmental bodies with formulating policy and precedent.
- Collaborate and strategize with other agencies to make systemic improvements to the Federal workplace.

Data Points and Metrics:

- Number of PPP reports published on website.
- Number of *amicus curiae* briefs and interventions filed.
- Number of inter-agency efforts involving systemic improvements to the Federal workplace.

Objective 4: Provide timely and quality Hatch Act advisory opinions and guidance.

OSC is in a unique position to provide Hatch Act advice to Federal, DC, state, and local employees and officials, as well as the general public. It is important for OSC to provide consistent, well-reasoned opinions in a timely fashion so that individuals can make appropriate decisions about their political activities. OSC recognizes the importance of revising and updating the Hatch Act regulations and will continue to pursue its efforts to partner with OPM, the agency responsible for promulgating the regulations, to achieve this goal.

Strategies:

- Provide timely and appropriate Hatch Act advice and information.
- Work closely with OPM to revise the Hatch Act regulations.

Data Points and Metrics:

- Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry.
- Number/percent of informal email advisory opinions issued within 5 days of inquiry.
- Number/percent of formal written advisory opinions issued within 60 days of inquiry.
- Revised Hatch Act regulations by FY 2018.

Objective 5: Expand training and outreach efforts nationwide.

OSC is well-suited to safeguard employee rights by educating the Federal community and others about PPPs, whistleblower disclosures, the Hatch Act, and USERRA through its training and outreach programs. Since 2002, OSC has had a formal program to ensure compliance with 5 U.S.C. § 2302(c), which requires Federal agencies to inform employees about their rights and remedies under the whistleblower protections and related laws. In 2014, the White House mandated that Federal agencies become section 2302(c)-certified. OSC also has longstanding training programs on the Hatch Act and USERRA, as well as resources available through its website. While many agencies in the Washington, DC area have received OSC training and certification, OSC will endeavor to expand its efforts nationwide to better reach agencies and components that may have less familiarity with the whistleblower protections and other laws that OSC enforces. OSC will also monitor, evaluate, and reassess the effectiveness of its training and outreach activities.

Strategies:

- Increase awareness of, and provide expert technical assistance to agencies/components on, the 2302(c) Certification Program and other OSC-related training needs.
- Develop procedures to facilitate registration, certification, and recertification rates of agencies/components under the 2302(c) Certification Program.
- Certify and recertify more agencies/components through the 2302(c) Certification Program.
- Create training and outreach plan to reach agencies beyond the Washington, DC area.
- Collaborate with agencies to develop OSC-related web-based and other training, e.g., advanced training quiz, topical videos, etc.
- Improve methods to survey effectiveness of training and outreach activities.

Data Points and Metrics:

- Number of agencies/components contacted regarding the 2302(c) Certification Program.
- Number of agencies/components registered for the 2302(c) Certification Program.
- Number of agencies/components certified and recertified for the 2302(c) Certification Program.
- Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program.
- Number of training and outreach activities, broken down by program area and geographic location.
- Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly.

Objective 6: Effectively and innovatively communicate with stakeholders and the public.

OSC understands the necessity of effectively communicating with stakeholders and the general public about its efforts to safeguard employee rights and hold the Government accountable. By appropriately publicizing enforcement outcomes through traditional and non-traditional media, OSC can help to educate the Federal workforce about their rights and responsibilities and deter future wrongdoing. OSC will use a wide variety of communication methods to disseminate timely, accurate information and will provide regular opportunities for input, feedback, and collaboration from stakeholders.

Strategies:

- Issue press releases on major activities and key developments.
- Increase use of digital media as appropriate (e.g., website, social media, listservs, infographics, webinars, etc.).
- Enhance coordination with Governmental and non-Governmental stakeholder groups.
- Develop proposal for the establishment of a regularly-held conference on whistleblowing in the Federal workplace.

Data Points and Metrics:

- Number of press releases issued.
- Types and frequency of digital media used to share information.
- Number of meetings with stakeholder groups.
- Proposal for the establishment of a regularly-held conference on whistleblowing in the Federal workplace by FY 2017, and reassess regularly.

Strategic Goal 2 – Ensure Government accountability.

Objective 1: Provide employees with an effective and efficient safe channel to report Government wrongdoing.

OSC promotes Government accountability, integrity, and efficiency by providing a safe channel for Federal

employees to come forward with evidence of waste, fraud, abuse, law-breaking, or threats to public health or safety. With an overall increasing trend in the number of whistleblower disclosures for the last five years, OSC must continue to ensure that this safe channel remains confidential, secure, and effective in promoting change and accountability. OSC is currently developing a new and dynamic combined form for reporting Government wrongdoing, whistleblower retaliation and other PPPs, and Hatch Act violations. The form is designed to be confidential, secure, and convenient for the user. It can be downloaded and completed privately. It may be submitted electronically and immediately routed and processed, and the user need not establish an account. OSC will work vigorously to review and assess the whistleblower reporting experience to ensure that, by providing a safe channel for whistleblowers and their disclosures, OSC can better ensure Government accountability.

Strategies:

- Implement new electronic complaint/disclosure form.
- Form working group aimed at developing actionable methods to assess and improve whistleblower reporting experiences.

Data Points and Metrics:

- New electronic complaint/disclosure form by FY 2017, and refine as appropriate.
- Number of whistleblower disclosures.
- Number/percent of whistleblower disclosures that also allege related retaliation.
- Number/percent of whistleblower disclosures referred to agencies for investigation.
- Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly.

Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures.

OSC returns substantial sums to the Federal Government by pressing for appropriate action to remedy waste and fraud disclosed by whistleblowers. Through its oversight of agency reports on referred whistleblower disclosures, OSC uncovers individual and systemic violations of Federal law and evaluates the reasonableness of agency responses, encourages cost savings occasioned by the identification and cessation of Government waste, and resolves serious health and safety threats. A key objective is to improve the timeliness and outcomes of agency reports. OSC will improve communication with agencies concerning their statutorily-mandated reports, including their content and timeliness, as well as seek alternative resolutions of whistleblower disclosures.

Strategies:

- Engage agencies in the development of effective investigation plans of referred whistleblower disclosures.
- Maintain communications with agencies before, during, and after agencies' investigations of referred whistleblower disclosures, as appropriate.
- Provide alternate means to achieve resolutions of whistleblower disclosures.
- Expand efforts to capture scope of benefits to Government resulting from outcomes of whistleblower disclosures.
- Monitor all whistleblower disclosures and referrals to agencies to identify trends or systemic challenges.

Data Points and Metrics:

- Percentage of referred whistleblower disclosures that are substantiated by agencies.
- Number of favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures.
- Timeliness of OSC's communication to the President and Congress after receiving an agency investigation report and whistleblower's comments.
- Implementation of measurement to capture scope of benefits to Government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security

and/or tax dollars saved or recovered, by FY 2017, and reassess regularly.

Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures.

For OSC's work to have the greatest impact on Federal Government operations, particularly in cases involving systemic abuses or practices likely to occur across Government agencies, it must have a robust and continuous presence within the Federal community and before the general public. OSC's public reporting requirements for investigated whistleblower disclosures make it even more imperative that Federal employees, taxpayers, and other stakeholders have prompt, accurate, and easy access to information about referred whistleblower disclosures. The implementation of a variety of new technologies offers the agency the opportunity to more effectively disseminate information about the financial and other qualitative benefits to the Government from the outcomes of referred whistleblower disclosures, thus ensuring accountability broadly throughout the Government.

Strategies:

- Revamp online public file of whistleblower disclosures on website.
- Increase dissemination of favorable outcomes of whistleblower disclosures via press releases, social media, etc.
- Enhance training and outreach aimed at increasing awareness and deterrence of underlying Government wrongdoing.
- Develop plan to enhance the profile of OSC's Public Servant Award.

Data Points and Metrics:

- Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly.
- Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.
- Number of training and outreach events that address whistleblower disclosures.
- Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly.

Strategic Goal 3 – Achieve organizational excellence.

Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce.

To accomplish its mission with excellence, OSC must use targeted recruitment methods that attract talented employees who believe in the work of the agency. A diverse workforce from various backgrounds will help OSC tackle problems from different perspectives and find optimal solutions. OSC is committed to retaining this skilled and diverse workforce through work-life balance strategies, career and skills development, cross-training, recognition of strong performance, and other initiatives that will keep employees engaged and equip them to achieve the mission.

Strategies:

- Create and maintain a Human Capital Plan that includes effective recruitment strategies for attracting talent from diverse sources and appropriate succession planning.
- Establish an Honors Program for hiring attorneys from law schools or clerkships.
- Improve and standardize new employee initial onboarding processes, as appropriate.
- Create and maintain a staff training plan for all employees that regularly assesses training needs and delivers training programs.
- Implement a voluntary mentorship program.
- Continue to facilitate internal cross-training opportunities through details, rotations, reassignments, and other tools aimed at ensuring that the agency remains agile and responsive to changing organizational needs, and that staff develop professionally within the agency.
- Continue to increase employee engagement efforts through Employee Engagement Working Group, Federal

Employee Viewpoint Survey participation and analysis, consistent communication, and effective recognition of staff performance.

- Continue to emphasize work/life balance and other related benefits.

Data Points and Metrics:

- Human Capital Plan by FY 2017, and reassess regularly.
- Honors Program by FY 2017, and reassess regularly.
- Improved and standardized onboarding process by FY 2017, and reassess regularly.
- Staff training plan by FY 2017, and reassess regularly.
- Mentorship program by FY 2017, and reassess regularly.
- Ongoing internal cross-training opportunities, and reassess regularly.
- Ongoing employee engagement efforts, and reassess regularly.
- Ongoing work/life balance and other related benefits, and reassess regularly.

Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations.

OSC will be a good steward of tax-payer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will deploy mobile access to network programs in compliance with directives that move the Government toward a virtual work environment, while ensuring continuity of operations in times of work interruption and providing greater flexibility to employees. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

Strategies:

- Identify, procure, and deploy commercial off-the-shelf IT solutions to meet the agency's needs.
- Assess and address on a continual basis the IT needs of staff and customers.
- Recruit and retain highly-skilled IT experts.
- Provide excellent IT customer service.
- Assess effectiveness of IT services and respond to stakeholder needs.

Data Points and Metrics:

- Transition to electronic case management system by FY 2017, and reassess regularly.
- 100% deployment of mobile access to network program resources by FY 2017, and reassess regularly.
- 100% data encryption by FY 2017, and reassess regularly.
- Ongoing semi-annual assessment of IT needs, and reassess regularly.
- Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly.
- Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly.

Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes.

While OSC is a small agency, it takes complaints from throughout the Federal Government; it handles cases from all over the country; and its authority to act derives from several different Federal statutes. OSC will undertake a comprehensive and transparent evaluation of the most efficient approach for safeguarding employee rights and holding the Government accountable. The evaluation will identify best practices and areas of improvement. This will be part of a vigilant process of continual evaluation of OSC's existing program areas and new programs to ensure the most effective delivery of services. To accomplish these goals, OSC will give Federal employees and other stakeholders a greater opportunity to provide input into shaping its work.

Strategies:

- Create and execute an institutional approach to evaluate OSC's programs and processes, including special projects and initiatives, to identify best practices and areas of improvement.
- Implement best practices and address areas of improvement identified in evaluations of OSC's programs and processes.
- Initiate an enhanced method for determining customer satisfaction with OSC's programs and processes, and evaluate data to improve efficiency and effectiveness.

Data Points and Metrics:

- Creation and implementation of institutional approach to evaluate programs and processes by FY 2017, and reassess regularly.
- Completion of first evaluation of program(s) or process(es) to identify best practices and areas of improvement by FY 2018, and proceed with evaluation of additional programs and processes regularly thereafter.
- Implementation of best practices and responses to areas of improvement identified in first evaluation of program(s) or process(es) by FY 2019, and reassess regularly.
- Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly.
- Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly.

Factors Affecting Achievement of Strategic Plan

While OSC is committed to achieving its mission and vision, there are internal and external factors that will likely affect the agency's ability to achieve all of the goals and objectives in this strategic plan. The primary issues of concern revolve around persistent budget uncertainty, a steadily increasing workload, and significant technological challenges. For a small-sized, resource-constrained agency with a substantial mandate to safeguard employee rights and hold Government accountable, these factors can present serious challenges to fulfilling OSC's important statutory obligations.

Historically, OSC has had limited funding to effectively execute its mission and support functions. The agency has had to make difficult choices to ensure that it balances its investigative and prosecution responsibilities with the training and outreach efforts critical to deterring whistleblower retaliation and other unlawful practices. In FY 2015, OSC's caseload hit an all-time high, surpassing 6,000 new matters for the first time in agency history. The dramatic rise was driven by restored confidence in OSC's ability to safeguard the merit system. OSC's continuing success in achieving favorable results through mediation and negotiation, particularly in high-priority matters, also contributed to the increased number of complaints filed. With an expected surge in Hatch Act complaints driven by the 2016 presidential election, OSC anticipates continued growth in its caseload. Budget uncertainty remains a significant challenge to OSC's ability to carry out its myriad responsibilities.

In response to these funding challenges and rising caseloads, OSC must carefully prioritize and allocate resources to remain efficient, fair, and effective in maintaining the high levels of success it has achieved in recent years. Accordingly, the agency is putting into place long-term plans to improve the efficiency of case handling procedures; is being proactive, seeking early resolution of cases through stepped up ADR and settlement efforts; is implementing innovative approaches to achieve efficiencies in cases involving both whistleblower disclosures and related retaliation claims; and is improving cross-training of staff. A better funded and more efficient OSC will result in greater cost-saving and more effective accountability throughout Government.

Additionally, OSC has had limited ability to invest in, but increased need for, long-term improvements in technology. OSC will be called upon to ensure that the technological environment in which it conducts its work is modern and

secure. By proactively assessing the information security needs and the technological requirements of employees and stakeholders, OSC plans to improve efficiency, security, and the customer experience. Continuous assessment of information technology requisites against available resources will help ensure that OSC achieves organizational excellence despite these challenges.

While OSC's establishment as an independent Government oversight agency insulates it from political influences on its work, transitions in administration and leadership throughout the Federal Government will necessarily impact OSC's ability to safeguard employee rights and hold the Government accountable. Specifically, staffing changes at all levels in the agencies over which OSC has jurisdiction will require that OSC remain agile and focused on honoring the merit system fairly and without bias. These challenges will require that OSC continue to prioritize education and outreach, and to highlight cases with significant educational value or that promote accountability. Through these efforts, OSC can improve the culture within the Federal Government and remain a steady accountability and transparency presence that can withstand administration and leadership changes.

OSC's strategic plan contemplates confronting all of these challenges directly over the next few years to ensure its success. And when OSC succeeds, good Government and the general public are the real winners.

Appendix C: Goal Tables for New Strategic Plan Fiscal

Years 2017-2022

Goal Table 1A: Goals 1-14

Goal 1 - Protect and promote the integrity and fairness of the federal workplace

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
1 Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
2 Number of PPP complaints received	Data-point	3,784	Data-point	4,112	Data-point		Data-point			
3 Number of whistleblower retaliation complaints received	Data-point	1,899	Data-point	1,861	Data-point		Data-point			
4 Number of whistleblower retaliation complaints closed within 240 days	Baseline	1,305	Baseline	1,667	Baseline		Baseline			
5 Average age of PPP complaints at closure	Baseline	131	Baseline	166	Baseline		Baseline			
6 Number of PPP complaints filed with MSPB	1	0	1	1	1		1			
7 Number of successful PPP prosecutions before MSPB	1	0	1	0	1		1			
8 Number of PPP complaints mediated	30	37 ⁸	33	29	33		33			
9 Number of PPP complaints mediated resulting in settlement	18	32	20	22	20		20			
10 Number of informal stays obtained	25	34	25	47	25		25			
11 Number of formal stays and related extensions obtained	4	16	4	12	8		8			
12 Total favorable PPP actions	203	190 ¹²	206	309	206		275			
13 Number of systemic corrective actions obtained	28	47	30	57	32		32			
14 Number of disciplinary actions obtained	15	16	15	19	15		15			

Goal Table 1A Explanatory Notes

8: This amount represents the number of completed mediations out of a total of 66 cases that entered mediation in FY 2017.

12: This metric was revised. Total favorable actions in PPP cases include informal stays, formal stays (including extensions), individual and systemic corrective actions, as well as disciplinary actions. OSC’s historical average for total favorable actions in PPP cases is 186. The recent favorable action average for the past three years is higher at 251, with OSC obtaining 276 favorable actions in FY 2016. The FY 2017 and FY 2018 targets for Metric 12 (individual corrective actions obtained) of the new strategic plan are therefore revised to 203 and 206 respectively. This revision reflects the more accurate and appropriate targets of 275 anticipated total favorable actions in FY 2017 and 276 in FY 2018, and is consistent with OSC’s historical trends for PPP cases.

- A. **Goal Table 1B** details the data points and performance metrics for OSC’s work investigating, litigating, and resolving Hatch Act complaints. OSC met five out of five goals in FY 2018. Metric 15 is a data-point and for metric 16 baseline is being established.

Goal Table 1B: Goals 15-21											
Goal 1: Protect and promote the integrity and fairness of the federal workplace											
Objective 1: Fairly and promptly investigate and prosecute cases											
Objective 2: Obtain timely and effective relief in cases											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
15	Number of Hatch Act complaints received	Data-point	253	Data-point	263	Data-point		Data-point			
16	Percent of Hatch Act complaints closed within 240 days	Baseline	63%	Baseline	65%	Baseline		60%			
17	Number of Hatch Act complaints filed with MSPB	1	0	1	3	1		1			
18	Percent of successful Hatch Act prosecutions before MSPB	100%	N/A	100%	100%	100%		100%			
19	Number of Hatch Act warning letters issued	25	37	20	49	22		25			
20	Number of corrective actions obtained	10	10	10	10	10		10			
21	Number of disciplinary actions obtained	5	4	5	6	5		5			

B. Goal Table 1C details the data points and performance metrics for OSC’s work investigating, litigating, and resolving USERRA complaints. During FY 2018, OSC met three out of three metrics. OSC completed 86% of USERRA legal reviews within 60 days and obtained 3 corrective actions.

Goal Table 1C: Goals 22-27										
Goal 1: Protect and promote the integrity and fairness of the federal workplace										
Objective 1: Fairly and promptly investigate and prosecute cases										
Objective 2: Obtain timely and effective relief in cases										
Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
22 Number of USERRA referrals received	Data-point ²²	17	Data-point ²²	25	Data-point ²²		Data-point ²²			
23 Number of USERRA merit referrals	Data-point ²³	7	Data-point ²³	4	Data-point ²³		Data-point ²³			
24 Number of USERRA non-merit referrals	Data-point ²⁴	10	Data-point ²⁴	21	Data-point ²⁴		Data-point ²⁴			
25 Percent of USERRA referrals closed within 60 days	80%	79%	80%	86%	75%		80%			
26 Number of USERRA offers of representation before MSPB	1	0	1	1	1		1			
27 Number of USERRA corrective actions obtained (formally and informally)	3	6	3	3	3 ²⁷		3			

27. In one of the three cases being reported in FY2018 the corrective action was completed while the case remained open.

C. Goal Table 2 details OSC’s efforts to enhance its strategic enforcement authority, as it related to the third objective under Strategic Goal 1. OSC met three out of three goals in FY 2018.

Goal Table 2 Explanatory Notes

For metric 29, the total of 5 for FY 2018 includes four supplemental filings.

Goal Table 2

Goal 1: Protect and promote the integrity and fairness of the federal workplace

Objective 3: Enhance strategic use of enforcement authority

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
28	Number of PPP reports published on website	2	3	2	2	2		2			
29	Number of amicus curiae briefs and interventions filed*	2	3	2	5	2		2			
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4	10	4	10	4		4			

D. Goal Table 3 details the Hatch Act advisory opinions provided by OSC, as contemplated by OSC fourth

Goal Table 3

Goal 1: Protect and promote the integrity and fairness of the federal workplace

Objective 4: Provide timely and quality Hatch Act advisory opinions and guidance

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
31	Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry	Baseline	100%	Baseline	100%	Baseline		98%			
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%	100%	95%	99.9%	95%		98%			
33	Number/percent of formal written advisory opinions issued within 60 days of inquiry	Baseline	75%	Baseline	89%	Baseline		75%			
34	Revised Hatch Act regulations by FY 2018	N/A	N/A	Met	Partially Met	Met		Met			

objective under Strategic Goal 1. In FY 2018, OSC met or partially met two out of two goals.

Goal Table 3 Explanatory Notes

For metrics 31 and 33, baseline is being established.

E. Goal Table 4 details OSC's training and outreach efforts pursuant to OSC's fifth objective under Strategic Goal 1. OSC met two out of three goals in FY 2018.

Goal Table 4

Goal 1: Protect and promote the integrity and fairness of the federal workplace

Objective 5: Expand training and outreach efforts nationwide

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
35	Number of agencies/components contacted regarding the 2302(c) Certification Program	70	127 ³⁵	35	164	70		100			
36	Number of agencies/components registered for the 2302(c) Certification Program	Baseline	24	Baseline	21	20		15			
37	Number of agencies/components certified and recertified for the 2302(c) Certification Program	Baseline	43 ³⁷	Baseline	23 ³⁷	20		15			
38	Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program	9 months	8.35 months	6 months	10.17 months	9 months		8 months			
39	Number of training and outreach activities, broken down by program area and geographic location	Baseline	148 ³⁹	Baseline	198 ³⁹	150		165			
40	Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

Goal Table 4 Explanatory Notes

37: Number of agencies and agency components certifying/recertifying for the Section 2302(c) Certification Program will vary in response to the three-year recertification cycle. For example, we expect lower figures in FY 2018, because most agencies have already certified and are not yet due for recertification. Thus, we anticipate increased numbers in FY 2019 due to agencies recertifying at the end of the three-year cycle.

39: Number of trainings will increase and decrease in each fiscal year based on a number of factors, including, for instance, (1) the almost 75% increase in Hatch Act trainings we have observed during election years; and (2) an increase in Section 2302(c) trainings based on years in which a higher percentage of agencies are due for recertification at the end of the three-year cycle, creating a “lumpy forecast.” Whistleblower disclosure trainings are held in conjunction with PPP trainings and counted separately. In FY 2018, OSC experienced a 33.78% increase in trainings over last fiscal year.

Program Area	Total	Outside Beltway*
PPP	105	26
HA	53	5
DU	39	4
USERRA	1	0

*Trainings held outside the D.C. area occurred in Alabama, California, Florida, Georgia, Idaho, Massachusetts, Maryland, New York, Oklahoma, Pennsylvania, South Carolina, Texas, and Virginia.

F. **Goal Table 5** details OSC’s communications with stakeholders and the public, consistent with the sixth objective under Strategic Goal 1. OSC met three out of four goals in FY 2018. OSC issued a total of 46 press releases in FY 2018.

Goal Table 5											
Goal 1: Protect and promote the integrity and fairness of the federal workplace											
Objective 6: Effectively and innovatively communicate with stakeholders and the public											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
41	Number of press releases issued	25	20	25	46	40		40			
42	Types and frequency of digital media used to share information	250	153	275	211	275		275			
43	Number of meetings with stakeholder groups	4	10	4	52	10		10			
44	Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly	Met	Partially ⁴⁴ Met	Met	Met	Met		Met			

Goal Table 5 Explanatory Notes

43: OSC had 52 meetings with stakeholder groups, including most notable:

- 12 meetings with agency officials, including secretaries and general counsels
- 8 meetings with congressional representatives and staff
- 6 meetings with good government groups
- 6 meetings with inspector general offices
- 4 meetings with MSPB officials

44: Building on the successes of past Whistleblower Retaliation Roundtable discussions, OSC representatives met with stakeholders and began brainstorming ideas for the proposal of the establishment of a regularly-held conference on whistleblowing in the federal workplace. We paused our efforts at developing a formal proposal for budgetary reasons. When OSC is able to identify appropriate funds to establish a regular conference, OSC will resume such efforts.

I. Strategic Goal 2, Goal Tables 6-8 – Ensure government accountability.

Strategic Goal 2 has three objectives:

Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing.

Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures.

Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures.

These objectives directly relate to OSC’s investigations of whistleblower disclosures. Similar to prior fiscal years, OSC continues to receive historically high numbers of new disclosures. OSC will continue its commitment to providing a safe, confidential channel for federal employees to report evidence of fraud, waste, abuse, or threats to public safety. OSC is in the process of development of a new electronic filing form that is designed to improve convenience and enhance the whistleblower reporting experience.

A. Goal Table 6 relates to the first objective under Strategic Goal 2 and details OSC’s efforts to ensure government accountability by providing a safe, confidential and secure reporting channel for stakeholders and the public. In FY 2017 OSC received 1,777 new whistleblower disclosures. OSC met two out of three goals in FY 2017.

Established as a strategy to achieve Objective 1, Goal 2 of the strategic goals identified in OSC’s 2017 Strategic Plan, OSC’s Whistleblower Reporting Experience Working Group seeks to develop actionable methods to assess and improve whistleblower reporting experiences. The working group has established a FY 2018 action plan to address six key areas over the course of the next fiscal year: (1) external communications regarding whistleblower reporting; (2) outreach efforts regarding whistleblower reporting; (3) internal coordination with OGC and Clerk; (4) coordination with IT on Form 14 implementation and integration with eCMS; (5) internal staff communications; and, (6) internal processes to improve the whistleblower reporting experience. The working group has formed smaller teams of two members each, tasked with exploring each of the identified key areas. At the conclusion of the fiscal year, the working group will present a report on the implementation of interim measures to improve whistleblower reporting experiences, along with recommendations for future action based on its assessments. As an initial step, the working group will establish an internal email address for inquiries, ideas, and concerns about the whistleblower reporting experience.

Goal Table 6											
Goal 2: Ensure government accountability											
Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
45	New electronic form by FY 2017, and refine as appropriate	Met	Not Met	Met	Not Met	Met		Met			
46	Number of whistleblower disclosures received	Data-point	1,777	Data-point	1,554	Data-point		Data-point			
47	Number of whistleblower disclosures that also allege related retaliation	Data-point	81	Data-point	492	Data-point		Data-point			
48	Number of whistleblower disclosures referred to agencies for investigation	50	59 formal / 10 informal	50	139 formal / 22 informal	50		75			
49	Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

Goal Table 6 Explanatory Notes

45: New electronic form will be implemented and released in FY 2019.

- B. Goal Table 7** relates to the second objective under Strategic Goal 2 and details OSC’s efforts to ensure government accountability by providing timely and appropriate outcomes for referred whistleblower disclosures. For Goal Table 7 OSC met one out of three goals in FY 2018.

Goal Table 7											
Goal 2: Ensure government accountability											
Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
50	Percentage of referred whistleblower disclosures that are substantiated by agencies	Data-point	59% formal / 50% informal	Data-point	76% formal / 46% informal	Data-point		Data-point			
51	Number of cases with favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures	Baseline	10 disciplinary / 58 corrective ⁵¹	Baseline	6 disciplinary / 47 corrective ⁵¹	Baseline		Baseline			
52	Timeliness of OSC’s communication to the President and Congress after receiving an agency investigation report and whistleblower’s comments	Baseline	148 days	Baseline	71 days	Baseline		Baseline			
53	Implementation of measurement to capture scope of benefits to	Met	Met	Met	Met	Met		Met			

government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security and/or tax dollars saved or recovered, by FY 2017, and reassess regularly										
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Goal Table 7 Explanatory Notes

- 51: FY 2018 Formal referrals with disciplinary action – 4
- FY 2018 Informal referrals with disciplinary action – 2
- FY 2018 Formal referrals with corrective action – 31
- FY 2018 Informal referrals with corrective action – 16

C. **Goal Table 8** related to the third objective under Strategic Goal 2 and details OSC’s efforts to enhance awareness of outcomes of referred whistleblower disclosures. For Goal Table 8, OSC met two out of three goals in FY 2018.

Goal Table 8											
Goal 2: Ensure government accountability											
Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
54	Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly	Met	Not Met	Met	Not Met	Met		Met			
55	Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.	12	10	12	42	40		40			
56	Number of training and outreach events that address whistleblower disclosures	Baseline	86 ⁵⁶	Baseline	105	90		95			
57	Plan to enhance the profile of OSC’s Public Servant Award by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

Goal Table 8 Explanatory Notes

56: Includes individual presentations covering whistleblower retaliation and/or whistleblower disclosures under 5 U.S.C. § 1213

II. Strategic Goal 3, Goal Tables 9-11 – Achieve organizational excellence.

Strategic Goal 3 has three objectives:

Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce.

Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations.

Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes.

To accomplish its mission with excellence, OSC must use targeted recruitment methods that attract talented employees who believe in the work of the agency. A diverse workforce from various backgrounds will help OSC tackle problems from different perspectives and find optimal solutions. OSC is committed to retaining this skilled and diverse workforce through work-life balance strategies, career and skills development, cross-training, recognition of strong performance, and other initiatives that will keep employees engaged and equip them to achieve the mission.

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will deploy mobile access to network programs in compliance with directives that move the government toward a virtual work environment, while ensuring continuity of operations in times of work interruption and providing greater flexibility to employees. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

While OSC is a small agency, it takes complaints from throughout the federal government; it handles cases from all over the country; and its authority to act derives from several different federal statutes. OSC will undertake a comprehensive and transparent evaluation of the most efficient approach for safeguarding employee rights and holding the government accountable. The evaluation will identify best practices and areas of improvement. This will be part of a vigilant process of continual evaluation of OSC's existing program areas and new programs to ensure the most effective delivery of services. To accomplish these goals, OSC will give federal employees and other stakeholders a greater opportunity to provide input into shaping its work.

- A. Goal Table 9** tacks the first objective under Strategic Goal 3 and details OSC's efforts to achieve organizational excellence by recruiting, developing, and retaining a highly talented, engaged, and diverse workforce. For Goal Table 9, OSC met eight out of eight goals in FY 2018.

Goal Table 9

Goal 3: Achieve organizational excellence

Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce

Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
58 Human Capital Plan by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
59 Honors Program by FY 2017 and reassess regularly ⁵⁹	Met	Met	Met	Met	Met		Met			
60 Improved and standardized onboarding process by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
61 Staff training plan by FY 2017, and reassess regularly	Met	Met ⁶¹	Met	Met	Met		Met			
62 Mentorship program by FY 2017, and reassess regularly	Met	Met ⁶²	Met	Met	Met		Met			
63 Ongoing internal cross-training opportunities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
64 Ongoing employee engagement efforts, and reassess regularly	Met	Met	Met	Met	Met		Met			
65 Ongoing work/life balance and other related benefits, and reassess regularly	Met	Met	Met	Met	Met		Met			

Goal Table 9 Explanatory Notes

59: The Honors Program was drafted and approved by the former Special Counsel, but OSC has not put it into action due to questions about our ability to hire Honors Program employees under current fiscal constraints. A revised policy will be implemented and planned recruitment efforts will start in FY2019.

61: OSC has developed a training plan and policy.

62: The OSC Mentoring Program was developed in response to OSC's 2016 FEVS results. The official program commenced in May 2017. The overall objective was to establish a formal mentoring program within OSC to promote an employee's development and ensure positive developmental and organizational outcomes. The program was also designed to allow for a smooth transition for new employees into the OSC; promote an employee's professional development; share different perspectives; and, encourage a more personal style of leadership within the agency. A senior manager serves as a team member and provides visibility and advocacy for team members and provides guidance to team on direction and priorities.

- B.** **Goal Table 10** relates to the second objective under Strategic Goal 3 and details OSC's efforts to improve the use of existing technology and deploy new IT systems to enhance organizational operations. For Goal Table 10 OSC met or partially met four out of six goals in FY 2018.

Goal Table 10

Goal 3: Achieve organizational excellence

Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations

Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
66 Transition to electronic case management system by FY 2017, and reassess regularly; Going live with the records in the eCMS by FY 2018; Incorporate business process by FY 2019	Met	Partially Met	Met	Not Met	Met		Met			
67 100% deployment of mobile access to network program resources by FY 2017, and reassess regularly	Met	Partially Met ⁶⁷	Met	Met	Met		Met			
68 100% data encryption by FY 2017, and reassess regularly; A – encryption of data at rest B – encryption of data in transit	Met	A – Met B - Not Met	Met	A – Met B - Not Met	Met ⁶⁸		Met ⁶⁸			
69 Ongoing semi-annual assessment of IT needs, and reassess regularly	Met	Met	Met	Met	Met		Met			
70 Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly	Met	Met	Met	Met	Met		Met			
71 Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly	Met	Met ⁷¹	Met	Not Met	Met ⁷¹		Met ⁷¹			

Goal Table 10 Explanatory Notes

66: U.S. OSC has entered into a new contract to redesign the existing eCMS system and we plan to go live in FY19.

67: OSC is currently at 100% deployment of mobile access to network program resources for all FTEs.

68: FY 2018 target was partially met. Data was encrypted on tablets and laptops, but not on email transmissions. This outcome was constrained by resources this fiscal year. OSC will conduct a pilot in FY19 to assess the results for encryption of data in transit. Achieving this target is contingent on available budget resources.

71: In fiscal year 2018, OSC has not met the goal of maintaining IT staff of 5% of agency workforce. We are currently in the process of hiring to backfill the vacant positions. Meeting this target in future fiscal years will be contingent on availability of budgetary resources.

- C. **Goal Table 11**, consistent with the third objective under Strategic Goal 3, details OSC's efforts to monitor, evaluate, and improve efficiency and effectiveness of programs and processes. For Goal Table 11, OSC met five out of five goals in FY 2018.

Goal Table 11

Goal 3: Achieve organizational excellence

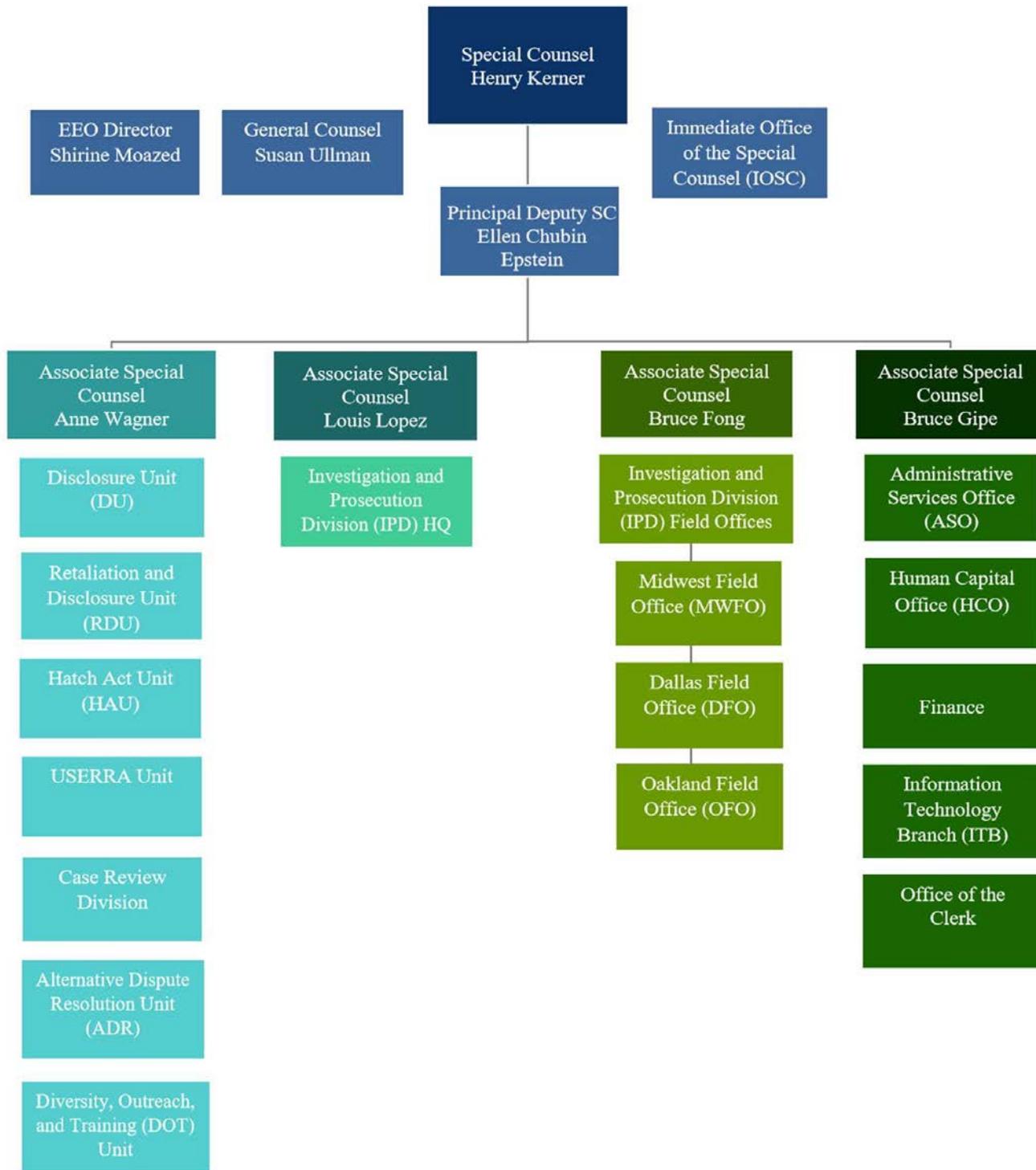
Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
72	Creation and implementation of institutional approach to evaluate programs and processes by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
73	Completion of first evaluation of program(s) or process(es) to identify best practices and areas of improvement by FY 2018, and proceed with evaluation of additional programs and processes regularly thereafter	Met	Met	Met	Met	Met		Met			
74	Implementation of best practices and responses to areas of improvement identified in first evaluation of program(s) or process(es) by FY 2019, and reassess regularly	N/A	N/A	Met	Met	Met		Met			
75	Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly	Met	N/A ⁷⁵	Met	Met	Met		Met			
76	Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly	N/A	N/A	Met	Met	Met		Met			

Goal Table 11 Explanatory Notes

75: The 2018 OSC reauthorization as found in section 1097 of the National Defense Authorization Act for Fiscal Year 2018 (NDAA) requires OSC to establish a survey pilot program to collect information and improve service at various stages of case review. OSC has formed a working group to design and establish a survey, seek appropriate external approvals for the collection of information, and implement the survey in Fiscal Year 2019.

Appendix D: OSC Organizational Chart



U.S. Office of Special Counsel

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The U.S. Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency and operates as a secure channel for disclosures of whistleblower complaints and abuse of authority. Its primary mission is to safeguard the merit system by protecting Federal employees and applicants from prohibited personnel practices, especially retaliation for whistleblowing. OSC also has jurisdiction over the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act.

Internet Web Site:

www.osc.gov