

FISCAL YEAR 2018
CONGRESSIONAL BUDGET JUSTIFICATION
—and—
PERFORMANCE BUDGET GOALS



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PART 1 – EXECUTIVE SUMMARY

The U.S. Office of Special Counsel (OSC) is an independent Federal investigative and prosecutorial agency that promotes accountability, integrity, fairness, and efficiency in the Federal workplace. OSC protects Federal employees from prohibited personnel practices (PPP), most notably whistleblower retaliation. OSC also provides a safe and secure channel for Government whistleblowers to report waste, fraud, abuse, law-breaking, and threats to public health and safety. OSC protects veterans and service members from job discrimination under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Finally, OSC enforces the Hatch Act, which keeps partisan political activity out of the Federal workplace.

To continue to promote good Government and eliminate wasteful programs, OSC requires a modest increase in funding. OSC respectfully requests a funding level of **\$26,535,095**, which is \$2,462,095 above the FY 2017 continuing resolution (CR) level¹.

Investing in OSC is a cost-effective method of promoting good Government and curbing waste, fraud, and abuse. In FY 2015 and 2016, more than a dozen whistleblowers came to OSC to disclose widespread abuse of overtime pay in the U.S. Department of Homeland Security (DHS). As a result of these disclosures, DHS cracked down on undue overtime payments, saving taxpayers \$83.7 million. The Congress then adopted a new pay system for U.S. Border Patrol agents, which according to the Congressional Budget Office saves taxpayers \$100 million every year -- approximately four times OSC's annual appropriation.

The benefits resulting from whistleblower disclosures reach far beyond cost savings. Nearly one-third of cases come to OSC from the Department of Veterans Affairs (VA), many involving quality of care issues harming veterans. Through whistleblower disclosures to OSC, the Congress and the public learned of long wait times and patient backlogs for veterans in Arizona, Colorado, Louisiana, and many other locations around the country. These and many other patient care issues are now being addressed because of whistleblower disclosures to OSC. VA is not unique. Across the Federal Government, agencies substantiated more than 75 percent of OSC's whistleblower referrals last year, leading to corrective actions to improve government and promote accountability.

Despite limited resources, OSC is fulfilling its mission more effectively than ever before. OSC gained 276 favorable actions for whistleblowers and other victims of PPPs this past year, more than double the annual average. In the last two years, OSC has achieved *five* times the number of favorable actions in whistleblower retaliation complaints than in any prior two-year period in agency history. OSC also achieved 18 disciplinary actions, upholding accountability and putting the Federal community on notice about unacceptable conduct. OSC is achieving results more efficiently as well: The average cost of resolving a case at OSC has fallen by 37 percent over the last eight years.

The requested funding level will allow OSC to maintain the staff level needed to address its large caseload and reduce its growing backlog. In FY 2016, for the second straight year, OSC received upwards of 6,000 new matters, a 25 percent increase over the prior two-year period. Most of these new cases are whistleblower disclosures and PPP complaints. The number of PPP complaints in FY 2016 (4,111) was the highest level ever, 40 percent more than three years ago, and new whistleblower disclosures were the second highest in agency history. OSC's Hatch Act caseload has grown dramatically as well. In FY 2016, an election year, OSC issued 64 percent more Hatch Act advisory opinions and received 54 percent more Hatch Act complaints, without an increase in FTE staffing levels.

Due to our increased caseload, in FY 2016, our backlog rose 20 percent to over 2,000 cases for the first time in agency history. Over the last four years, OSC's case backlog has increased 62 percent. The trend lines are clear: Without additional resources, OSC will fall further behind, impairing the agency's effectiveness in addressing PPPs, Hatch Act and USERRA violations, and its ability to prevent fraud, waste, and abuse within Government. With longer case-processing times, employees will stop trusting that OSC can make a difference in tackling waste, fraud,

¹ A full-year 2017 appropriations for OSC was not enacted at the time this report was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114-254). The amount included for 2017 reflect the annualized level provided by the continuing resolution.

abuse, and dangers, and they will be reluctant to come forward to report these abuses, to the detriment of taxpayers and the public.

The requested funding level supports staffing at 144 FTE, a modest increase over OSC's current staffing levels of 135 FTE. The funding level includes the proposed 1.9 percent pay raise.

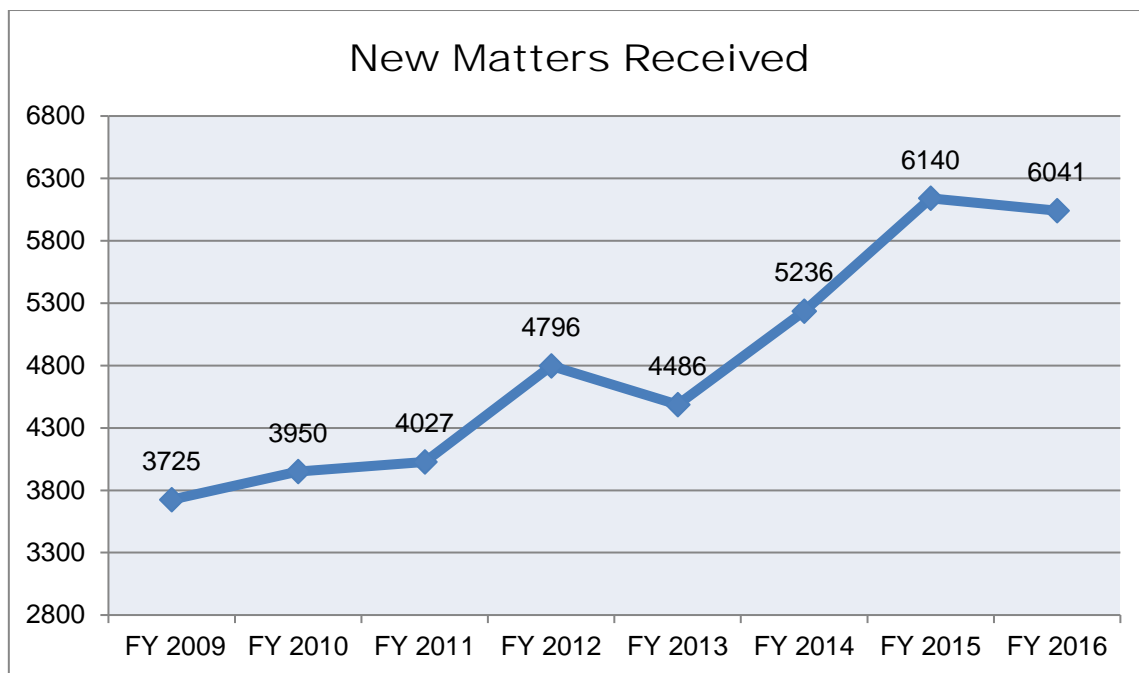
This funding level would also allow OSC to take long-overdue steps to meet critical information technology (IT) security requirements. While we have made significant strides in IT security, we have a long way to go. OSC continues to engage with DHS's Continuous Diagnostics and Mitigation (CDM) program to provide better information security. We are also modernizing our IT infrastructure, instituting more efficient case management tools, enhancing electronic filing, and improving records management. All of these projects will enhance OSC's case-processing procedures, reduce case-processing times, and improve OSC's information and network security.

This is a sound investment on behalf of taxpayers. OSC has one of the smallest budgets of any Federal law enforcement agency, yet the demands on OSC have never been greater. With the Congress's continuing support, OSC will be able to perform its statutory mission of ensuring more accountable and efficient Government. We are grateful for your consideration.

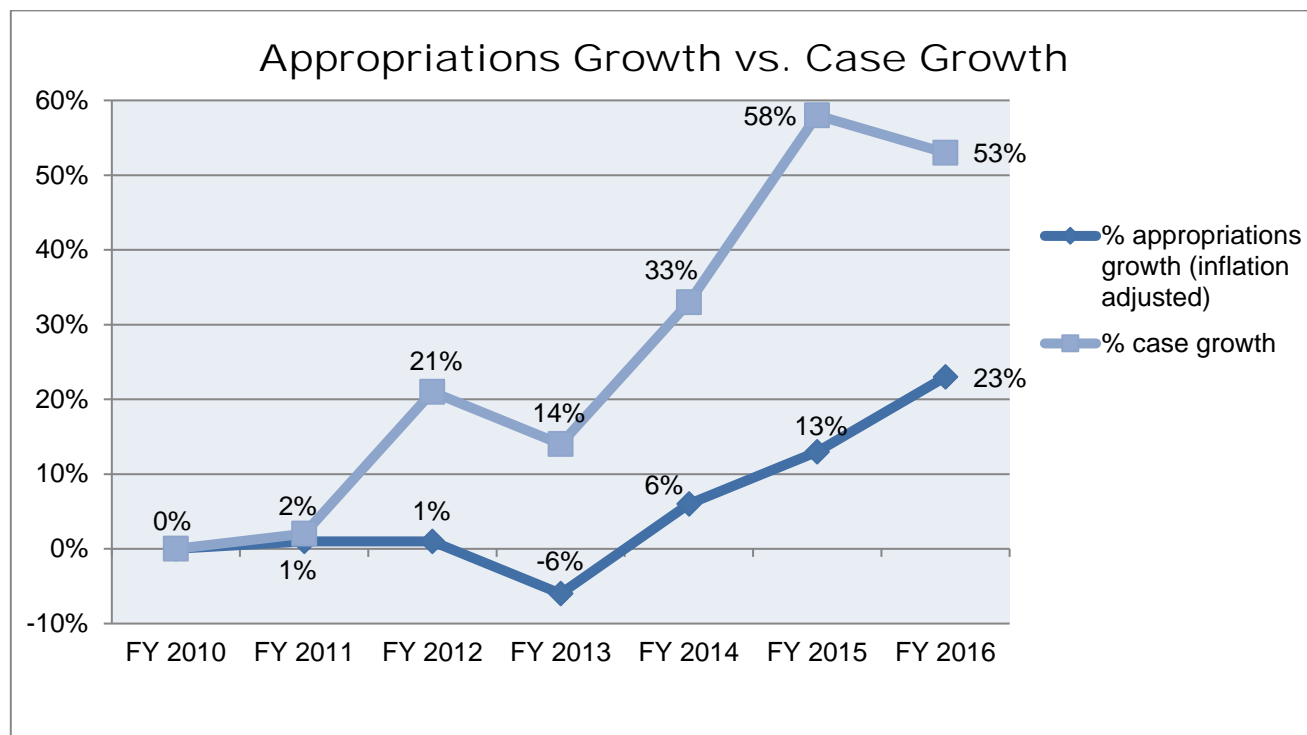
Summary of Request

During the past few years, OSC has experienced an unprecedented rise in its caseload. In FY 2016, for the second year in a row, OSC received upwards of 6,000² new matters. (*See chart below.*) This surge is a 25 percent increase over the prior two-year period. Caseloads are now double what they averaged seven years ago. Despite the challenge of an overflowing docket, OSC has continued to deliver results. For example, over FY 2015-2016, OSC achieved more favorable actions in response to PPP complaints and whistleblower retaliation complaints than during any other two-year span in agency history. Simply put, OSC is working harder, smarter, and producing better results than ever before.

² Each year, OSC receives a number of cases that are inadvertently filed by Federal employees as disclosures of wrongdoing but properly should have been filed as prohibited personnel practice complaints. In order to process these cases, OSC must open a disclosure file, review the information provided, and determine that the individual is only seeking relief to address a possible prohibited personnel practice, and not separately making a disclosure of wrongdoing. Where OSC determines that the case was improperly filed as a disclosure, OSC's Disclosure Unit forwards the case to OSC's Complaints Examining Unit, which reviews the claim as a prohibited personnel practice complaint. In 2016, the number of these misfiled disclosure cases made up 31 percent of all whistleblower disclosures filed with OSC. OSC is in the process of modernizing its online complaint filing system to make it more user-friendly. OSC anticipates that the changes to the online system will be completed by the end of FY 2017. The changes should diminish the problem of wrongly-filed disclosure forms. In doing so, the changes will make OSC's Disclosure Unit more efficient, by reducing the administrative costs to review, close, and re-direct improperly filed cases, while also enhancing the user experience. By diminishing the number of wrongly filed disclosure cases, the new system will also provide a more accurate, but lower number of actual disclosure cases received in FY 2018 and beyond.



As the Federal workforce's confidence in OSC's ability to obtain corrective actions has grown, the demand for OSC's services has hit record levels. This demand, however, has not been matched by a corresponding increase in resources, as the chart below indicates. In the past six years, OSC's caseload has risen more than twice as fast as our appropriations. OSC's budget has risen by 23 percent in real terms since 2010 (inflation adjusted); however, the caseload has jumped a staggering 53 percent. (*See chart below.*) If fully funded, OSC's FY 2018 request will go a long way toward bridging this gap.



OSC is requesting a FY 2018 budget of **\$26,535,095**, which includes funding for the salaries and benefits for 144 FTE, a modest increase over OSC's current staffing levels of 135 FTE.

This request is largely driven by the increase in OSC's caseload, most notably, the unprecedented number of cases brought by VA employees. OSC must also continue to improve our cybersecurity posture.

Based on our projections, OSC will receive nearly 2,000 VA cases in FY 2017, comprising 33 percent of OSC's total cases. To put this in perspective, OSC anticipates receiving more cases in FY 2017 from VA alone than the total number of cases we received from all agencies just over a decade ago. These trends will continue into the future. Even without the continued high volume of VA cases, OSC's case levels are at all-time highs and projected to stay at these elevated levels into FY 2018.

Funding OSC at our requested level will help ensure that we meet our mission to uproot 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 pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), the Whistleblower Protection Act of 1989 (Public Law 101-12) as amended by Public Law 107-304, the Whistleblower Protection Enhancement Act of 2012 (Public Law 112-199), and the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353), 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; [\$24,119,000:] \$26,535,095.

About the Office of Special Counsel

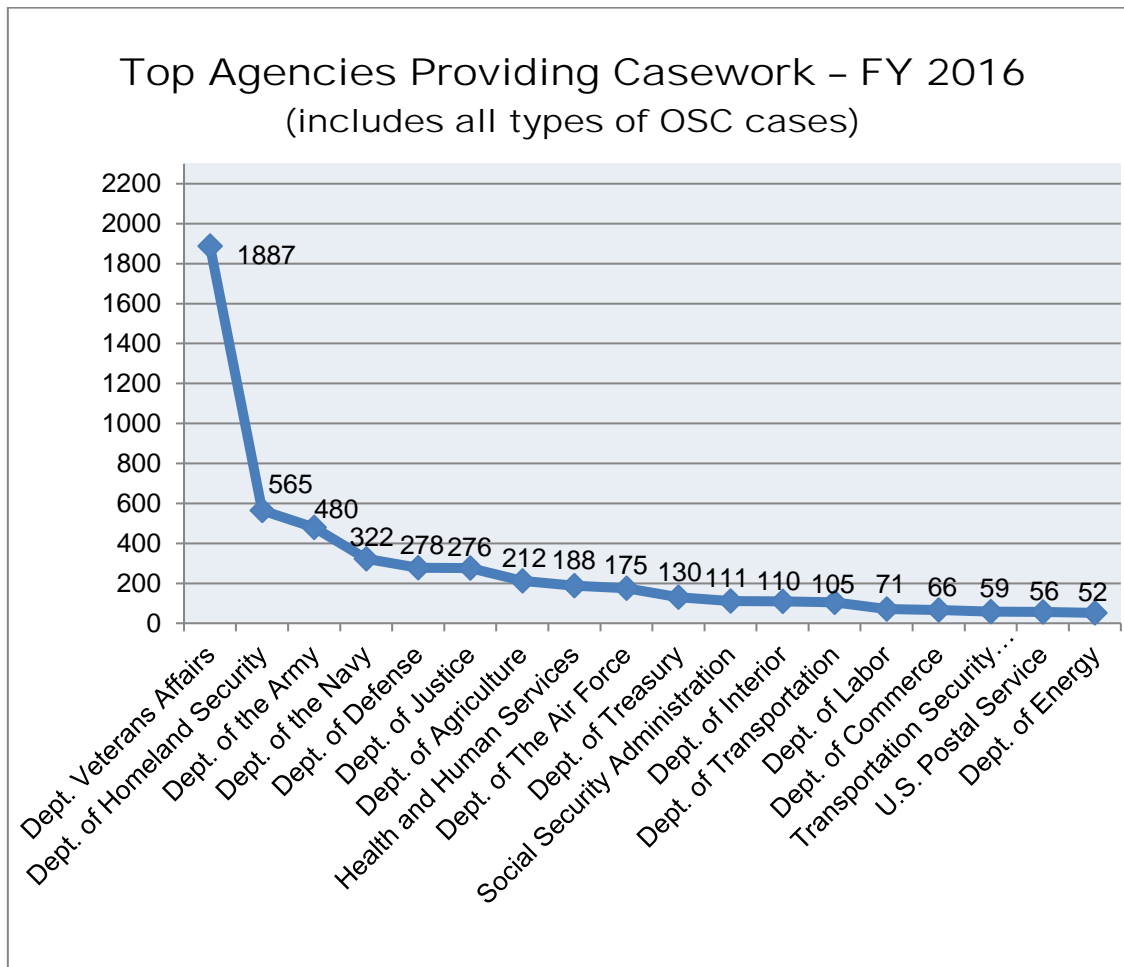
OSC promotes Government accountability, integrity, fairness, and efficiency by providing a safe and secure channel for Federal employees to come forward with evidence of waste, fraud, abuse, law-breaking, or threats to public health or safety, and it protects these employees from retaliation.

When Federal Aviation Administration (FAA) air traffic controllers witness dangerous flight protocols, when VA professionals observe unsafe practices in hospitals and clinics, or when Pentagon procurement officers find significant irregularities in government contracts, OSC acts to ensure that the whistleblowers' claims are heard and acted upon. 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 an effective investment of taxpayers' money. OSC returns substantial sums to the Federal Government by pressing for corrective actions to remedy waste and fraud. Indeed, by providing a safe channel for whistleblowers and their disclosures, OSC prevents wasteful practices and disasters from ever occurring, saving the government millions of dollars.

OSC's Docket

OSC receives cases from throughout the Federal Government. The chart below shows the agencies and departments whose employees filed the most cases with OSC during the last full fiscal year, FY 2016. In both FY 2015 and FY 2016, we received more cases from VA employees than from any other agency. A large proportion of cases received by OSC to date in FY 2017 are from VA, and we expect this trend to continue into FY 2018 as well.



Prohibited Personnel Practices

OSC is addressing a substantial and steady surge in the number of Federal employees alleging PPPs, most notably retaliation for whistleblowing. With the passage of the Whistleblower Protection Enhancement Act (WPEA) in 2012, which expanded the number of employees covered and closed loopholes that prevented many claims, the number of complaints in this area has increased and is expected to continue to rise going forward. FY 2016 set a new record for PPPs, with over 4,100 cases filed for the first time. Protecting employees from PPPs is critical to ensuring an efficient, accountable, and fair Federal service.

Whistleblower Disclosures

Whistleblower disclosures are a substantial portion of OSC's caseload, now comprising almost a third of the agency's new matters. A record 3,682³ new disclosures were filed in FY 2015 and FY 2016, the most ever recorded in a two-year period in the agency's history. These disclosures, which involve employee reports of gross mismanagement, waste, fraud, abuse, and illegality, are expected to remain high again this year.

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 new to OSC, we are currently developing metrics to 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. Because 2016 was a presidential election year, Hatch Act case numbers rose substantially and we expect the impact of the election cycle to continue in FY 2017.

USERRA

Under USERRA, a claimant alleging a violation by a Federal executive agency may file 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.

³ As noted above, each year, OSC receives a number of cases that are inadvertently filed by Federal employees as disclosures of wrongdoing but properly should have been filed as prohibited personnel practice complaints. OSC is in the process of modernizing its online complaint filing system to make it more user-friendly. OSC anticipates that the changes will be completed by the end of FY 2017. The changes should significantly reduce misfiled disclosures, reduce administrative costs, and enhance the user experience. By diminishing the number of wrongly filed disclosure cases, the new system will also provide a more accurate, but lower number of actual disclosure cases received in FY 2018 and beyond.

Strategic Goals

The Office of Special Counsel currently 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 2018 Strategic Goals and Costs per Goal

1. Protect and promote the integrity and fairness of the Federal workplace. Cost: \$17,321,460
2. Ensure Government accountability. Cost: \$4,606,770
3. Achieve organizational excellence. Cost: \$4,606,865

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

Office of Special Counsel's Cost Savings to Government, Efficiencies, and Other Successes

OSC improves the efficiency and accountability of Government, and it returns large sums of money to the U.S. Treasury. 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, it protects whistleblowers who bring them forward.

Cost Savings

The real measure of OSC's financial contribution is preventative: By providing a safe channel for whistleblower disclosures, OSC addresses threats to public health and safety that pose the very real risk of catastrophic harm to the public and huge remedial and liability costs for the Government. For example, OSC played a central role with whistleblowers in highlighting VA patient scheduling protocols, causing significant risks to the health of our nation's veterans. OSC also substantiated allegations that Department of Defense (DOD) Commissary workers improperly inspected meat and poultry, posing a danger to public health and safety. OSC has handled dozens of disclosures from courageous FAA employees who blew the whistle on systemic failures in air traffic control and the oversight of airline safety.

This year at a Navy facility in North Carolina, a whistleblower alleged that employees failed to properly test aircraft fueling equipment and fuel, and improperly disposed of jet fuel. The agency's investigation substantiated the whistleblower's allegations that thousands of gallons of usable jet fuel were needlessly discarded, based on the mistaken belief that it was contaminated. In response, the agency has implemented an extensive variety of corrective actions, resulting in savings of \$71,000 annually.

In the past few years, OSC has received numerous disclosures from DHS employees who identified violations of administratively uncontrollable overtime (AUO) at locations nationwide. The whistleblowers alleged that managers approved AUO for work that employees did not perform or for work that should not have qualified. As a result of a new law passed to address improper use of AUO, the Congressional Budget Office estimates that \$100 million will be saved annually, an amount roughly four times the size of OSC's annual budget.

Prohibited Personnel Practices

The volume of PPP complaints is substantial and growing: In FY 2016, OSC received over 4,100 new cases, a new agency record and a substantial increase over the 3,371 complaints filed with OSC just two years prior.

Harmonious relations between managers and employees are critical to the effectiveness and efficiency of Government. OSC plays a unique role in fostering a healthy Federal workplace by handling allegations of prohibited personnel practices, 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 2016, 70 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 disciplinary action through informal resolutions and/or litigation before the MSPB. OSC is achieving an unprecedented number of favorable actions. For the second year in a row, OSC achieved favorable actions at a rate almost double the historical level. In FY 2016, OSC gained 276 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 2016, 218 involved reprisal for whistleblowing. OSC negotiated 40 stays with agencies to protect employees from premature or improper personnel actions. Eleven stays or stay extensions were also obtained from the MSPB. OSC also achieved 18 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. FY 2016 was a presidential election year and, thus, there was a spike in complaints and advisory opinions issued. OSC obtained five disciplinary actions in Hatch Act cases from the MSPB in FY 2016.

USERRA

OSC receives referrals of USERRA cases for prosecution from DOL, which investigates these cases. OSC gained corrective actions for two complainants in FY 2016. OSC also provided technical assistance to both DOD and the Peace Corps in modifying USERRA-related regulations.

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 the IOSC staff are responsible for policy-making and overall management of OSC. This encompasses management of the agency's congressional liaison and public affairs activities.

Complaints Examining Unit (CEU)

This unit is the intake point for all complaints alleging prohibited personnel practices. In FY 2016, CEU screened a record 4,111 complaints. Attorneys and personnel-management specialists conduct an initial review of complaints to determine if they are within OSC's jurisdiction and, if so, whether further investigation is warranted. The unit refers qualifying matters for alternative dispute resolution (ADR) to the ADR Unit or to the Investigation and Prosecution Division (IPD) for further investigation, possible settlement, or prosecution. Matters that do not qualify for referral to ADR or IPD are closed.

Investigation and Prosecution Division (IPD)

If a matter merits further investigation and does not qualify for ADR, or ADR is unable to resolve a matter, it is referred to IPD. This unit is comprised of IPD headquarters and three field offices, and it is responsible for conducting investigations of prohibited personnel practices. IPD attorneys determine whether the evidence is

sufficient to establish that a violation has occurred. If it is not, the matter is closed. If the evidence is sufficient, IPD decides whether the matter warrants corrective action, disciplinary action, or both. 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 of wrongdoing 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 to report its findings to the Special Counsel, or closure without further action. Unit attorneys review each agency report of investigation to determine its sufficiency and reasonableness; the Special Counsel then sends her determination, the report, and any comments by the whistleblower to the President and responsible congressional oversight committees, and these are posted online.

Retaliation and Disclosure Unit (RDU)

This unit handles hybrid cases in which a single complainant alleges both a whistleblower disclosure and retaliation. 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.

Hatch Act Unit (HAU)

OSC investigates and resolves complaints of unlawful political activity by Government employees under the Hatch Act, and may seek corrective and disciplinary action informally as well as before the MSPB. In addition, OSC is responsible for providing advisory opinions on the Hatch Act to Government employees and the public at large. OSC's outreach and education makes employees and agencies aware of their rights and responsibilities under the Hatch Act.

USERRA Unit

OSC enforces the Uniformed Services Employment and Reemployment Rights Act for civilian Federal employees. 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 MSPB. OSC may seek corrective action for violations of USERRA before the MSPB. OSC also 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. CEU, IPD, and the USERRA Unit refer matters that are appropriate for mediation. Once referred, an OSC ADR specialist will contact the affected employee and agency. If both parties agree, OSC conducts one or more mediation sessions, led by OSC-trained mediators, who have experience in Federal personnel law.

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 the 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.

Office of General Counsel

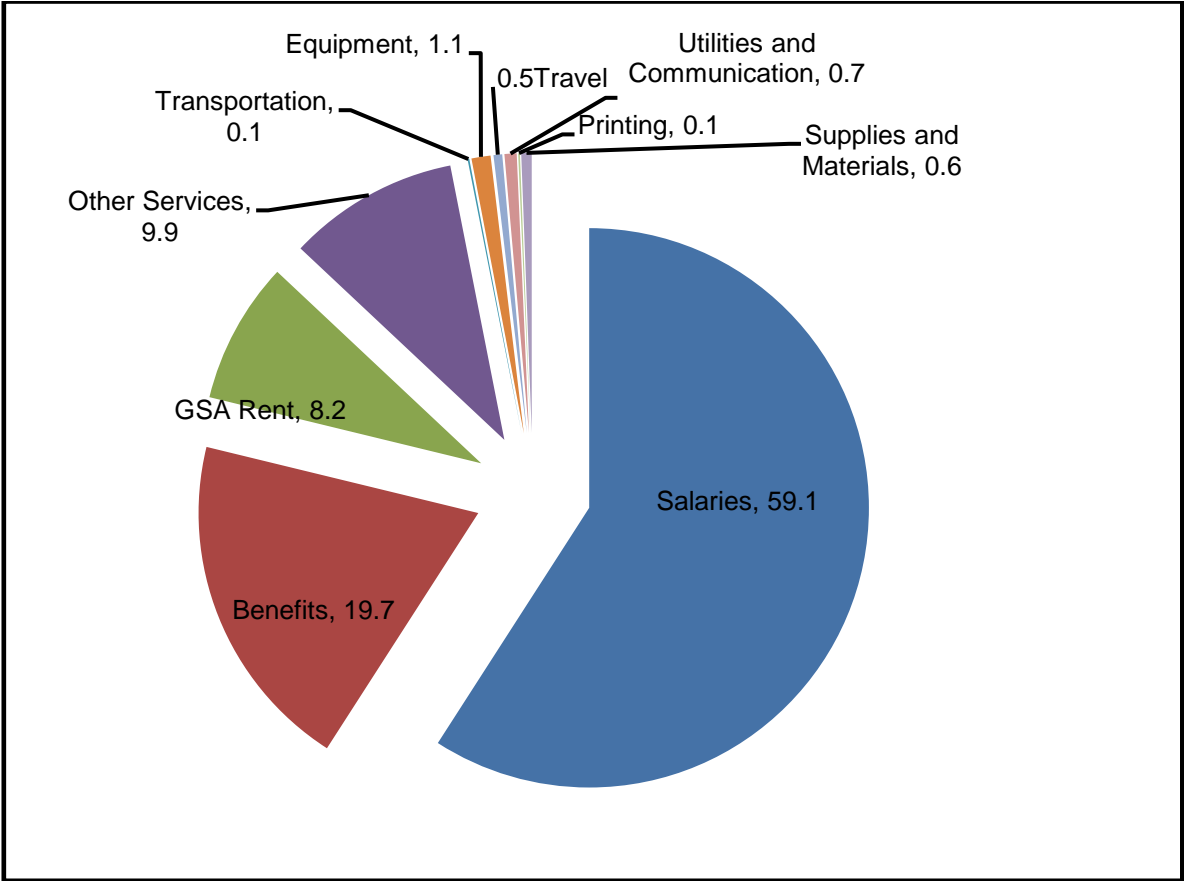
This office provides legal advice and support in connection with management and administrative matters, defense of OSC interests in litigation filed against the agency, management of the agency's ethics programs, and policy planning and development.

Administrative Services Division

Components of this unit are Finance, Human Capital, Administrative Services, Office of the Clerk, and Information Technology.

Components of Budget Request

The following chart estimates how the FY 2018 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.

Budget by Program – Agency Request						
	FY 2017 Estimate (CR Level)		FY 2018 Estimate		Increase/Decrease	
Program	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE
Investigation and Prosecution of Prohibited Personnel Practices	\$12,839	72	\$14,557	79	\$1,718	7
Retaliation Disclosure Unit	\$1,070	6	\$1,474	8	\$404	2
Hatch Act Unit	\$357	2	\$553	3	\$196	1
Whistleblower Disclosure Unit	\$3,388	19	\$3,501	19	\$113	0
USERRA Unit	\$178	1	\$184	1	\$6	0
Alternative Dispute Resolution	\$535	3	\$553	3	\$18	0
Immediate Office of the Special Counsel	\$713	4	\$553	3	(\$160)	-1
Office of the Agency General Counsel	\$535	3	\$553	3	\$18	0
Diversity, Outreach and Training	\$357	2	\$369	2	\$12	0
Office of the COO - Information Technology / Budget / Human Resources / Procurement / Clerk of OSC / Admin. Services	\$4,101	23	\$4,238	23	\$137	0
Totals	\$24,073	135	\$26,535	144	\$2,462	9

PART 2 – FY 2018 BUDGET REQUEST – ADDITIONAL INFORMATION

OSC's budget request is for \$26,535,095 to fund 144 FTE and related non-personnel costs for FY 2018. This number of FTE is necessary to manage and process the agency's rising caseload, particularly prohibited personnel practice complaints and whistleblower disclosures. OSC expects to see substantial increases in its backlog due to continued high case levels, even with this level of funding. Providing funding to support 144 FTE will allow OSC to more effectively address the rising caseload and improve efficiency of programs and processes. Our requested funding level will also enable OSC to execute several critical IT projects in FY 2018 to enhance operations and improve cyber security.

Primary Driver of the FY 2018 increase:

Costs for Current Salaries and Benefits Operating with an Increased Number of FTE
We anticipate the agency will have 144 FTE in FY 2018, slightly above the FY 2017 staffing level. Salaries and benefits will be approximately 79 percent of OSC's total costs in FY 2018, up slightly from 75 percent five years ago. The impact of pay raises, step increases, and career ladder promotions are significant in an agency in which up to 79 percent of the budget funds salaries and benefits.

General Services Administration Rental Costs

OSC operates out of its headquarters location in Washington, D.C., along with its three field offices in Detroit, Dallas, and Oakland. Rental costs for our four GSA leases are the agency's biggest cost component, after salaries and benefits, and will comprise approximately eight percent of OSC's budget in FY 2018.

FY 2018 Budget Request by Budget Object Class

For a detailed projection of the expenditures that will be required in each Budget Object Class (BOC) during FY 2018, see Budget Table 1 below.

Budget Table 1 – Budget Object Classification of Obligations: FY 2016–2018 <i>(in thousands of dollars)</i>			
Budget Object Classification of Obligations	FY 2016 <i>(actual)</i>	FY 2017 <i>(projected, CR level)</i>	FY 2018 <i>(projected)</i>
11.0 Personnel compensation	14,175	14,758	15,690
12.0 Civilian Personnel Benefits	4,213	4,713	5,215
21.0 Travel and transportation of persons	174	80	140
22.0 Transportation of things	25	28	30
23.1 Rental payments to GSA	2,092	2,142	2,173
23.3 Communications, utilities and misc. charges	243	175	178
24.0 Printing and reproduction	16	17	17
25.0 Other services	2,275	1,841	2,615
26.0 Supplies and materials	179	185	193
31.0 Equipment	709	134	284
32.0 Leasehold improvements	0	0	0
Total	24,102	24,073	26,535

Notes Concerning the Above BOC Line Items:

Object Class 11.0 Personnel Compensation Costs:

Overall personnel compensation will increase in FY 2018 as compared to FY 2017, since OSC will be supporting 144 FTE in FY 2018 versus 135 in FY 2017. Increased caseloads and added responsibilities are driving the need for increased staffing levels. OSC has seen or will see:

- record levels of incoming cases, projected to again be over 6,000 cases in FY 2018 and beyond;
- a 43 percent increase in new matters in FY 2017 over recent historical case averages, with similar steady increases expected in future years;
- a potential pay raise of 1.9 percent for FY 2018;
- 92 within-grade salary increases and career ladder promotions projected in FY 2018;

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 2018 are increasing primarily due to the addition of new staff.

Object Class 21.0 Travel and Transportation of People:

During FY 2018, we expect travel to be conducted at the full and appropriate levels required for OSC's investigations and mediations. OSC has curtailed travel in FY 2017 due to inadequate funding.

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 \$2.142 million for FY 2017 and \$2.173 million for FY 2018, based on projections provided by GSA.

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 2018 for HQ and the field office locations, as well as to meet additional compliance requirements.

Object Class 25.0 Other Services:

OSC outsources its accounting services, financial and procurement systems, payroll services, travel services, and procurement services. Certain efforts to modernize our IT infrastructure began in earlier years and will continue into FY 2018, including moving email services and data storage to the Cloud. Improvements in the case management system and electronic case filing are taking place in FY 2017. Also, beginning in FY 2017 and continuing into FY 2018, OSC will implement the Digital Accountability and Transparency (DATA) Act, migrate to a new telephone system, upgrade our network and make progress towards electronic records management directives.

OSC will implement multiple projects that will greatly enhance our IT security posture in FY 2018, 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:

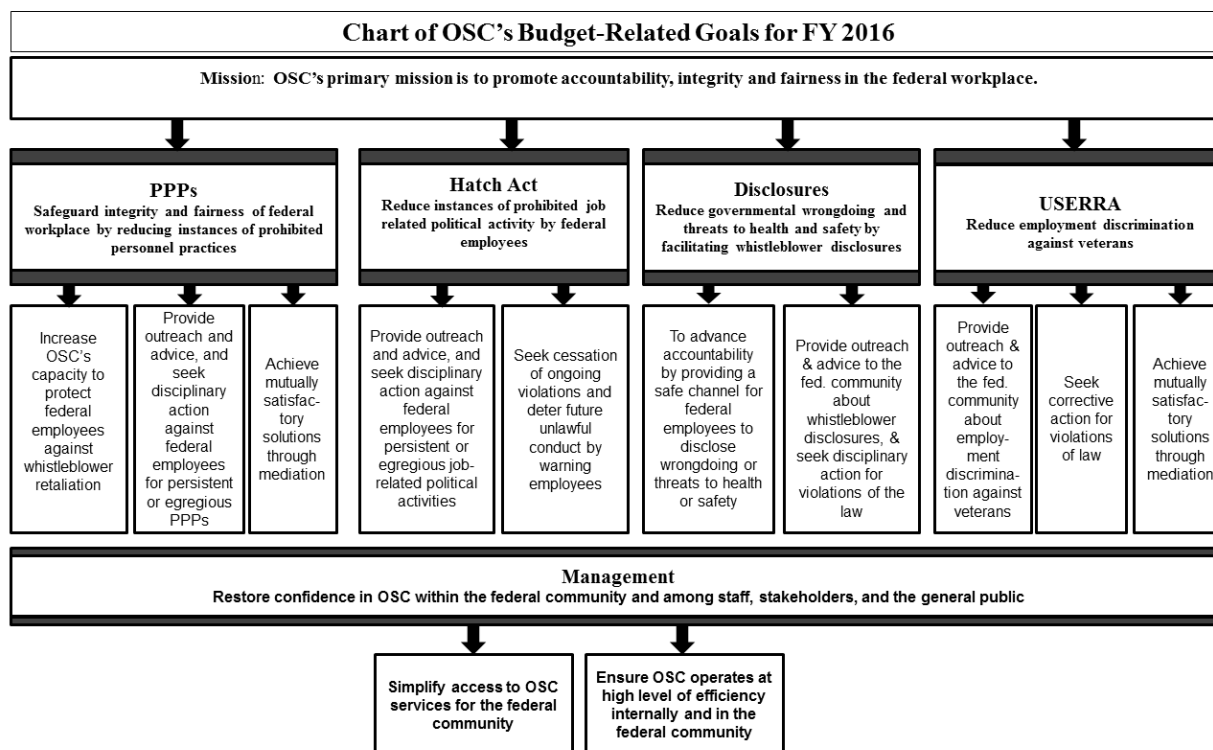
OSC experienced moderate levels of equipment purchases (servers, computers, switches and routers, teleconferencing equipment, and copiers) in FY 2016 in order to refresh its IT infrastructure and support modernization projects. These costs will be reduced in FY 2017 as we begin to realize efficiencies due to the move to the cloud and hosting service providers, as well as operate under restrictions due to the CR. However, we expect these costs to increase moderately in FY 2018 as a refresh of certain equipment will be required.

Budget Table 2 – Analysis of Resources FY 2016-2018 (in thousands of dollars)				
Description		FY 2016 (Actual)	FY 2017 (Projected, CR level)	FY 2018 (Projected)
Budget authority	Direct	24,119	24,073	26,535
	Reimbursable	0	0	0
Total		24,119	24,073	26,535
Outlays		22,376	22,410	23,660
Employment	Direct-full time equivalent	129	135	144
	Reimbursable-full time equivalent	0	0	0
Total		129	135	144

PART 3 – ANNUAL PERFORMANCE RESULTS

The Performance Results Section presents detailed information on the annual performance results of programs related to OSC's four statutory responsibilities. A chart is provided for each performance goal showing OSC's results against the targets, along with the highlights for each objective.

FY 2016 was the final year of OSC's Strategic Plan initiated in FY 2012 by Special Counsel Carolyn Lerner. OSC has developed a new Strategic Plan for fiscal years 2017 through 2022 which is located in Appendix B. This Performance Section includes OSC's results for the FY 2016 goals as well as the targets for FY 2017 created for the agency's new Strategic Plan. This year will serve as a transition year, as we cutover to the new plan in FY 2017 and beyond.



FY 2016 Strategic Plan Government Performance and Results Act Goals

In FY 2016, OSC successfully met or partially met 50 out of 66 goals, or 76 percent of its goals, while another ten goals were not applicable this year. Given the FY 2016 environment of continued high numbers of cases, we consider this to be a successful performance in the face of difficult resource allocation decisions to achieve these goals.

Below are tables listing each of OSC’s Performance Measures for the FY 2016 goals. The metrics they contain correspond to the appropriate Budget-Related Goals found in the preceding chart.

Several of the metrics have explanatory notes that follow the tables, these notes are assigned the same number that correspond to its respective metric number listed in the table above.

Prohibited Personnel Practices

OSC received a record level 4,124 PPP cases in FY 2016, a two percent increase over FY 2015 levels.

OSC obtained 273 corrective actions, the second highest number in agency history, and surpassed its goals for the number of initial examinations completed within 120 days.

OSC also achieved a 100 percent success rate in securing initial formal stays and in successfully prosecuting disciplinary actions.

In FY 2016 OSC successfully met or exceeded 20 out of its 25 stated PPP goals.

Goal Table 1 Safeguard integrity and fairness of federal workplace by reducing instances of prohibited personnel practices

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
1	Number of corrective actions obtained by IPD	140	130	130	150	130	267	200	252
2	Percent of corrective actions obtained per number of cases closed	5%	4%	5%	5%	5%	7%	5%	7%
3	Number of cases referred for investigation directly to IPD	83	87	87	114	95	111	100	125
4	Number of informal stays requested	30	17	20	21	20	60	25	36
5	Percent of informal stays obtained	n/a	n/a	n/a	100%	100%	100%	100%	100%
6	Number of formal initial stays requested ⁴	10	2	5	2	5	3	4	5
7	Percent of formal initial stays obtained	100%	100%	100%	100%	100%	100%	100%	100%
8	Number of corrective actions obtained in cases referred for investigation directly from CEU to IPD	31	50	50	58	50	92	65	78
9	Percent of corrective actions obtained per number of cases referred for investigation directly from CEU to IPD	45%	57%	50%	51%	50%	83%	50%	62%
10	Number of initial examinations completed by CEU within 120 days	1,801	1,576	1,600	1,645	1,700	2,251	1,600	2,203
11	Percent of initial examinations completed by CEU within 120 days	66%	57%	57%	63%	60%	62%	60%	64%
12	Number of CEU cases more than 240 days old	120	256	140	244	200	468	200	322
13	Percent of CEU cases more than 240 days old ⁵	4%	9%	10%	9%	10%	13%	10%	9%
14	Number of staff allocated to whistleblower retaliation and other PPPs	65	59	65	62	65	62	65	72
15	Percent of total staff allocated to whistleblower retaliation and other PPPs	52%	53%	55%	53%	55%	58%	55%	47%
16	Number of staff training programs in whistleblower retaliation and other PPPs	4	4	4	5	4	10	7	17
17	Percent of cases qualifying for full investigation referred to ADR Unit for review	89%	56%	65%	74%	65%	53%	65%	51%

⁴ Formal stays are only filed when an agency declines the initial informal stays offered.

⁵ Due to the sharp increase in PPP caseload, an increase in the number of older cases will occur. The FY 2014 and FY 2015 targets were adjusted upward to reflect this reality.

Goal Table 2 Seek disciplinary action against federal employees for persistent or egregious prohibited personnel practices

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
18	Number of recommendations to agencies to take disciplinary action	6	19	12	23	18	14	18	15
19	Number of disciplinary action complaints filed	1	0	1	3	1	0	1	0
20	Number of disciplinary actions resolved pre-litigation through negotiated settlement	20	27	27	23	23	9	15	15
21	Total number of successful disciplinary prosecutions	1	0	1	0	1	2	1	1
22	Percent of successful disciplinary prosecutions	100%	N/A	100%	N/A	100%	100%	100%	100%
23	Upon receipt of a complaint, clearly explain the OSC review process and when action can be expected ⁶	99%	99%	99%	97%	99%	96%	99%	100%
24	Provide complainants status updates at defined intervals and when significant new developments occur ⁷	99%	80%	90%	93%	92% ⁷	90%	92% ⁷	100%
25	If OSC declines to refer a case for investigation, clearly inform complainant of the reason(s) why	100%	82%	100%	87%	100%	100%	100%	100%

⁶ Target: OSC will prepare an attachment for the acknowledgment letter explaining the complaint review process and expected time to make a determination on the complaint. All acknowledgment letters should include this attachment.

⁷ The IT system is coded to generate this information. Since we cannot dedicate additional resources to maintain a higher result, we consider that a target level of 92 percent provides substantial compliance with this goal.

Alternative Dispute Resolution

FY 2016 showed an eight percent increase in cases reviewed for ADR in which mediation was offered; 70 percent of all mediations completed resulted in settlement.

In FY 2016, the OSC successfully met or exceeded two out of its four stated goals.

Goal Table 3 Achieve mutually satisfactory solutions through mediation									
Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
26	Number of cases reviewed by the ADR Unit from all sources	190	155	185	132	200	143	150	101
27	Percentage of cases reviewed in which mediation is offered from all sources	63%	69%	65%	61%	65%	58%	60%	68%
28	Number of cases mediated (including cases withdrawn after one or more sessions)	50	49	50	39	45	26	35	26
29	Percentage of all mediations completed that resulted in settlement	58%	62%	62%	79%	62%	87%	62%	70%

Whistleblower Disclosures

OSC continued to receive historic numbers of new whistleblower disclosures again in FY 2016. Despite this large workload, OSC achieved 47 corrective actions in response to whistleblower disclosures, the second highest number in the agency's history. OSC also surpassed its goal for the number of whistleblower disclosures closed or referred within 15 days.

In FY 2016 OSC successfully met or exceeded four out of its seven stated goals for whistleblower disclosures.

Goal Table 4 Reduce governmental wrongdoing and threats to health and safety by facilitating whistleblower disclosures

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
30	Total number of outreach activities undertaken including dissemination of whistleblower information	9	2	5	14	10	11	10	26
31	Success in prompting thorough agency investigations of referred disclosures	68%	77%	77%	88%	77%	45%	77%	90% ⁸
32	Number of whistleblower disclosures prompting effective corrective action and accountability	32	31	33	25	33	48	33	59 ⁹

⁸ In 2016 this percentage was modified to include supplemental information provided by the agency.

⁹ The number of whistleblower disclosures prompting effective corrective action and accountability dropped because OSC had to shift its focus to the increased referral workload that emerged in the second half of FY 2014. In FY 2016 this number has been manually calculated, the case management system number will need to be adjusted accordingly.

Goal Table 5 Seek corrective action for whistleblower disclosures

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
33	Number of whistleblower disclosures referred by OSC to agency head for investigation	41	51	50	90	60	62	60	40
34	Percent of whistleblower disclosures submitted to OSC referred to agency head for investigation	6%	4%	6%	7%	6%	3%	3%	4% ¹⁰
35	Number of whistleblower disclosures either closed or referred within 15 day statutory timeline	590	578	580	742	600	835	600	653
36	Percent of whistleblower disclosures closed or referred within 15 day statutory deadline	55%	49%	50%	56%	53%	42%	53%	39%

¹⁰ This percentage excludes misfiled PPP complaints, anonymous whistleblower disclosures (referred to agency inspectors general), or disclosures closed because OSC lacks jurisdiction in those matters.

USERRA Enforcement

OSC has handled fewer USERRA matters since the completion of a second Demonstration Project mandated by Congress from August 2011 to August 2014. During FY 2015 and FY 2016, OSC completed cases it had previously received under the Demonstration Project.

During FY 2016, OSC completed 93% of USERRA legal reviews within 60 days and achieved two favorable resolutions.

OSC successfully met or exceeded three out of six stated goals in FY 2016, while ten goals were NA this year.

Goal Table 6 Provide outreach and advice to the federal community about employment discrimination against veterans

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
37	Number of staff allocated	3	3	3	3	3	3	1	3
38	Percent of staff allocated	37%	37%	50%	50%	50%	50%	100%	100%

Goal Table 7 Seek disciplinary or corrective action for violations of law

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
39	Number of favorable resolutions	30	40	35	39	12 ¹¹	19	6 ¹¹	2
40	Percentage of favorable resolutions	24%	24%	24%	23%	24% ¹²	26%	N/A ¹²	N/A ¹²
41	Number of investigations within 90 days	60	59	60	84	20 ¹³	10	N/A ¹³	N/A ¹³
42	Percentage of investigations within 90 days	63%	42%	50%	57%	50% ¹⁴	47%	N/A ¹⁴	N/A ¹⁴
43	Number of legal reviews within 60 days	33	30	32	16	18 ¹⁵	25	18 ¹⁵	14
44	Percent of legal reviews within 60 days	76%	83%	76%	80%	76% ¹⁶	95%	76% ¹⁶	93%
45	Customer service exit survey findings	47%	50%	50%	48%	N/A ¹⁷	N/A ¹⁷	N/A ¹⁷	N/A ¹⁷
46	Percent of cases received by USERRA Unit referred to ADR Unit for review	50%	34%	50%	21%	N/A ¹⁸	N/A ¹⁸	N/A ¹⁸	N/A ¹⁸

¹¹ This target was reduced for 2015 and 2016 to reflect that OSC stopped receiving new USERRA Demonstration Project cases on August 9, 2014, when the project ended. Accordingly, OSC will have fewer USERRA cases in subsequent fiscal years.

¹² This target was maintained for 2015 but eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014. OSC has completed its remaining USERRA Demonstration Project cases, leaving only on small number of USERRA Referral cases for which it is not feasible to set a target for the percentage of favorable resolutions (in part because such cases may be referred to OSC from DOL at the claimant's request, not based on merit).

¹³ This target was reduced for 2015 and eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014. Accordingly, this target was applicable to only a small number of remaining Demonstration Project cases in 2015, and was not applicable at all in 2016 (the metric does not apply to USERRA Referral cases, which are subject to a 60-day time limit).

¹⁴ This target was reduced for 2015 and eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014.

¹⁵ This target was reduced for 2015 and 2016 to reflect that OSC stopped receiving new USERRA Demonstration Project cases on August 9, 2014, when the project ended. However, OSC continues to receive a smaller number of USERRA referral cases which are subject to a 60-day time limit.

¹⁶ This target was maintained for 2015 and 2016 since OSC continues to receive USERRA Referral cases which are subject to a 60-day time limit.

¹⁷ This target was eliminated for 2015 and 2016 because the USERRA Demonstration Project ended on August 9, 2014. Accordingly, OSC is no longer conducting a customer satisfaction survey for USERRA Demonstration Project cases.

¹⁸ This target was eliminated for 2015 and 2016 due to the USERRA Demonstration Project ending on August 9, 2014.

Goal Table 8 Achieve mutually satisfactory solutions through USERRA referral for mediation

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
47	Number of USERRA cases referred to ADR unit for review. ¹⁹	58	47	47	30	3	7	3	0
48	Percent of cases referred by USERRA to the ADR Unit for review in which mediation was offered	60%	66%	65%	53%	66%	29%	66%	N/A ²⁰
49	Percent of cases in which both parties agree to mediate	50%	48%	50%	75%	50%	100%	75%	N/A
50	Number of cases withdrawn prior to mediation	n/a	5	n/a	1	0	3	0	N/A
51	Number of cases mediated	17	11	7	11	1	3	2	N/A
52	Percent of cases successfully mediated	58%	100%	75%	82%	50%	100%	50%	N/A

¹⁹ The ADR Unit reviewed cases under the USERRA Demonstration Project from May 2012 through August 2014. Due to the expiration of the Demonstration Project in August 2014, there will be no new Demonstration Project cases for OSC to refer to the ADR Unit in FY 2015 and FY 2016, so targets for these categories have been greatly scaled back.

²⁰ This applies to targets 48-52. Of the 16 new USERRA cases referred to OSC from DOL at the claimant's request in FY 2016, 14 were deemed "non-merit" referrals (the two "merit" referrals were received at the end of the Fiscal Year). As a result, no USERRA cases were referred to the ADR unit for review during FY 2016.

Hatch Act

As anticipated, FY 2016 was a busy year for OSC with nearly 200 new Hatch Act complaints received.

OSC successfully met eight out of its ten goals in FY 2016.

Goal Table 9 Seek corrective and disciplinary action against federal employees for prohibited political activity

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
53	Number of Hatch Act updates to OSC website or Listserv messages ²¹	10	10	10	10	10	9	10	12
54	Percent of cases obtaining corrective action ²²	95%	92%	90%	73%	75%	100%	75%	100%
55	Percent of appropriate cases resolved thru negotiation ²³	100%	100%	100%	93%	90%	100%	90%	100%
56	Number of successful prosecutions	1	1	1	2	1	1	1	1
57	Percent of successful prosecutions	100%	100%	100%	100%	100%	100%	100%	100%

²¹ Message/Update Records: OSC will keep track of how many messages and updates are completed each year.

²² Calculating corrective actions: OSC tracks cases where staff seek corrective action. For example, if OSC achieves 40 corrective actions but is unsuccessful in two attempts, it would calculate the success rate as $40/42 = 95$ percent. OSC received fewer Hatch Act complaints and issued fewer cure letters since the passage of the Hatch Act Modernization Act of 2012, which limited the scope of Hatch Act enforcement.

²³ Calculating disciplinary actions: OSC tracks the number of unsuccessful attempts at settlements and compares that number to the total number of negotiated disciplinary actions achieved.

Goal Table 10 Reduce instances of prohibited job-related political activity by federal employee

Description of Target		FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
58	Number of warning letters issued ²⁴	142	150	75 ²⁴	44	50	28	30	22
59	Percent of Hatch Act outreach/training requests accepted ²⁵	98%	100%	98%	100%	98%	100%	98%	100%
60	Percent of oral and email advisories issued within 5 business days of receipt of complaint ²⁶	95%	98%	95%	99%	95%	100%	95%	100%
61	Percent of formal written advisories issued within 120 days	95%	95%	95%	100%	95%	100%	95%	98%
62	Percent of formal written advisory requests responded to ²⁷	98%	98%	98%	100%	98%	100%	98%	98%

²⁴ In FY 2014, the result (compared to FY 2013) suffered a 70 percent decrease. The primary cause of this decrease was the Hatch Act Modernization Act of 2012, which narrowed the criteria for Hatch Act violations at the state and local level. OSC expects this trend to continue into the future. After FY 2015, the Hatch Act Program will reassess the effects of the new legislation on complaints received and warning letters issued in order to provide a more accurate estimate for FY 2016, a presidential election year in which we expect the numbers to rise.

²⁵ Hatch Act outreach records: The Outreach Coordinator retains a record of requests that are accepted and declined each year. One outreach request was denied in FY 2012 due to a shortage of resources. In addition, starting in FY 2013, the Hatch Act Program Assistant will maintain a record of this information. In FY 2014, having achieved the 100 percent mark, the best the Unit can do from now on is to maintain this perfect percentage.

²⁶ Oral and Email advisories: Hatch Act Program attorneys keep track of the number of oral and email advisories that take longer than five days to issue and compare that number to the total number for the year, to come up with the percentage.

²⁷ Advisories: Compares intakes with number of advisories issued for fiscal year.

Management

OSC adopted a management goal to “restore confidence within the federal community and among staff, stakeholders, and the general public.” This is a two-part goal that includes ensuring OSC operates at a high level of efficiency internally and in the federal community, and that access to OSC services for the federal community be simplified. Our management goals are overarching goals, which when met contribute to the overall success of the agency and all its programs. In the Management goals area for FY 2016, OSC successfully met or partially met 13 out of 14 goals.

Goal Table 11 Ensure OSC operates at a high level of efficiency internally and in the federal community

Description of Target		FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
63	Establish Individual Development Plans (IDPs) for all employees to identify skills and gaps	Start Pilot Project by Building Tem-plates for HR	Met	Build Tem-plates and Implement IDPs	Partially Met	Build Tem-plates and Implement IDPs	Partially Met
64	Identify targeted training to mitigate skills gaps	Conduct Annual Survey	Met	Conduct Annual Survey	Met	Conduct Annual Survey	Met
65	Percent of employees using telework and alternative schedule options; to provide employees with flexibility	70%	85%	70%	93%	70%	93%
66	Percent of employees that participate in the annual Federal Employee Viewpoint Survey on their job satisfaction	90%	85%	90%	61%	90%	92%
67	Improve the functionality of the case tracking system	See Footnote ²⁸	Met	See Footnote ²⁸	Met	See Footnote ²⁸	Met
68	Number of congressional staff or member contacts to strengthen covered laws and improve oversight and accountability	40	40	40	50	40	65
69	Number of amicus briefs, SOI interventions, or other submissions concerning the scope or contours of the laws that OSC enforces.	2	3	2	0	2	4
70	Expand federal agency compliance by invigorating the Certification Program under Section 2302c.	Develop and redesign training materials	n/a	Train agencies on re-designed materials	Met/14 ²⁹	Train agencies on re-designed materials	Met/42
71	Survey of attendees at outreach events	Develop survey	n/a	Survey 500 attendees	n/a	Survey 250 attendees	Met

²⁸ IT Supported 30 system change requests in FY 2014. OSC's case tracking system and its canned reports are constantly being improved and updated. The improvements made to the functionalities in the case tracking system are often the result of change requests and new requirements from the program offices. Additional change requests were completed on the legacy case management system in FY 2015, concurrent with the progress towards a new system. A plan has been developed to modernize the case management system. In FY 2014 a contract was let for the new case management system requirements. In FY 2015 and into FY 2016 significant work has been completed on the implementation of a modernized electronic system, to include requirements completion and prototype development, with expected go-live in FY 2017.

²⁹ Major strides were made with the 2302(c) program, to successfully include VA certification. This number also reflects training in which OSC's policy and process regarding whistleblower disclosures was covered.

Goal Table 12 Simplify access to OSC services for the federal community

Description of Target		FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result	FY 2016 Target	FY 2016 Result
72	Upgrade look, feel, and user friendliness of website and keep it current.	Launch re-designed website	Met	Maintain and update for improvements ³⁰	Met ³¹	Maintain and update for improvements ³²	Met ³³
73	Survey user community to gauge strengths and weaknesses of website	See footnote	Partially met	See footnote ³⁰	Partially met ³¹	See footnote ³²	Partially met ³³
74	Issue press releases on major agency activities and results in cases; maintain dialogue with news media	See footnote	Met	See footnote ³⁴	Met ³⁵	See footnote ³⁶	Met ³⁷
75	Make use of Twitter and social media	See footnote	Met	See footnote ³⁸	Met ³⁹	See footnote ⁴⁰	Met ⁴¹
76	Conduct biannual surveys of federal community to gauge OSC name and mission recognition	Conduct survey; Implement changes based on survey findings	Unmet	Conduct survey; Implement changes based on survey findings	Unmet	Conduct survey; Implement changes based on survey findings	Unmet

³⁰ Target for FY 2015 – OSC will seek to get feedback from GSA’s DigitalGov User Experience program and make further improvements to its website.

³¹ Results for FY 2015 – Made further improvements to its website and obtained feedback from OSC staff and external users, but not from GSA.

³² Target for FY 2016 – OSC will seek feedback from GSA or other federal government user experience groups and make further improvements to its website.

³³ Results for FY 2016 – Made further improvements to its website and obtained feedback from OSC staff and external users, but not from GSA.

³⁴ Target for FY 2015 – Issue 30-35 press releases and seek to improve partnerships with the press to better educate the federal workforce on prohibited personnel practices and OSC’s role.

³⁵ Results for FY 2015 – OSC issued 26 press releases, up slightly from FY 2014.

³⁶ Target for FY 2016 – Issue 25-30 press releases, use social media, and continue partnership with the press to better educate the federal workforce on prohibited personnel practices and OSC’s role.

³⁷ Results for FY 2016 – OSC issued 32 press releases, up from FY 2015.

³⁸ Target for FY 2015 – Expand number of Twitter followers by more than 300 to a total of 600+, with a special focus on expanding the number of employment attorneys, reporters, public policy experts, and stakeholders who follow OSC. Tweet 120 times – especially by pushing out more educational content. Review OSC’s videos and seek to improve the quality of OSC’s shareable multimedia content. Seek partnerships, such as with other federal agencies, to more widely distribute OSC’s educational material through their social media networks to better reach the federal workforce.

³⁹ Results for FY 2015– OSC tweeted 160 times and gained 247 new followers – a substantial increase over the last year. EEOC’s Office of Federal Programs is a regular re-tweeter of OSC content. The VA re-tweeted an OSC news release. Coordinated with EEOC, OPM, and MSPB on a general media strategy as well as a social media strategy to roll out a guide on remedies to LGBT discrimination in the federal workplace. Experimented with creating some video clips relevant to OSC’s work and distributed one.

⁴⁰ Target for FY 2016 – Continue to expand number of Twitter followers, with a special focus on expanding the number of employment attorneys, reporters, public policy experts, and stakeholders who follow OSC. Tweet 120 times – especially by pushing out more educational content. Review OSC’s videos and seek to improve the quality of OSC’s shareable multimedia content. Seek partnerships, such as with other federal agencies, to more widely distribute OSC’s educational material through their social media networks to better reach the federal workforce.

⁴¹ Results for FY 2016– OSC tweeted 220 times in FY 2016 and gained over 100 new Twitter followers for a total of 762 at the end of the year.

PART 4 – BUDGET PROGRAMS AND PERFORMANCE PLAN

FY 2016 Case Activity and Results – All Programs

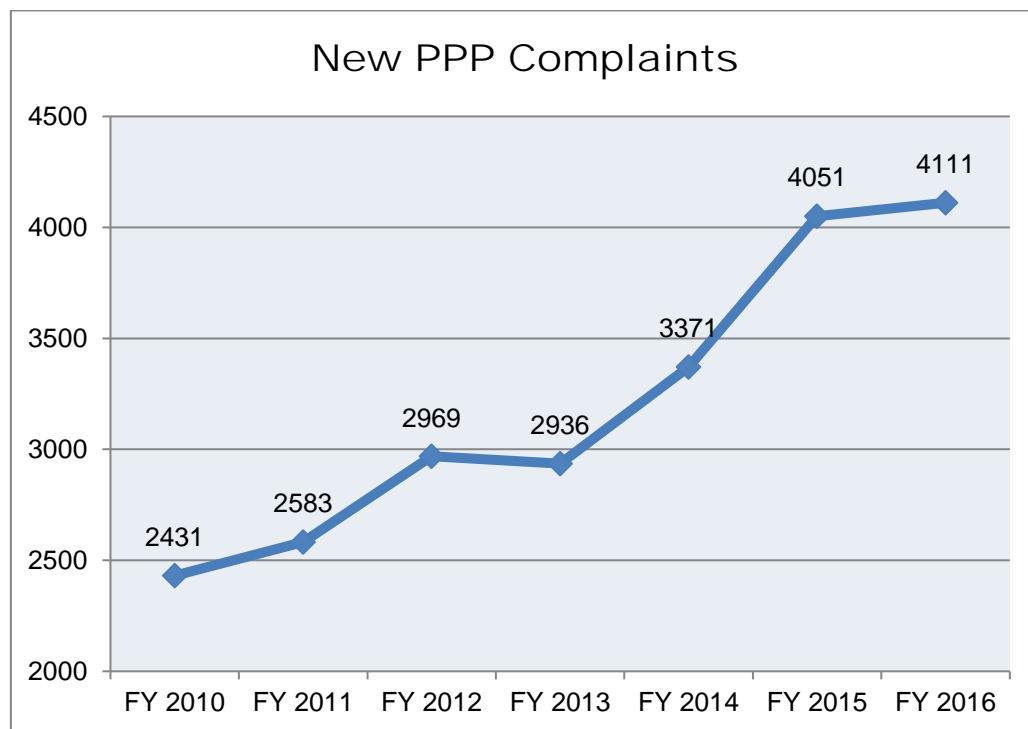
During FY 2016, OSC received 6,041 new matters throughout all of its program areas, as well as 1,641 requests for Hatch Act formal advisory opinions. Table 1 below summarizes overall OSC case intake and dispositions in FY 2016 with comparative data for the previous six fiscal years. More detailed data can be found in Tables 2 to 8, in sections below relating to the four specific components of OSC’s mission—prohibited personnel practice cases, Hatch Act matters, whistleblower disclosures, and USERRA cases.

TABLE 1 Summary of All OSC Case Activity							
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Matters⁴² pending at start of fiscal year	1,326	1,357	1,320	1,744	1,399	1,967	1,901
New matters received	3,950	4,027	4,796	4,486	5,236	6,140	6,041
Matters closed	3,912	4,051	4,374	4,833	4,666	6,208	5,661
Matters pending at end of fiscal year	1,361	1,331	1,729	1,397	1,970	1,900	2,272
Hatch Act advisory opinions issued	4,320	3,110	3,448	1,767	1,382	1,023	1,641

⁴² “Matters” in this table includes prohibited personnel practice cases, whistleblower disclosures, and USERRA cases.

Investigation and Prosecution of Prohibited Personnel Practices

OSC's largest program is devoted to handling PPP complaints. Of the 6,041 new matters OSC received during FY 2016, 4,111 (or 68 percent) were new PPP complaints. (*See chart below and Table 2 on the following page.*)



Unlike many other investigative entities or agencies, OSC *must* conduct an inquiry of all jurisdictionally sound complaints alleging the commission of a prohibited personnel practice. The nature of OSC's inquiry ranges from a screening at intake by the CEU to an IPD field investigation. Complaints received by OSC can and often do involve multiple allegations, some of which involve more than one prohibited personnel practice.

After OSC receives a complaint, CEU attorneys and personnel-management specialists conduct an initial review to determine whether it is within OSC's jurisdiction and whether further investigation is warranted. CEU refers matters stating a viable claim to IPD for further investigation. In FY 2016, CEU referred 213 cases for full IPD investigation.

The ADR Unit reviews most of these matters prior to a full-scale investigation to determine if mediation is appropriate. If a case is a good candidate for mediation, OSC contacts the complainant and the employing agency to invite them to participate in OSC's voluntary ADR program. If both parties agree, OSC conducts one or more mediation sessions, led by OSC-trained mediators who have experience in Federal personnel law. When mediation resolves the complaint, the parties execute a binding written settlement agreement. If mediation does not resolve the complaint, it is referred to IPD for further investigation. IPD investigations typically include information requests to the agency and interviews of the complainant, witnesses, and subject officials. IPD then applies the law to the facts to determine whether the matter warrants corrective action, disciplinary action, or both.

If, upon completion of its investigation, OSC concludes a prohibited personnel practice was committed, it informs the responsible agency of its findings. Most often, the matter is then successfully resolved through negotiations. If negotiations do not resolve the matter, OSC may initiate an enforcement proceeding seeking corrective action (relief intended to make an aggrieved employee whole) at the MSPB. Before doing so, however, the Special Counsel must formally report findings and recommendations for corrective action. Only after the agency has had reasonable time to remedy the situation and has failed to do so may OSC petition the MSPB for corrective action. If OSC determines

that disciplinary action (the imposition of discipline on an employee who has committed a violation) is warranted, OSC can file a complaint directly with the MSPB. (The agency may agree to take appropriate disciplinary action on its own initiative, thereby avoiding an MSPB proceeding.)

OSC litigation before the MSPB—whether by enforcement actions seeking to obtain corrective and/or disciplinary action, as an *amicus*, or by otherwise intervening in matters filed by others—often has the benefit of clarifying and expanding existing law. It also brings greater public attention to OSC’s mission and work, which can increase the deterrent effect of its efforts.

Resource Estimates

During FY 2017, IPD, RDU, and CEU, which together have jurisdiction over most prohibited personnel practices, will use approximately 72 FTE at a cost of approximately \$12,839,000. During FY 2018, we estimate the cost of the program will be approximately \$14,557,000 with 79 FTE assigned.

TABLE 2 Summary of All Prohibited Personnel Practice Complaints Activity – Receipts and Processing ⁴³							
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Pending complaints carried over from prior fiscal year	769	863	934	1,152	1,045	1,414	1,406
New complaints received ⁴⁴	2,431	2,583	2,969	2,936	3,371	4,051	4,111
Total complaints	3,200	3,446	3,903	4,088	4,416	5,465	5,517
Complaints referred by CEU for investigation by IPD	220	270	252	255	274	264	213
Complaints processed by IPD	179	190	274	266	278	307	253
Complaints pending in IPD at end of fiscal year	250	331	325	316	316	284	265
Total complaints processed and closed (CEU and IPD combined)	2,341	2,508	2,750	3,041	3,003	4,058	3,870
Complaint processing times	Within 240 days	2,185	2,327	2,570	2,594	2,577	3,381
	Over 240 days	154	175	439	440	422	665
Percentage processed within 240 days	93%	92%	88%	85%	85%	83%	85%

⁴³ Complaints frequently contain more than one type of allegation. This table, however, records all allegations received in a complaint as a single matter.

⁴⁴ “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.

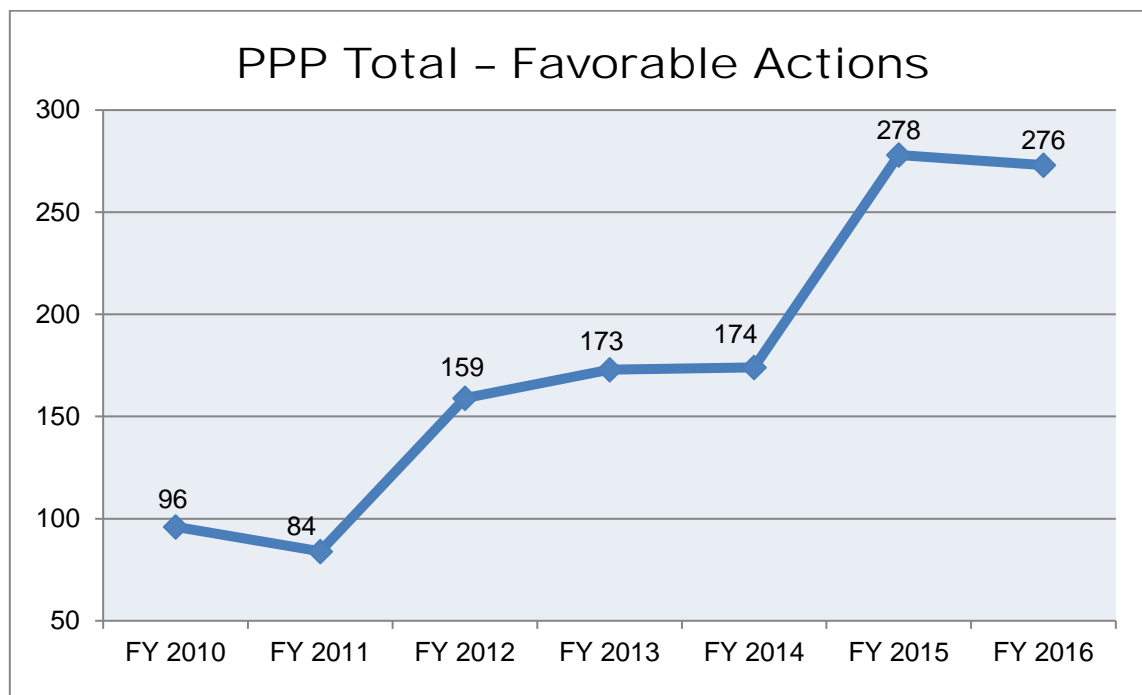
Table 3 below provides information regarding the numbers of corrective actions obtained in prohibited personnel practice cases.

TABLE 3 Summary of All Favorable Actions – Prohibited Personnel Practice Complaints								
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Total favorable actions negotiated with agencies (all PPPs)	No. of actions ⁴⁵	96	84	159	173	174	278	276
	No. of matters	76	65	128	124	142	212	217
Total favorable actions negotiated with agencies (reprisal for whistleblowing)	No. of actions	66	64	112	104	138	233	218
	No. of matters	55	50	95	91	112	175	174
Disciplinary actions negotiated with agencies		13	6	19	27	23	9	18
Stays negotiated with agencies		13	12	27	28	21	62	40
Stays obtained from MSPB		2	4	8	5	2	3	7
Stay extensions obtained from MSPB		N/A	1	1	7	0	1	4
Corrective action petitions filed with the MSPB		0	1	0	2	0	0	0
Disciplinary action complaints filed with the MSPB		0	0	0	0	3	0	0

⁴⁵ 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.

Goals and Results – Prohibited Personnel Practices

In FY 2016, OSC received 4,111 new PPP complaints, an agency record and a 22 percent increase over FY 2014 levels. Once again, OSC achieved over 270 favorable actions in FY 2016, a 59 percent increase from FY 2014.



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*.

Prohibited Personnel Practice Successes

Litigation Cases

- OSC filed an opposition to a petition for review with the MSPB in a case that OSC had earlier settled. OSC and the respondent, a then-GS-15 supervisory human resources manager, had entered into a settlement agreement whereby the respondent was demoted to a lower graded non-supervisory position. OSC and the respondent submitted the settlement agreement to the MSPB for enforcement. The MSPB issued an initial decision, which later became final, accepting the terms of the settlement agreement. More than one year after the MSPB’s initial decision became final, the respondent filed a petition for review. The MSPB ruled in OSC’s favor and dismissed the respondent’s petition for review.

Amicus Curiae Briefs

- OSC filed an *amicus* brief with the Court of Appeals for the Tenth Circuit in a case where a purchasing agent was removed from employment after he made disclosures to his supervisor about improper expenditures. OSC argued that the law imposing an additional evidentiary burden on complainants who make disclosures in the normal course of duties is not applicable in the case. OSC also argued that the Congress intended for the additional burden to apply only to a subset of cases where courts find that investigating and reporting

wrongdoing is an integral part of a Federal employee's everyday job duties, such as investigators and auditors. The Tenth Circuit vacated in part and remanded in part, but did not reach the issue addressed in OSC's *amicus* brief regarding the normal course of duties burden. (Amicus Working Group)

- OSC filed an *amicus* brief with an MSPB administrative judge in a case where a teacher was removed from employment after she made disclosures that staff members were abusive to students. OSC argued that the law imposing an additional evidentiary burden on complainants who make disclosures in the normal course of duties is not applicable in the case. Similar to the issue in Tenth Circuit case above, OSC argued that the Congress meant for this provision to be narrowly applied in cases where regularly investigating and reporting wrongdoing is an integral part of the employee's everyday job duties, such as investigators and auditors. We are awaiting the administrative judge's decision. (Amicus Working Group)
- OSC filed an *amicus* brief with the MSPB in a case where a motor vehicle operator supervisor received a notice of unacceptable performance, was placed on a performance improvement plan, and was subsequently removed from employment for failing the performance improvement plan. In its brief, OSC proffered the appropriate standard that should be used when evaluating the law that imposes an additional evidentiary burden for disclosures made in the normal course of duties. OSC argued that the appropriate standard is "contributing-factor-plus," that this standard is consistent with the Whistleblower Protection Enhancement Act, and it is fair and workable. We are awaiting the MSPB's decision. (Amicus Working Group)
- OSC filed an *amicus* brief with the MSPB in a case where the administrative judge concluded that an appellant's disclosure was not protected because, although he was an employee when the retaliation occurred, he was a contractor when he disclosed the alleged wrongdoing. OSC argued that the law does not require a whistleblower to be an employee or applicant at the time of the disclosure, that non-precedential Federal Circuit cases suggesting otherwise are distinguishable, and that the administrative judge's decision creates an unnecessary gap in whistleblower protections for those in unique positions to observe and report government wrongdoing. We are awaiting the MSPB's decision. (Amicus Working Group)

Negotiated Resolutions for Whistleblower Retaliation

- OSC obtained disciplinary actions (14, 10, and 5-day suspensions) for three officials who participated in the removal of a whistleblower. The whistleblower, a maintenance worker, disclosed gross mismanagement and abuses of authority. His removal was reversed by the MSPB, which referred the case to OSC.
- OSC granted an agency a waiver under 5 U.S.C. § 1214(f) to allow the agency to discipline an official who participated in detailing, suspending, and proposing an employee's removal in retaliation for the employee's protected disclosures. The agency removed the official from employment.
- Complainant, a manager, was reassigned to a non-supervisory position after disclosing a potential danger to public health and safety. OSC negotiated a resolution with the agency that returned complainant to his former position. The agency also agreed to provide training on prohibited personnel practices.
- A technology manager was suspended for seven days and charged with workplace violence after disclosing a network security concern. The agency cleared complainant of the violence charge, yet continued to restrict his building access and ability to work. After OSC's investigation uncovered evidence of retaliation, the agency agreed to rescind the suspension and provide complainant with back pay, compensatory damages, and a lump sum in exchange for his retirement. The agency also agreed to provide training on prohibited personnel practices.

- Complainant was reassigned and suffered other actions because, OSC's investigation found, she reported Anti-Deficiency Act violations to the Inspector General. The parties settled and the agency agreed to correct two of complainant's performance appraisals, restore sick and annual leave, provide compensatory damages, and reimburse complainant for attorney's fees. The agency also agreed to reprimand the subject official.
- Four employees at the same facility alleged retaliation after disclosing safety issues and testifying during an investigation. OSC brokered a settlement agreement, which, among other things, rescinded the suspensions of two complainants and expunged all negative material from all four complainants' personnel files.
- A technical enforcement officer alleged that his agency improperly inserted a security clearance requirement into his position description after he had disclosed an abuse of authority and then proposed his removal. OSC's investigation revealed that the insertion of the security clearance requirement was unexplained and unaccompanied by the usual documentation. The agency maintained the requirement was legitimate, but agreed to transfer complainant to a lateral position that did not require a clearance and to compensate the complainant \$5,000.
- Complainant, a research biologist, alleged the agency failed to renew his term appointment because he disclosed gross mismanagement and then failed to issue him a performance evaluation. While OSC could establish a *prima facie* case of whistleblower retaliation, the agency had a possible defense for nonrenewal because the demand for complainant's services had dropped significantly. In settlement, the agency agreed to renew complainant's term appointment for one last six-month extension on top of the nine months that the agency held complainant's nonrenewal in abeyance pending OSC's investigation.
- A police officer alleged that because of his disclosures of mismanagement and unsafe conditions in his police force he was not selected for more than 15 positions for which he had applied over the course of five years. Finally, he received an offer of promotion to a police instructor position, but only days after he left his agency to accept a job at a different agency. He wanted the promotion, so he resigned his new appointment to accept the offer, only to learn his promotion had been rescinded. After OSC's investigation uncovered evidence that the rescission was retaliatory, the agency agreed to promote him to the instructor position.
- Complainant, a nurse manager, alleged that after her disclosures of a hostile work environment and patient safety concerns, the agency issued her an admonishment, investigated her use of overtime, placed her on administrative leave, and began to remove her from employment. OSC sought and obtained an informal stay of her removal. OSC's investigation established a *prima facie* case of retaliation, in particular the differing treatment of complainant from non-whistleblowers. In settlement, the agency agreed to pay complainant a lump sum of \$50,000, to forego seeking an offset for income she earned while on administrative leave, to expunge all negative references in her personnel folder, and to seek no recovery for overtime payments she received during her employment. Complainant resigned voluntarily from the agency.
- An air traffic control specialist alleged threats and harassment after he disclosed safety concerns to agency officials, media outlets, and OSC. OSC obtained a settlement agreement in which the agency agreed to complainant's request for a transfer to another facility of his preference.
- Complainant, a healthcare worker, was suspended after reporting a significant danger to public health and safety and gross mismanagement. As a result of OSC's investigation, the agency rescinded the suspension and provided back pay.
- A technology employee alleged that he was terminated in retaliation for disclosing abuse of authority and gross mismanagement at the agency. OSC negotiated a resolution that included supervisory training, a lump sum payment, a clean record including the successful completion of a probationary period, a neutral job reference, and whistleblower training for management.

- Complainant, a public affairs supervisor, was given a reprimand and negative performance evaluation, placed on a performance improvement plan, reassigned, and threatened with demotion after reporting gross mismanagement and abuse of authority. OSC obtained a settlement that rescinded the reprimand, negative performance evaluation, performance improvement plan, and demotion. OSC also obtained reassignment for complainant to a new chain of command and attorneys' fees.
- A psychologist alleged that, after he made disclosures about management's financial improprieties, waste, and fraud, his manager prevented him from achieving the same pay level as similarly-situated employees and subjected him to a hostile work environment. The employee alleged that his manager also declined to give him performance appraisals and the bonuses that were given to his peers. The employee made additional disclosures to the agency Inspector General regarding time and attendance fraud and preferential treatment by his manager, which were ultimately substantiated by the IG. A month after making those disclosures, the employee deployed to Afghanistan with the Air Force Reserve. Upon his return to the agency less than one year later, the employee was coerced by his manager to take a different position doing administrative and technical support work unrelated to psychology. To settle the claim, the agency agreed to provide the employee compensatory damages, adjust his pay level, and take other actions to make him whole.
- Complainant alleged that he was subjected to a retaliatory investigation and detailed to another position for making protected disclosures. OSC helped to facilitate a corrective action settlement, which included an end to the investigation.

Whistleblower/EEO Complaint Retaliation

- Complainant, a program manager, alleged that because she disclosed abuse of authority and filed an Equal Employment Opportunity complaint, she suffered a variety of personnel actions, including a 14-day suspension for allegedly making a false statement to Government officials. OSC's investigation showed that complainant likely did not make a false statement and that the agency deviated from its ordinary practices in investigating and disciplining her. In settlement, the agency agreed to pay complainant \$150,000 as compensatory damages and for attorney's fees, rescinded her 14-day suspension, provided back pay for that suspension, restored all benefits she lost due to the suspension, restored 47.5 hours of annual leave and 164 hours of sick leave, reassigned her to a new supervisor, and provided her a salary increase of approximately \$8,000.

Improper Selection Practices

- Complainant, a human resources director in the senior executive service, disclosed a hostile work environment and improper favoritism in hiring. Less than one month after an administrative investigation partially substantiated complainant's claims, management reassigned complainant to a new position with no assigned duties and without the required notice. Complainant also received a lower evaluation and bonus. In settlement, the agency agreed to provide complainant with a corrected evaluation, an increased bonus, and compensatory damages. The agency conducted a further inquiry and disciplined a subject official.
- OSC investigated a case alleging unauthorized preferences or advantages in a number of recruitment actions. In one of the cases, OSC found that a division director engineered an overly restrictive selective placement factor to improve the employment prospects of a temporary employee who was already performing the job. The division director received a letter of reprimand and later retired from federal service.

Discrimination and Harassment

- Complainant, a former physical evaluation board liaison officer, alleged that a coworker sexually harassed her for more than two years and that her supervisor was aware of the harassment but took no steps to stop it. OSC's investigation established the complainant's harassment, including the use of sexually charged language, over a period of several years and that complainant's supervisor should have been aware of this pattern of inappropriate behavior and done more to correct it. In settlement, the agency paid complainant \$25,000.

Due Process

- An agency terminated a health technician's term appointment without proper due process. To resolve the matter, the agency agreed to compensate complainant for the maximum amount of extension terms available for the position she previously held.

Nepotism

- Complainant, a law enforcement officer, alleged acts of nepotism at his agency. OSC did not substantiate the allegation, but found reasonable grounds to recommend systemic training for the agency to educate officials and other agency employees on nepotism and other PPPs.

Subpoenas

- Complainant reported that his duties and working conditions had been significantly changed after he disclosed violations of law, rule, or regulation and gross waste of funds to OSC. An agency official did not cooperate with OSC's request for an interview. After OSC issued a subpoena for the official's testimony, he appeared and testified in compliance with the subpoena.

Stays of Personnel Actions

- Complainants, two senior-level disabled veteran employees, were denied promotions after refusing to withdraw from competition when asked by the agency's hiring officials. OSC obtained a formal stay of the two proposed promotion appointments from the MSPB. OSC is still completing its investigation in this matter.
- A physician received a proposed removal after disclosing concerns about patient safety and controlled substances to management and the Inspector General. OSC obtained a formal stay of the proposed removal from the MSPB. OSC is still completing its investigation in this matter.
- Complainants, two program analysts, received proposed removals after disclosing improper hiring practices at their agency. One complainant also alleged retaliation for disclosing information to the Congress and OSC. The agency granted an informal stay of both proposed removals while OSC investigates the allegations.
- Complainant, a physician and service line director, received a proposed demotion after meeting with the Inspector General regarding patient care issues. The agency granted an informal stay of the proposed demotion while OSC investigates the allegations.
- A director of logistics alleged that he was reassigned after disclosing unfair hiring and promotion practices within the agency. The agency granted an informal stay of the reassignment while OSC investigates the allegations.

- OSC filed a formal stay request with the MSPB based on evidence showing that the agency proposed a removal action against Complainant in reprisal for disclosures concerning conflicts of interests related to grant initiatives. The MSPB granted a 45-day stay of complainant's proposed removal.
- After an agency denied OSC's request for an informal stay, OSC filed a formal stay with the MSPB based on evidence showing that the agency proposed a removal action against Complainant in reprisal for disclosures to the Congress and to the Council of the Inspectors General on Integrity and Efficiency concerning gross mismanagement. Before the MSPB issued an order, the agency contacted OSC and agreed to informally stay the proposed removal action if OSC agreed to withdraw its stay request from the MSPB. OSC agreed.
- An agency granted OSC an informal stay of a proposed removal based on evidence showing that the personnel action was initiated in reprisal for filing union grievances and making disclosures concerning time and attendance fraud, favoritism, harassment, and a hostile work environment.
- An agency granted OSC an informal stay of a proposed removal based on evidence showing that the personnel action was initiated in reprisal for filing a lawsuit in federal court and for making disclosures to the Inspector General concerning the placement of an illegal recording device in a police control room.
- An agency granted OSC an informal stay of a proposed removal based on evidence showing that the personnel action was initiated in reprisal for disclosures concerning travel fraud and numerous unlawful hiring practices.
- An agency granted OSC an informal stay of a proposed removal based on evidence showing that the personnel action was initiated in reprisal for Complainant's participation in Inspector General investigations and disclosures concerning harassment, a hostile work environment, nepotism, and unlawful hiring practices.
- An agency granted OSC an informal stay of a 14-day suspension based on evidence showing that the personnel action was initiated in reprisal for disclosures to the Inspector General concerning contract violations, inappropriate purchase card use, excessive overtime, and issues with the agency's preventative maintenance program.
- An agency granted OSC an informal stay of a 10-day suspension based on evidence showing that the personnel action was initiated in reprisal for disclosures to the Inspector General concerning violations of regulatory physical security procedures.
- An agency granted OSC an informal stay of a geographical reassignment based on evidence showing that the personnel action was initiated in reprisal for disclosures concerning gross mismanagement of an agency's information network system.
- Complainant, a former Deputy IG, alleged that he was demoted and reassigned in reprisal for participating in an OSC investigation. OSC helped to facilitate a corrective action settlement, which included restoring complainant to the Deputy IG position.

USERRA Unit

USERRA protects the civilian employment and reemployment rights of those who serve the nation in the U.S. Armed Forces, including the National Guard and Reserves, by prohibiting employment discrimination due to uniformed service (including initial hiring, promotion, retention, or any benefit of employment) and providing for prompt reemployment of service members in their civilian jobs after they return from military duty. The Congress intends for the Federal Government to be a “model employer” under USERRA.

OSC plays an important role in enforcing USERRA by providing representation, when warranted, before the MSPB and the U.S. Court of Appeals for the Federal Circuit to service members whose USERRA complaints involve Federal executive agencies.

Under USERRA, a claimant alleging a violation by a Federal executive agency may either file an appeal with the MSPB or a complaint with DOL’s 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.

Resource Estimates

During FY 2017, OSC will use approximately one FTE at a cost of \$178,000 on USERRA enforcement, while during FY 2018 OSC, estimates the program will use one FTE at a cost of \$184,000.

Goals and Results – USERRA Unit

TABLE 4 Summary of USERRA Referral and Litigation Activity ⁴⁶							
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Pending referrals carried over from prior fiscal year	7	12	17	11	6	7	4
New referrals received from VETS during fiscal year	32	36	24	7	14	18	16
Referrals closed	27	31	30	12	13	21	15
Referrals closed with corrective action	0	2	4	2	2	2	0
Referrals closed with no corrective action	27	29	26	10	11	19	15
Referrals pending at end of fiscal year	12	17	11	6	7	4	5
Litigation cases carried over from prior fiscal year	1	1	0	0	0	0	0
Litigation cases closed	1	1	0	0	0	0	0
Litigation closed with corrective action	1	1	0	0	0	0	0
Litigation closed with no corrective action	0	0	0	0	0	0	0
Litigation pending at end of fiscal year	1	0	0	0	0	0	0

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. Thus, in certain cases, it is not feasible to complete investigations and make a determination within 90 days. Accordingly, OSC has targeted a 63 percent rate of completing USERRA Demonstration Project investigations within 90 days, or in almost two-thirds of complaints.

OSC conducted two USERRA outreach events during FY 2016, satisfying every agency request received. OSC expects to satisfy all outreach requests again in FY 2017.

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*.

⁴⁶ 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:

Negotiated Resolutions

- Complainant, an Air Force Reservist, alleged that the Air Force denied his request for reemployment and stated that his Maintenance Supervisor position at a large domestic Air Force base had been abolished during his 13-month deployment. As a result, complainant suffered financial hardship and a period of unemployment. OSC intervened and explained to the agency that it was obligated under USERRA to reemploy complainant in an alternate position for at least one year upon his return. As a result of OSC's efforts, the agency agreed to compensate complainant the equivalent of one year's salary.
- Complainant, a Marine Corps Reservist, alleged that he received a tentative employment offer as a U.S. Customs and Border Patrol (CBP) agent and began the onboarding process. During that time, he was recalled to active duty for one year. When complainant returned, he was placed back into the onboarding process but not actually hired for several more years. As a result of the tardy hiring and related lost seniority, he had to commute a long distance from his home and work the least desirable shifts. In light of USERRA's goal of minimizing disadvantages to the civilian careers of service members, OSC negotiated with CBP to provide complainant with a retroactive hiring date for seniority purposes to the time he would have been hired had he not been recalled to active duty.

Technical Assistance

- OSC provided technical assistance to DOD regarding modifications to a regulation that made an unnecessary distinction between "career" and "non-career" military service. At OSC's urging, DOD agreed to amend the regulatory provision and related guidance so that the language could not be used by Federal agencies to improperly deny reemployment to certain service members.
- OSC provided technical assistance to the Peace Corps when that agency sought to revise its regulations regarding the eligibility requirements for Peace Corps volunteers. OSC worked with the Peace Corps to amend the requirements to ensure that Reserve members would not be excluded from participation.

Alternative Dispute Resolution

In many prohibited personnel practice cases, OSC offers mediation as an alternative to investigation and potential litigation. Under OSC's program, once a case has been identified as appropriate for mediation, an OSC alternative dispute resolution specialist contacts the parties to discuss the process. Pre-mediation discussions are designed to help the parties form realistic expectations and well-defined objectives regarding the mediation process. 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.

Goals and Results

During FY 2016, 69 cases were referred to the ADR Unit. In 54 cases, mediation was accepted by the complainants and, from those cases, agencies accepted mediation in 37 cases. The new emphasis on mediation has yielded some outstanding results: 70 percent of completed mediations resulted in settlements during FY 2016, thus proving an efficient use of resources. (See Table 6.)

TABLE 6 ADR Program Activity – Mediation of Prohibited Personnel Practice Complaints & USERRA Complaints

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Number of cases in which mediation offered after referral from CEU, IPD, or USERRA⁴⁷	26	31	129	107	80	83	69
Mediation offers accepted by complainants	11	20	82	75	56	59	54
Mediation offers accepted by agencies and by complainants	6	15	59	52	39	17	37
Number of mediations conducted by OSC⁴⁸	6	13	40	50 ⁴⁹	39	26	41
Number of mediations withdrawn by either OSC or the agency after acceptance	0	2	10	6	8	13	18
Number of mediations withdrawn after at least one mediation session	*	*	0	2	1	0	3
Number of completed mediations	*	*	30	47	38	26	23
Number of completed mediations that yielded settlement	3	10	18	29	30	21	16
Percentage of completed mediations that resulted in settlement	50	77	60	62	79 ⁵⁰	81	70
Cases in process⁵¹ – Carryover from previous FY	N/A	N/A	5	1	0	0	0
Carryover to next FY – In process	N/A	N/A	15	10	12	17	18
Carryover to next FY – Offer pending⁵²	N/A	N/A	20	7	4	2	3
Carryover to next FY – Pending review	N/A	N/A	N/A	10	10	0	1

⁴⁷ Category includes complaints settled through mediation by OSC (including "reverse-referrals," 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.

⁴⁸ Includes cases completed or withdrawn after at least one mediation session.

⁴⁹ "Percentage of completed mediations that resulted in settlement" omits cases withdrawn before mediation was completed.

⁵⁰ "Percentage of completed mediations that resulted in settlement" omits cases withdrawn before mediation was completed.

⁵¹ "In process" means parties have agreed to mediate and mediation is scheduled or ongoing with more than one session.

⁵² "Offer pending" means cases in which OSC will offer or is in the process of offering mediation to the parties.

Resource Estimates

During FY 2017, the ADR Unit will use approximately three FTE at a cost of approximately \$535,000. During FY 2018, we estimate the cost of the program will be approximately \$553,000 with three FTE assigned.

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*.

ADR Successes

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

- 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. The employee alleged that as a result, 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.
- A medical professional claimed retaliation and a hostile environment after he disclosed that the staff at a mental health facility failed to properly triage patients. In addition complainant alleged that he received a lowered performance rating, was improperly investigated, and put on administrative leave. Through mediation the parties agreed that the complainant would resume work at a different facility with a new chain of command. The agency also restored leave, raised complainant's performance rating to be in line with ratings prior to the alleged retaliation, and paid a lump sum for compensatory damages and attorneys' fees.
- Complainant, a trade worker, alleged he was retaliated against for disclosures of Occupational Safety and Health Administration violations when his supervisor assigned him tasks he could not perform given 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 the complainant for a time certain, and a monetary payment for compensatory damages.
- An agency revoked a job offer when it learned that the applicant was a debtor in a Chapter 13 bankruptcy process. OSC helped the parties communicate and review Federal law that prohibits discrimination against debtors based on an applicant's status as a debtor in a Federal bankruptcy proceeding. The agency again offered the position to the complainant and agreed to destroy earlier records indicating she was previously denied the position.
- A government physician alleged that the agency retaliated against her for disclosing that medical staff were not properly supervising surgeries. She also alleged that her medical facility engaged in improper hiring practices and that the work environment was hostile. She alleged that as a result, she was given a lowered performance

appraisal, investigated, moved to another facility and her duties were substantially altered. Through mediation the complainant received desired training, increased privileges, support for a promotion, a monetary payment, and attorneys' fees. The agency agreed to train its staff on whistleblower protection, EEO laws, and medical certifications.

- A midlevel employee disclosed contracting improprieties overseas, age discrimination, and bullying. He alleged that he was retaliated against when he was reassigned, his duties were significantly changed, he was unable to work overtime, and his performance evaluation was reduced from prior years. As a result of an OSC mediation, the complainant received a reassignment, an increased performance evaluation ranking with added language documenting performance achievements, a monetary sum, and a performance bonus.

Whistleblower Disclosure Program

OSC provides a safe channel through which Federal employees, former Federal employees, or applicants for Federal employment may, under 5 U.S.C. § 1213(a), disclose information they reasonably believe evidences a violation of law, rule, or regulation, or gross mismanagement, a gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. The Disclosure Unit (DU) and the Retaliation and Disclosure Unit (RDU) are responsible for reviewing the information submitted by whistleblowers and advising the Special Counsel whether it shows there is a substantial likelihood that the type of wrongdoing described in § 1213 has occurred or is occurring. (RDU is a new Unit in FY 2017, so its output is not reflected in the chart and table below.) If so, the Special Counsel must transmit the disclosure to the head of the relevant agency. The agency is required to conduct an investigation and submit a report to OSC describing its findings and the steps taken in response. Under § 1213(e), the whistleblower is also provided with a copy of the report for comment. The Special Counsel is then required to review the report in order to determine whether the report meets the requirements of the statute and its findings appear reasonable. The report is then forwarded to the President and appropriate congressional oversight committees.

During FY 2016, the unit referred 40 matters to agency heads for investigation under § 1213(c). (*See Table 7.*)

OSC's more complex disclosure cases are very labor-intensive and often require the attention of more than one attorney. These cases can take more than a year to fully complete for a number of reasons—agencies routinely request additional time to conduct the investigation and write the report, whistleblowers request additional time to prepare their comments, and DU and RDU attorneys and the Special Counsel must review the report to verify it contains the information required by statute, determine whether its findings appear reasonable, and prepare any comments the Special Counsel may have on the report.

Resource Estimates

During FY 2017, we estimate the program will use 19 FTE at a cost of \$3,388,000. During FY 2018, we estimate the program will use 19 FTE at a cost of \$3,501,000.

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. In FY 2016, the unit received 1,717 disclosures, 85 percent higher than five years earlier, FY 2011. Consequently, the Unit's backlog remains a challenge.

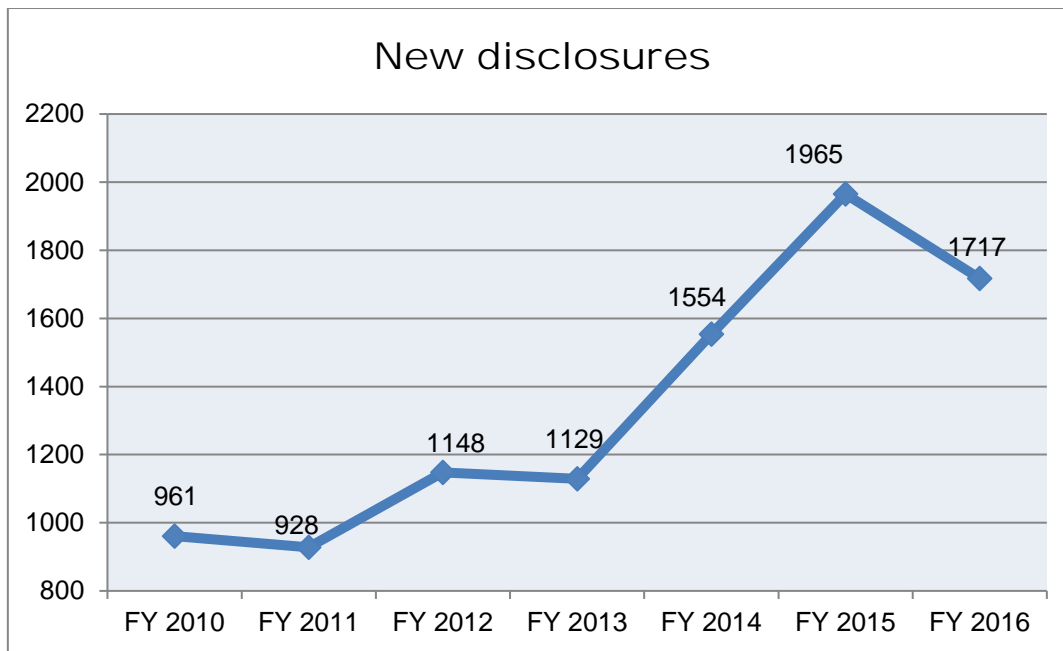


TABLE 7 Summary of Whistleblower Disclosure Activity – Receipts and Dispositions⁵³

		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Pending disclosures carried over from prior fiscal year		125	83	132	225	193	433	449
New disclosures received		961	928	1,148	1,129	1,554	1,965	1,717
Total disclosures		1,086	1,011	1,280	1,354	1,747	2,398	2,166
Disclosures referred to agency heads for investigation and report		24	47	39	51	92	62	40
Referrals to agency IGs		2	5	6	2	0	0	0
Agency head reports sent to President and Congress		67	22	36	54	26	72	78
Results of agency investigations and reports	Disclosures substantiated in whole or in part	62	21	31	49	25	63	61
	Disclosures unsubstantiated	5	1	5	5	1	9	17
Disclosure processing times	Within 15 days	555	555	583	575	731	830	654
	Over 15 days	451	315	470	585	584	1,117	1,015
Percentage of disclosures processed within 15 days		55%	63%	55%	49%	55%	42%	39%
Disclosures processed and closed		1,006	870	1,053	1,160	1,315	1,947	1,669

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*.

⁵³ 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.

Disclosure Unit Successes

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

Improvements in staffing at VA facility. OSC referred to the Secretary of the Department of Veterans Affairs allegations that employees at the Department of Veterans Affairs, Southern Arizona VA Health Care System (SAVHCS), Sterile Processing Service (SPS), Tucson, Arizona, failed to follow proper procedures in the handling of reusable medical equipment. The whistleblower also alleged the SPS was grossly understaffed and that SPS managers falsified education and training documents to satisfy VA recordkeeping requirements and pass periodic inspections. The investigation concluded that SPS was understaffed, but did not substantiate that SPS staff failed to follow proper procedures in the handling of reusable medical equipment or that SPS management emphasized speed over compliance with standard operating procedures and competencies. Nevertheless, the investigation recommended significant corrective action to address shortcomings in SPS identified by the investigation, including improving SPS staff communication; SPS team building; hiring and training of vacant medical supply technician positions; continued monitoring of SPS quality indicators for trends and appropriate response; and a VHA review of the requirements that mandate standard operating procedures on each piece of reusable medical equipment. The report also recommended that an Administrative Investigation be convened to determine whether the SPS Chief completed training for a subordinate employee and whether disciplinary action was warranted. The agency later confirmed that following the AI, the SPS Chief received a five-day suspension and the SPS Evening Supervisor received a three-day suspension. *Referred August 19, 2015; transmitted to the President and congressional oversight committees and closed on September 1, 2016.* (DU)

Enhancements to National Institute on Aging Study. OSC referred to the Secretary of the Department of Health and Human Services allegations regarding the implementation and management of the National Institutes of Health, National Institute on Aging (NIA), Baltimore Longitudinal Study on Aging (BLSA) filed by a former staff clinician in the NIA Clinical Unit. The whistleblower alleged that NIA research staff violated standard operating procedures and failed to follow good clinical practices in the administration of the BLSA. Specifically, the whistleblower alleged that BLSA participants were not timely informed of abnormal medical test results, and that the notification participants did receive was inadequate because it did not include information required by the BLSA protocol, such as an explanation of the medical test results. The investigation did not substantiate any violation of law, rule or regulation or find there was a substantial and specific danger to public health or safety, but did conclude that some corrective actions were warranted. In response, the agency took significant steps to improve its processes related to the administration of the BLSA, including the review of information on protocols and informed consent provided to participants. *Referred November 22, 2013; transmitted to the President and congressional oversight committees and closed on June 9, 2016.*

Review of staffing qualifications and backlog of laboratory reports. OSC referred to the Secretary of Veterans Affairs allegations of wrongdoing at the Philadelphia VA Medical Center (Philadelphia VAMC), Pathology and Laboratory Medicine Service (P&LMS), Philadelphia, Pennsylvania. The whistleblower alleged that the Director of the Electron Microscopy Unit (EM) was not an American Board of Pathology (Board) certified anatomic pathologist and, therefore, was not qualified to serve as EM Director and not in compliance with P&LMS procedures and requirements in the Veterans Health Administration Handbook. The whistleblower also alleged that the EM routinely failed to issue written reports on specimens transmitted for EM study within ten working days using the Veterans Health Information Systems and Technology Architecture (VistA), as required by the Handbook. The whistleblower asserted that the absence of written reports on EM studies in VistA deprived clinicians of the results, which negatively affected patient treatment.

The agency investigation substantiated the allegation that the Director was not Board certified and, therefore, not qualified to serve as director of a diagnostic electron microscopy program, but determined that EM was a non-

diagnostic program. The agency also found that EM did not routinely issue written reports on specimens accessed for EM study within ten working days using VistA. However, because the EM program is not a diagnostic program, neither P&LMS procedures nor the Handbook was violated nor was patient treatment negatively affected. Nonetheless, the VA acknowledged that EM's lack of closure of accessions, even for quality control, education, and research purposes created the misperception of unfinished diagnostic work. In response, the VA recommended that EM close the open accessions within VistA, use existing paper records to reflect the actual date of completion, and establish a practice of closing accessions when the final dispositions are determined. The VA also recommended that VHA review accession closure practices at the other seven diagnostic EM facilities to ensure that they are closing out accessions as required by the Handbook. In July 2016, the VA provided an update to OSC that Philadelphia VAMC has electronically closed all of its open EM accessions within VistA and established a practice of closing all accessions as the final dispositions are determined. The VA also stated that the VHA National Diagnostic EM Program has reviewed the practices at the seven VA EM facilities, all of which are in the process of closing out all accessions in accordance with the Handbook. *Referred September 28, 2015; transmitted to the President and congressional oversight committees and closed on August 29, 2016.*

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

Backlog of Imaging Services at VA Facility. OSC referred to the Secretary of the Department of Veterans Affairs allegations that as of July 2014, the Imaging Service of the William Hefner VA Hospital, Salisbury, North Carolina, had approximately 3,300 patients waiting for radiology exams, some dating back to 2007. The VA OIG substantiated that there was a backlog of approximately 3,300 pending orders for radiology exams. The OIG determined that 34 percent of the appointments in this backlog were in violation of VA policy that requires the completion of appointments within 30 days of a provider's order. Investigators determined that while 15 patients died waiting for exams, their medical records indicated that no death or adverse clinical outcomes resulted from delays in radiology appointments.

In response to the investigative findings, VAMC Salisbury reviewed pending radiology exam orders to ensure that patients waiting for care were properly scheduled, and began prioritizing urgent orders for scanning to make unscheduled urgent and immediate orders a priority. The VA Mid-Atlantic Health Care Network Director also ensured that VAMC Salisbury develop a plan to address existing demand for radiology exams and ensure that future patients receive appropriate access to care. The facility acquired additional scanning equipment and increased staff from seven to 13 employees to improve patient access to care. *Referred June 5, 2014; transmitted to the President and congressional oversight committees and closed on January 30, 2017.*

Delays in Specialty Care Appointments at the VA. OSC referred to the Secretary of the Department of Veterans Affairs allegations of wrongdoing at the Phoenix VA Health Care System (Phoenix VACHS), Phoenix, Arizona. The whistleblower alleged widespread misconduct with respect to patient scheduling at Phoenix VAHCS and that patients died while waiting for specialty care appointments.

The agency substantiated the allegations in part, concluding that on a daily basis, Phoenix VAHCS has an average of 1,100 patients waiting longer than 30 days for appointments. The report explained that there were especially significant wait times for psychotherapy appointments, with patients waiting an average of 75 days. The report stated that while leadership did not approve the improper cancellation of backlogged appointments, from October 5-19, 2015, Phoenix VACHS cancelled 3,862 patient appointments across all service lines. Of this number, 59 should have been rescheduled, but were not. The report explained that 12 of the 59 patients may have experienced a delay in care that could have caused possible or actual harm.

The VA OIG reviewed the allegations concerning patients who died waiting for specialty consultations. The OIG report explained that investigators reviewed a total of 294 consults for 215 individual patients who had pending appointments at the time of their deaths. The OIG concluded that in 62 of the 294 consults, care was improperly

delayed. Of these 62 consultations, delays in receiving requested care may have caused patient harm in one instance, where a patient never received an appointment for a cardiology exam that could have prompted further definitive testing and interventions "that could have forestalled his death." In response to the investigative findings, the VHA updated agency-wide consultation policies, communicated and developed review processes to ensure the proper management of consultations at Phoenix VAHCS, evaluated the care of patients who died waiting for appointments, and made appropriate disclosures to families. *Referred October 30, 2015; transmitted to the President and congressional oversight committees and closed on January 10, 2017.*

Gross Mismanagement and Substantial and Specific Danger to Public Health

Ensuring adequate VA staffing for the distribution of medications to high-risk patients. OSC referred to the Secretary of Veterans Affairs allegations that the processing and filling of prescriptions for mental health patients at the Greater Los Angeles Healthcare System (GLAHCS), Community Based Outpatient Clinic (CBOC), Santa Maria, California, was grossly delayed causing harm to patients. The whistleblower alleged the delay was caused by understaffing at the CBOC, which employed one full-time pharmacist to process thousands of mental health patient prescriptions. The investigation substantiated the allegations and confirmed that an unreasonable delay existed in the processing and delivery of prescriptions through the Santa Maria CBOC. The agency also confirmed that this delay had the potential to cause patient harm and determined that VA management was largely unaware of the backlog of prescriptions at the Santa Maria CBOC, and did not properly log or report the backlog to the Veterans Integrated Support Network (VISN), which violated VA policy. The agency also determined that the VA was not in compliance with several prescription processing and staffing-related regulations. However, because of the hiring of additional pharmacists to service multiple GLAHCS CBOCs, the prescription wait time does not currently exceed seven days. OSC also confirmed that the VA is hiring additional pharmacy staff, and establishing pharmacy workload metrics related to prescription processing and staffing, which the VA's Acting Chief of Pharmacy will review and report on quarterly. *Referred August 25, 2015; transmitted to the President and congressional oversight committees and closed on August 30, 2016.*

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

Failure to properly test aircraft fueling equipment and jet fuel. OSC referred to the Secretary of the Navy allegations of wrongdoing at the Department of the Navy, Fleet Readiness Center East (FRC East), Cherry Point, North Carolina. The whistleblower alleged that employees at FRC East failed to properly test aircraft fueling equipment and fuel, and improperly and hazardedly disposed of jet fuel. The investigation substantiated the allegations, explaining that FRC East did not properly test aircraft fueling equipment or jet fuel, thereby creating a serious life-safety risk. In addition, the report stated that FRC East wasted government resources when it unnecessarily discarded thousands of gallons of usable jet fuel based on the mistaken belief that it was contaminated. In response, the agency implemented an extensive variety of corrective actions. FRC East has also discontinued the improper practice of discarding unused jet fuel, achieving an approximate cost savings of \$71,200 per year. The agency did not substantiate the allegation that employees hazardedly disposed of jet fuel by dumping it into a wooded area on the base. *Referred August 31, 2015; transmitted to the President and congressional oversight committees and closed on February 23, 2016.*

Improper cancellation of patient appointments. OSC referred to the Secretary of Veterans allegations of wrongdoing at the Phoenix VA Health Care System, Phoenix, Arizona. The whistleblower alleged that Medical Support Assistants at the Southeast Community Based Outpatient Clinic (SE CBOC) engaged in misconduct with respect to patient scheduling procedures. The investigation substantiated that some schedulers in the SE CBOC, rescheduled and cancelled appointments through a prohibited practice known as blind scheduling. In addition, the report found that the Phoenix VA Health Care System was not using the most recent VA policy guidance on scheduling processes, and that SE CBOC employees had not been trained on these revised procedures. The report did not

substantiate that patients presenting at the SE CBOC during mental health crises were inappropriately triaged, but acknowledged that proper standard operating procedures were not implemented to assist with this process. The report also substantiated additional allegations disclosed during an interview with investigators that a psychiatrist failed to examine an admitted patient or implement a treatment plan within 24 hours of admission, in violation of agency policy. In response, the agency provided training and education updates for employees on scheduling policies, and continued to conduct scheduling audits. The report recommended the initiation of a Focused Professional Practice Evaluation to determine if the psychiatrist's conduct was below an acceptable standard. The evaluation concluded that the psychiatrist was a skilled and thorough physician, notwithstanding the incident. The VA provided additional information that the physician subsequently resigned on June 9, 2016. *Referred November 3, 2015; transmitted to the President and congressional oversight committees and closed on August 2, 2016.*

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

Failure to follow proper sanitation procedures and maintain food safety. OSC referred to the Secretary of Veterans Affairs allegations of wrongdoing at the Washington D.C. VA Medical Center (Medical Center), Nutrition and Food Services Program (NFS). The whistleblower alleged that NFS management and employees failed to maintain proper sanitation and food safety at the Medical Center, and that NFS management failed to address his reports of misconduct.

The agency investigation substantiated many of the allegations, finding violations of VA and Veterans Health Administration (VHA) policies and a substantial and specific danger to public health and safety at the Medical Center. The investigation found a general lack of cleanliness in the main food preparation area, including evidence of a cockroach infestation as well as built-up food debris and dust. In addition, the investigation substantiated the allegation that NFS employees did not properly inspect, label, and store food items. The agency partially substantiated the allegation that NFS employees did not comply with personal hygiene requirements, finding that employees failed to wear beard restraints and remove jewelry in the food preparation area. The investigation did not substantiate that the Medical Center lacks food safety policies or a Hazard Analysis Critical Control Point (HACCP) plan, but determined that the Medical Center's current HACCP plan did not meet the requirements in the VHA Handbook. Nor did the investigation substantiate that NFS management failed to take appropriate action to ensure employee compliance with sanitation standards. Investigators determined that the current NFS Chief had taken ten personnel actions, including reprimands and terminations, and sent one staff member home for an untidy uniform during her tenure for violations such as failure to follow sanitation guidelines and failure to follow supervisory instructions.

In response, the Medical Center updated the NFS staffing plan, filled the vacant Assistant Chief position, and posted job vacancy announcements for seven new full-time employee positions within NFS. Second, NFS and Environmental Management Services signed a Memorandum of Understanding on March 24, 2016 to assign responsibilities, assist NFS with maintaining safe and sanitary conditions, and ensure the coordination of efforts to eradicate pests. Third, the NFS Chief updated the HACCP plan, which went into effect on April 30, 2016, to ensure it complies with the required standards. Fourth, NFS management established a monthly training calendar and a SharePoint site to make upcoming training, NFS policies, and the HACCP plan readily accessible to NFS employees; started provided training to NFS staff on best inventory and labeling practices and uniform requirements; established a training log to record all training activities to ensure requirements are met for all NFS staff; and ensured that NFS supervisors are ServSafe certified. Finally, the VHA NFS Program Office conducted an unannounced site visit to the Medical Center in May 2016 and confirmed that the NFS Chief and Administrative Section Chief are participating in the VHS NFS mentoring program. *Referred August 19, 2015; transmitted to the President and congressional oversight committees and closed on June 9, 2016.*

Violation of Law, Rule or Regulation, Gross Mismanagement, Gross Waste of Funds, and Abuse of Authority

Irregularities in the Federal Grant Processes. OSC referred to the Attorney General allegations of wrongdoing at the Office of Justice Programs, National Institutes of Justice (NIJ), Office of Research and Evaluation, Washington, D.C. The whistleblower alleged that NIJ employees chronically violated federal rules and regulations governing federal grant processes.

The agency substantiated the allegations in part. The whistleblower alleged that NIJ employees frequently engaged in improper communications with grant applicants that conferred inappropriate competitive advantages and, further, that NIJ managers approved improper research incentives utilized by grant recipients. The report noted that pre-award communications between agency employees and grant applicants could, and at times did, create an unfair competitive advantage for some applicants and grantees. The report further indicated that while some of the identified instances constituted permissible conduct under then-current NIJ leadership and policy, these types of communication are now prohibited. The report also substantiated serious issues with the approval of incentives incorporated into grants. In one instance, a grant provided gift cards to parolees as study incentives, an arrangement specifically chosen to circumvent state victim restitution requirement laws. In response, the agency has developed new review processes for communication and incentive approvals to ensure that such laws are not circumvented.

Despite these findings, the agency concluded that these problems did not constitute a violation of law, rule, or regulation, or gross mismanagement. The report appeared to reach this conclusion because previous NIJ leadership endorsed these practices, despite their apparent impropriety. *Referred June 3, 2015; transmitted to the President and congressional oversight committees and closed on November 16, 2016.*

Violation of Law, Rule or Regulation, Gross Mismanagement and an Abuse of Authority

Failure to properly secure protected employee information. OSC referred to the Attorney General allegations of wrongdoing at the Department of Justice (DOJ), U.S. Marshals Service (USMS), Tactical Operations Division (TOD), Arlington, Virginia. The whistleblower alleged that TOD employees failed to follow appropriate procedures for safeguarding and disposing of Personally Identifiable Information (PII) in violation of the Privacy Act of 1974 and DOJ orders.

The agency substantiated the allegations, finding that PII was not appropriately protected on TOD shared drives. In response, TOD took immediate steps to archive or remove PII from shared drives, limit or restrict access to PII, and actively engaged with the USMS Information Technology Division to implement training and protocols for managing PII. In addition, the agency developed a plan to protect PII within the agency, and purchased a scanning tool that will routinely search for PII not contained in protected folders. Under agency procedures, DOJ's Computer Emergency Readiness Team and Department Security Officer were notified, and a risk assessment conducted to determine the appropriateness of employee notification. The assessment, which was completed in March 2016, determined that there was no evidence that any vulnerable information was used to commit identity theft, no general knowledge of the accessibility of the information, or any known instances of misuse or unauthorized use; therefore, no employee notification was warranted. *Referred July 16, 2015; transmitted to the President and congressional oversight committees and closed on June 7, 2016.*

Violation of Law, Rule, or Regulation, Gross Mismanagement, and an Abuse of Authority

Improper creation of medical accounts and violation of patient privacy. OSC referred to the Secretary of Veterans Affairs disclosures of wrongdoing at the Department of Veterans Affairs, G.V. "Sonny" Montgomery VA Medical Center in Jackson, Mississippi (Jackson VAMC). The whistleblower alleged that Jackson VAMC managers violated patient privacy by directing staff to create MyHealtheVet (MHV) accounts for patients without their permission. The whistleblower also disclosed that Jackson VAMC managers failed to notify patients of the improper creation of the MHV accounts and violated patient privacy by allowing the improper storage of patient billing information and other personally identifiable information at the Veterans Integrated Service Network, 16 Consolidated Fee Unit (CFU), in Pearl, Mississippi.

The agency substantiated the allegation that the employees violated veterans' privacy by directing staff to create MHV accounts for veterans without their permission. The agency further substantiated that management failed to notify veterans of the improper creation of MHV accounts and allowed the improper storage of patient billing information. However, the agency was unable to conclude that the paper records were improperly secured or that veterans' privacy was violated by temporary storage practices at the CFU. The agency took significant corrective and disciplinary actions against responsible employees, including two removals, a reassignment and suspension, and two additional suspensions. *Referred April 3, 2014; transmitted to the President and congressional oversight committees and closed on October 7, 2016.*

Violation of Law, Rule or Regulation, Gross Mismanagement, and Substantial and Specific Danger to Safety

OSC referred to the Secretary of the Department of the Army allegations of wrongdoing at the Army Directorate of Training Sustainment (DOTS) Supply and Service Division, Ammunition Branch, Fort Benning, Georgia. The whistleblower disclosed that the weight of ammunition transported on vehicles throughout Fort Benning is not accurately recorded on official shipping documents, resulting in a potential risk of harm from the overloading of transport vehicles. The whistleblower also disclosed that DOTS employees failed to follow federal regulations pertaining to the maintenance of shipping records.

The agency substantiated the allegations that transport vehicles carrying ammunition were routinely overloaded and determined that ammunition weights reflected in the Ammunition Supply Point Manager, the computer program DOTS used for itemizing and calculating ammunition weights for loading onto transport vehicles, listed weight values that deviated significantly from the manufacturer's weight values. The investigation confirmed that the variance resulted in routine overloading of transport vehicles. The investigation also found that DOTS was not retaining or recording physical shipping papers in accordance with federal regulations. Specifically, the investigation found that DOTS was in violation of multiple regulations, including portions of the "Defense Transportation Regulations," the "Defense Travel Regulations," and 49 C.F.R. 172.201, "Preparation and Retention of Shipping Papers."

In response to the investigation, DOTS at Fort Benning instituted new policies, training programs, additional safeguards, and internal control measures to ensure vehicles transporting live ammunition throughout Fort Benning are not overloaded. *Referred December 18, 2015; transmitted to the President and congressional oversight committees and closed on January 5, 2017.*

Substantial and Specific Danger to Public Health

Review of CDC Recommendations on Diagnostic Tests for the Zika Virus. OSC referred to the Secretary of the Department of Health and Human Services allegations that employees at the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), Emergency Operations Center (EOC), Atlanta, Georgia, recommended that state and territory public health department laboratories (public health laboratories) use the Trioplex Real-time RT-PCR Assay (Trioplex) for Zika Virus Disease (Zika) diagnostic testing, despite information indicating that it is less analytically sensitive in detecting Zika virus ribonucleic acid (RNA) than the Singleplex Real-time RT-PCR Assay (Singleplex). Specifically, the whistleblower alleged that use of the Trioplex in place of the Singleplex in a clinical setting would result in an additional 39 percent of Zika infections in their acute phase going undetected; the EOC was aware of information indicating that the Trioplex is less sensitive in detecting Zika virus RNA than the Singleplex but withheld this information from public health laboratories; and the EOC's promotion of the Trioplex may have led public health laboratories that were approved to use the more sensitive Singleplex to run the Trioplex preferentially, believing it to be the superior method for detecting Zika virus RNA. The agency investigation did not substantiate the whistleblower's allegations, finding that "[t]here is insufficient, statistically robust, definitive data to reach an evidence-based conclusion that use of the Trioplex assay over the Singleplex in clinical practice will result in 39 percent of Zika virus infections being missed." However, the agency stated that on August 22, 2016, the CDC submitted a substantial amendment to the Trioplex Emergency Use Authorization to the U.S. Food and Drug Administration for authorization of use of larger sample volumes, in an effort to increase the assay's analytical sensitivity. *Referred July 1, 2016; transmitted to the President and congressional oversight committees and closed on September 27, 2016.*

Hatch Act Unit

Enforcement of the Hatch Act, which protects the civil service system from coerced or inappropriate partisan political activity, is another critical OSC mission. OSC investigates complaints, issues advisory opinions, responds to requests, and engages in training and outreach to the federal community.

OSC worked with the Congress to obtain passage of the Hatch Act Modernization Act in December 2012. This legislation removed OSC's jurisdiction over most state and local government employees who run for partisan political office. This important reform has enabled OSC to enforce the Hatch Act more efficiently and focus on serious political misconduct in Federal, state, and local governments.

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 2016, OSC closed 98 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 2016, OSC issued 1,641 total advisory opinions, including 43 formal written advisory opinions.

Resource Estimates

During FY 2017, OSC estimates the Hatch Act program will cost \$357,000, employing two FTE. In FY 2018, OSC estimates the cost of this program to be \$553,000, employing three FTE.

Outreach and Training

To further its advisory role, OSC is very active in training and outreach efforts. In FY 2016, OSC conducted 64 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

Between FY 2008 and 2012, the number of complaints and requests for advisory opinions on the Hatch Act were at historically high levels. 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. During FY 2016, the backlog increased again somewhat due to the election year increase in complaints and advisory opinion requests.

TABLE 8 Summary of Hatch Act Complaint and Advisory Opinion Activity

		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Formal written advisory opinion requests received		351	283	257	107	64	64	45
Formal written advisory opinions issued		320	335	262	129	60	60	43
Total advisory opinions issued⁵⁴		4,320	3,110	3,448	1,767	1,382	1,023	1,641
New complaints received⁵⁵		526	451	503	277	151	106	197
Complaints processed and closed		535	635	449	465	182	131	98
Warning letters issued		163	164	142	150	44	28	21
Corrective actions taken by cure letter recipients	Withdrawal from partisan races	28	23	5	5	7	8	4
	Resignation from covered employment	26	16	2	2	0	3	1
	Other	1	5	4	4	1	0	5
	Total	55	44	11	11	8	11	10
Disciplinary action complaints filed with MSPB		7	3	0	2	1	2	3
Disciplinary actions obtained (by negotiation or ordered by MSPB)		10	5	4	7	15	9	5
Complaints pending at end of fiscal year		422	233	286	96	65	40	139

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*.

Hatch Act Successes

Litigation

- OSC and U.S. Army Corps of Engineers (USACE) Regional Counsel advised a USACE employee who was a candidate in a partisan election for sheriff that he was prohibited from running. After a hearing, the MSPB administrative law judge issued a decision ordering USACE to remove the employee. The employee filed a petition for review with the MSPB and OSC filed an opposition. The MSPB denied the petition and affirmed the removal.
- OSC filed a complaint for disciplinary action alleging that an employee with the National Oceanic and Atmospheric Administration (NOAA) in Washington State unlawfully ran as a candidate in the 2014 and 2016 partisan elections for the U.S. House of Representatives despite repeated warnings from NOAA and OSC. After a hearing, the MSPB administrative law judge concluded that the employee's violations of the Hatch Act warranted his removal from federal employment.
- OSC filed a complaint for disciplinary action with the MSPB alleging that an employee of the U.S. Postal Service (USPS) violated the Hatch Act by being a candidate in a 2014 partisan election for county commissioner in Tennessee despite OSC and the USPS's warnings against doing so. The case is pending.

⁵⁴ All oral, e-mail, and written advisory opinions issued by OSC.

⁵⁵ Includes cases that were reopened.

- OSC filed a complaint for disciplinary action alleging that an employee at the Department of Commerce sent several emails in support of the Montgomery County (Maryland) Republican Party (MCGOP) and to assist candidates running for local and state office while on duty. He sent these emails in his role as an official of the MCGOP. He also invited more than 100 individuals to attend an annual “Lincoln and Reagan” Republican Party fundraiser and asked them to send him a check if they wanted to attend. OSC and the employee reached a settlement agreement, whereby the employee admitted to violating the Hatch Act and agreed to accept a 50-day suspension without pay. The MSPB administrative law judge approved the settlement agreement.

Negotiated Resolutions

- OSC entered into a settlement agreement with an employee who, during a three-month period while on duty and in the federal workplace, tweeted at least 12 messages from her personal Twitter account that were directed at the failure of Hillary Clinton’s 2016 candidacy for President. The employee engaged in this prohibited political activity despite the fact that the Secret Service had provided her with policies that discussed the Hatch Act and its application to social media use. Also, the employee twice certified that she had read those policies and understood that she was expected to comply with and understood that she was expected to comply with them. As part of the settlement agreement, the employee admitted to violating the Hatch Act and agreed to accept a 10-day suspension without pay.
- OSC reached a settlement with a U.S. Postal Service (USPS) vehicle maintenance facility manager who violated the Hatch Act by sending six partisan political emails while she was on duty and in a USPS facility. As disciplinary action for her admitted violations, the employee received a five-day suspension without pay.
- OSC entered into a settlement agreement with a USPS letter carrier who displayed a congressional candidate’s campaign sign in his USPS vehicle while delivering the mail in the district where the candidate was running. As part of the settlement, the employee admitted that he violated the Hatch Act’s prohibitions by using his official authority to affect the result of an election and engaging in political activity while on duty, in a government vehicle, and while wearing his official uniform. As a penalty, the employee was suspended for five days without pay.
- OSC reached a settlement with a U.S. Department of Labor wage and hour investigator after investigating allegations that the employee had circulated a nominating petition for a mayoral candidate at work and obtained three signatures from coworkers. In addition, the employee retweeted one of the candidate’s requests for political contributions. In the settlement agreement, the employee admitted that she violated the Hatch Act and was suspended for three days without pay and received a letter of reprimand.

Report to the President

- OSC sent a report to the President, finding that then-Secretary of Housing and Urban Development Julián Castro violated the Hatch Act during a press interview. In the report, OSC concluded that Secretary Castro’s statements impermissibly mixed his personal political views with official agency business.

Retaliation and Disclosure Unit (RDU)

The Retaliation and Disclosure unit reviews related prohibited personnel practice 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 CEU, IPD, and DU attorneys. Where appropriate, attorneys investigate prohibited personnel practice complaints, obtain corrective or disciplinary actions, and refer disclosures for investigation. RDU attorneys also refer cases to ADR.

Goals and Results—RDU

OSC's case tables are currently reported by case type, PPP cases, and Whistleblower Disclosures for example. With the advent of RDU, a hybrid unit that handles both types of cases, their cases are currently reported in the PPP and DU case tables⁵⁶. In the future with the implementation of the new electronic case management system, OSC plans to segregate out the cases RDU handles so they can be distinctly reported.

In its first full fiscal year, FY 2016, RDU resolved 100 matters, obtained 25 corrective actions; referred six 1213(c) disclosures, informally referred three disclosures, and obtained significant corrective and disciplinary action in one informal disclosure. RDU operated with an average staff of five full-time attorneys during this period.

Over the past six months, RDU's caseload has steadily increased. The unit currently has over 200 pending matters (roughly 100 disclosures and 100 PPP matters). In the first two quarters of FY 2017, RDU has resolved approximately 57 cases, obtained seven corrective actions, and referred three disclosures. RDU continues to perform at a high level given its lean staff and heavy caseload, and more information on its successes will be reported in the next fiscal year.

Resource Estimates

During FY 2017, RDU will use approximately six FTE at a cost of approximately \$1,070,000. During FY 2018, we estimate the cost of the program will be approximately \$1,474,000 with eight FTE assigned.

Retaliation and Disclosure Unit Successes

Abuse of Authority and Gross Mismanagement

A whistleblower disclosed evidence to OSC that the Department of Commerce (DOC) failed to act on proposed adverse actions for several employees in a reasonable amount of time. Instead, DOC allowed the proposals in question to linger for lengthy periods. After OSC reviewed the whistleblower's information and presented its concerns to DOC, the agency acted on the pending disciplinary actions and took steps to avoid similar delays in the future. In one case, DOC proposed the removal of a GS-15 supervisor for misconduct. But no decision was issued, and the employee remained on paid administrative leave with no duties for over two years. Upon review following OSC's inquiry, DOC stated that the human resources personnel responsible for finalizing the termination did not act, due to inexperience, competing demands, and disagreement with DOC component where the GS-15 manager was employed. The senior executive responsible for the actions was counseled and the Department took corrective action to prevent similar failures in the future. In addition, DOC issued a revised policy to require review and justification for any use of administrative leave in disciplinary or investigative situations, and to limit administrative leave to 30 days. Any decision to extend administrative leave would require additional review and approval, with extensions in increments of no more than 30 days.

⁵⁶ Therefore, RDU's results can be found in Case Tables 2 (page 23), 3 (page 24), and 7 (page 39). In the future, RDU's results will be reported in a case table that is unique just for RDU. OSC is currently implementing a new electronic Case Management System (eCMS) which will provide this reporting capability. The eCMS system is scheduled to go-live in FY 2017.

OSC's Diversity, Outreach and Training Program

The Diversity, Outreach and Training Program assists agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c) to inform their workforces about the rights, remedies, and avenues of redress available to them under the Civil Service Reform Act and relevant whistleblower laws under OSC's jurisdiction. A February 2014 White House memorandum and the White House's Second Open Government National Action Plan require that all Federal agencies participate in OSC's 2302(c) Certification Program.

The 2302(c) Certification Program is a five-step program that provides guidance, training resources, and easy-to-use methods to assist agencies in fulfilling their statutory obligation and the White House requirements. Agencies that complete the program receive a certificate of compliance from OSC. To further its education efforts, in FY 2016 OSC developed a Prohibited Personnel Practice and Whistleblower Training Quiz publicly available on OSC's website.

In addition, OSC provides formal and informal outreach sessions regarding all of its program areas, including prohibited personnel practices, whistleblower disclosures, the Hatch Act, and USERRA. During FY 2016, OSC's subject matter experts spoke at an agency record 190 outreach events nationwide.

OSC also informs the news media and issues press releases when it closes an important whistleblower disclosure matter, files a significant litigation petition, or achieves significant corrective or disciplinary action through settlement. Many of these cases generate considerable press coverage, which contributes to Federal employees and managers' awareness about the merit system protections enforced by OSC.

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 2017, we estimate the program will use two FTE at a cost of \$357,000. During FY 2018, we estimate the program will use two FTE at a cost of \$369,000.

PART 5 – 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 and the Office of Management and Budget. OSC has internal accountability systems to ensure effective merit-based human resource management as described below.

The agency has addressed gaps concerning specific skills in its program areas through internal development, upward mobility positions, legal internships, and in-house mission-specific training. OSC has also taken the initiative of hosting Presidential Management Fellows from other agencies to help reduce full-time 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 departing employees through exit interview questionnaires; senior managers use this information to refine and improve our work environment and processes. OSC has developed a performance management system that will allow managers to differentiate between high and low performers through the use of appropriate incentives and accountability measures. Performance plans that are linked to the agency's mission and strategic goals are in place for senior executive service members and managers. OSC will implement appropriate, measurable performance goals for each employee. OSC uses personnel flexibilities and tools, including leave flexibilities, alternative work schedules, and a robust telework program.

OSC implemented a new electronic Time and Attendance system in FY 2015 to improve efficiency, and went live with an electronic Official Personnel Folder (eOPF) in FY 2016.

Improved Financial Performance

OSC has continued its success in receiving unqualified audit opinions with the receipt of another clean opinion this fiscal year. A competitively selected audit firm evaluated OSC's financial statements for FY 2016. The auditor spent time at OSC headquarters and with the Department of Interior's Internal Business Center (IBC) in Denver, Colorado, which currently performs the accounting, payments, travel system operations, and financial system operations and maintenance functions for OSC. Notably, this year, in addition to having no material weaknesses, OSC had zero control deficiencies. OSC has now received unqualified opinions for all 13 of its audits since the inception of formal Financial Statement Audits in FY 2004.

As mentioned above, OSC contracts out certain services, including accounting, under an interagency agreement. OSC was involved in the effort to design the processes used for its accounting system and to design specific customized reports that reflect the information most helpful to OSC funds management. Contracting out these functions provides OSC with more specialized expertise at a lower cost than could be accomplished internally. IBC provides financial reports and a detailed financial review to OSC every quarter. IBC also provides current financial information on day-to-day operations for payroll, procurement, and travel, as needed by OSC.

IBC, in collaboration with OSC, continues efforts to modernize the financial system, including implementing upgrades to the latest releases of Oracle Federal Financials. In addition, we are now in the process of upgrading the reporting system that interacts with Oracle Financials. This project will run through FY 2018.

As a small agency without an Inspector General, OSC relies on audits and other reviews of IBC operations by IBC's Office of the Chief Financial Officer, IBC's OIG, and other information received directly from IBC about significant issues relating to the services provided to OSC. IBC has a formal Management and Control and Compliance

program, including OMB Circular A-123 audits, A-123 Accounting Transactions testing, SAS70 Type II audits, and Financial Statements Audits. Furthermore, it conducts IT Audits, including FISMA and Internal Controls Reviews.

OSC has established a Risk Management Council as part of the path to achieve the objectives of the new Enterprise Risk Management (ERM) and Internal Control Directives. The Council has actively developed a risk profile and inventory, and work is continuing toward meeting the requirements of OMB Memorandum M-16-17 and the updated A-123 Guidance. The Council is now conducting quarterly risk reporting.

OSC has met its requirements for the “Do Not Pay” listing and Improper Payments (IPERA) reporting. The agency has been working with its shared service provider towards implementing the DATA Act. OSC has met the initial requirements and plans to meet the DATA Act reporting requirements for FY 2017 and onwards.

Competitive Sourcing

OSC is a small agency with a highly specialized, inherently governmental mission. Eighty-two percent of its FTE perform inherently governmental work whereas 18 percent of its FTE are considered commercial in nature. These 18 percent are spread across multiple functions, with no more than eight FTE in any one given function. According to OMB Circular A-76 and supplemental guidance issued by OMB, government performance of commercial functions is permitted under certain circumstances. The relevant criteria for OSC are that the commercial functions are considered core capabilities and that each function has fewer than ten FTE.

The interagency agreement with the IBC includes the following services: procurement, procurement system hosting, budget accounting and budget execution, accounting services, and travel management. OSC will review IBC interagency agreements annually to confirm the agreement is meeting OSC’s needs. OSC also has an interagency agreement with the National Finance Center of the Department of Agriculture to maintain the time and attendance and payroll system, as well as to perform payroll/personnel processing functions. We also have an agreement with the Office of Personnel Management to maintain our electronic official personnel folder system (eOPF).

Expanded Electronic Government and Other Information Technology Initiatives

OSC is committed to leveraging modern technology to streamline operations and increase the effectiveness of its IT programs. The agency has made significant progress in the past several years in modernizing and securing its technological systems, and we will continue to fund those efforts and to make new investments to optimize processes for information security, case management, electronic filing, records management, and internal processes and procedures.

OSC’s FY 2018 budget request will enable a number of key IT projects that will improve our capabilities, including:

- **Better information security.** OSC is enhancing its cyber security posture by procuring and implementing modern security tools to monitor and mitigate internal and external system vulnerabilities, and provide management and technical oversight of threats and risks to operations. OSC actively participates in DHS’s Continuous Diagnostics and Mitigation (CDM) program and will continue to look for appropriate areas to expand this program in FY 2017 and FY 2018. The IT infrastructure modernization projects successfully completed from FY 2014 to FY 2016 helped prepare the OSC network for future initiatives. In fact, DHS has selected OSC as one of the first agencies to implement CDM as part of Group F consisting of over 45 small agencies. OSC conducted a CDM kick-off meeting in February 2017, with the goal of designing architecture

and integrating systems in the spring of 2017 and deploying full CDM Phase 1 & Phase 2 functionalities by summer 2017.

- **More efficient case management.** OSC's case system modernization began in FY 2015 and will go live in FY 2017. It leverages existing commercial out-of-the-box solutions deployed in a Fed-RAMP approved Cloud, and will enable OSC to increase workflow integration as well as system interoperability, flexibility, and customization. The new system will provide the features, security, and adaptability to meet the agency's requirements to improve new and existing complaints intake, case and resolution tracking, searching, reporting, and archiving functions. As with any new system, continued improvements, enhancements, and refinements will be required into FY 2018 and beyond.
- **New e-filing capabilities.** This will help streamline the complaint filing process, making it easier to confidentially submit complaints to OSC.
- **Improved records management.** OSC is upgrading its records management platform, processes, and procedures in order to meet OMB M-12-18 mandates.
- **Infrastructure modernization.** The agency is taking steps to increase the resiliency and availability of the OSC.gov website, phone and email systems, and communications infrastructure, and to enable on-demand web, video, and audio conferencing capabilities to support case investigations anywhere in the country.
- **Enhanced telework and staff support.** OSC is consolidating and improving on-site IT services while providing secure always-on access to agency resources to support OMB mandates and modern work environments.

The above IT initiatives began in FY 2015 and will continue into FY 2018 and beyond. They will advance OSC's ability to deliver better services by leveraging industry best practices, standards and commercial-off-the-shelf products and services.

OSC's substantial IT modernization efforts over the past several years have positioned the agency to adapt quickly to new IT security challenges and help it respond more effectively to ongoing advances in technology. The concrete improvements must be sustained to maintain forward momentum and preserve cost-saving measures already in place.

As a small agency, OSC strives to implement the appropriate technology to focus on its core mission and reduce administrative overhead. Our upgrades to infrastructure deliver higher quality services, resulting in sound enterprise technology architecture that connects the agency to its customers and improves OSC's response to important cases.

Improving Employee Satisfaction and Wellness

Over the past several years, OSC has implemented several key programs and initiatives to enhance employee satisfaction and wellness. OSC increased the training opportunities offered in FY 2016, through more on-site courses and through access to web-based learning portals that offer a myriad of relevant courses. Additionally, OSC management encouraged participation in the Federal Employee Viewpoint Survey in 2016. Management is actively taking steps to improve employee engagement and satisfaction. OSC management has established a study group to further assess employee engagement and to refine and update an action plan to address concerns and needed improvements. In addition, OSC offers transit and parking benefits to eligible employees and established a Respite Room for headquarters employees. OSC employees also attended an agency-wide all hands training meeting in Washington, D.C. in 2016.

Telework

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/parking congestion, energy consumption, and air pollution, while improving both the quality of work performance and morale by assisting employees in balancing work and family demands. OSC updated its telework policy in FY 2016.

OSC has a robust IT network setup that supports telework via a complete Virtual Private Network (VPN) and Office 365 environment. OSC uses VPN and Microsoft Cloud environments to facilitate telework and streamline business processes. Furthermore, OSC plans to expand our Voice over Internet Protocol (VoIP) and Session Initiated Protocol (SIP) capabilities so that employees, from anywhere, will have secure access to all of the corporate resources, including telephone and video teleconferencing (VTC) 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), 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. To accomplish these goals, OSC established a Security and Emergency Preparedness (SEP) team to manage and oversee this program. The team provides OSC with a security and emergency preparedness capability that (1) ensures security and emergency preparedness are addressed during all phases of operation, including the hiring and training of personnel, the procurement and maintenance of equipment, and the development of policies, rules, and procedures; (2) encourages safe operation through the identification, evaluation, and resolution of threats and vulnerabilities and the ongoing assessment of OSC's capabilities and readiness; and (3) assists OSC in adhering to governmental guidelines and rules and regulations that promote COOP best practices.

OSC must safeguard vital records and databases. This is accomplished through having alternate operating sites (our field offices) and Cloud-based technology that allows our employees to continue to work from home if any of OSC's offices are unavailable for any reason. This capability is validated through tests, training, and exercises. OSC continues to implement new strategies to connect OSC's headquarters and field offices including an agency-wide rollout of Skype for Business in FY 2017. As part of the IT strategic plan, OSC has transferred its IT infrastructure to the Cloud. The built-in redundancies in the Cloud environment provide additional safety and faster recovery time in response to a debilitating event, and serve as a further safeguard of agency functions and vital records.

APPENDIX A

STATUTORY BACKGROUND

OSC was established on January 1, 1979, when the Congress enacted the Civil Service Reform Act (CSRA). Under the CSRA, OSC operated as an autonomous investigative and prosecutorial arm of the Merit Systems Protection Board (the Board). Pursuant to the CSRA, OSC: (1) receives and investigates complaints from Federal employees alleging prohibited personnel practices; (2) receives and investigates complaints regarding the political activity of Federal employees and covered state and local employees and provides advice on restrictions imposed by the Hatch Act on the political activity of covered Federal, state, and local Government employees; and (3), receives disclosures from federal whistleblowers about Government wrongdoing. Additionally, OSC, when appropriate, files petitions for corrective and or disciplinary action with the Board in prohibited personnel practices and Hatch Act cases.

In 1989, the Congress enacted the Whistleblower Protection Act (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.

The Congress passed legislation in 1993 that significantly amended the Hatch Act provisions applicable to Federal and District of Columbia Government employees.¹ The 1993 Amendments to the Hatch Act did not affect covered state and local Government employees.

In 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted. 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).²

OSC's 1994 Reauthorization Act expanded protections for Federal employees and defined new responsibilities for OSC and other Federal agencies. For example, the 1994 Reauthorization Act provided that within 240 days after receiving a prohibited personnel practice complaint, OSC should determine whether there are reasonable grounds to believe that such a violation occurred or exists. Also, the Reauthorization Act extended protections to approximately 60,000 employees of what was then known as the Veterans Administration (now the Department of Veterans Affairs), and whistleblower reprisal protections were extended to employees of listed government corporations. The Reauthorization Act also 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 Whistleblower Protection Act in consultation with OSC.³

In November of 2001, the Congress enacted the Aviation and Transportation Security Act (ATSA),⁴ which created the Transportation Security Administration (TSA). Under the ATSA, non-security screener employees of TSA could file allegations of reprisal for whistleblowing with OSC and the MSPB (Board). The approximately 45,000 security screeners in TSA, however, could not pursue such complaints at OSC or the Board. OSC efforts led to the signing of a memorandum of understanding (MOU) with TSA in May 2002, under which OSC would review whistleblower

retaliation complaints from security screeners, and recommend corrective or disciplinary action to TSA when warranted. The MOU did not (and could not), however, provide for OSC enforcement action before the Board.

In November 2012, the Congress passed the Whistleblower Protection Enhancement Act which overturned past legal precedents that had narrowed protections for Government whistleblowers and extended whistleblower protections to the 45,000 TSA screeners previously denied it. The WPEA also empowered OSC to file *amicus* briefs in Federal appellate courts and gave effect to OSC's authority to seek disciplinary actions against supervisors who retaliate against whistleblowers.

In December 2012, the Congress passed the Hatch Act Modernization Act which removed the previous ban on state and local government employees running for political office if part of their job was connected to Federal funding. The new act allows such candidates to run as long as their salary is not entirely funded by the Federal Government while upholding the ban on local and state Government employees using coercion or their Government positions to advance partisan politics.

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

Message from the Special Counsel



I am pleased to release the U.S. Office of Special Counsel’s Strategic Plan for Fiscal Years 2017-2022. This Strategic Plan—the result of considerable introspection and invaluable external feedback—deploys a new set of strategies for carrying out OSC’s statutory mandate.

Five core values shape our agency culture, guide our daily work, and undergird this new plan: Commitment, Excellence, Independence, Integrity, and Vigilance. In keeping with these values and aided by this new plan, my OSC colleagues and I stand ready to do our part to help foster a government that treats its employees fairly and inspires public confidence.

This Strategic Plan departs from our previous plan in some significant ways. For example, because we have made gains in recent years in obtaining important relief for victims of whistleblower retaliation and other prohibited activities, there is less emphasis now on restoring the federal community’s trust in OSC. Instead, with this plan, we now place greater focus on using our limited resources in innovative, targeted, and strategic ways to enhance effective enforcement and increase communication with stakeholders.

This Strategic Plan employs a more holistic approach to proactive enforcement of the laws under our jurisdiction. It also prioritizes the importance of organizational excellence and customer service. For instance, it stresses improving ways to recruit and retain a talented and diverse workforce, an asset indispensable to our efforts to safeguard employee rights and hold the government accountable.

In short, this Strategic Plan builds on OSC’s past successes and challenges us to do more. Of course, the plan’s success will depend largely on how we implement it. In this regard, OSC will rely on the efforts of approximately

140 dedicated personnel, located at headquarters in Washington, DC, as well as in three field offices in Oakland, Dallas, and Detroit. OSC staff and I look forward to working with our stakeholders and partners as we transform this plan into tangible results for the American people.



Carolyn N. Lerner

Special Counsel

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 Whistleblower Protection Enhancement Act (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. Ensuing 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 (IT) 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, listserves, 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 1-17

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	N/A		Met							
2	Number of PPP complaints received	Data-point		Data-point							
3	Number/percent of whistleblower retaliation complaints received	Data-point		Data-point							
4	Number/percent of whistleblower retaliation complaints closed within 240 days	baseline		baseline							
5	Average age of PPP complaints at closure	baseline		baseline							
6	Number of PPP complaints filed with MSPB	1		1							
7	Number of successful PPP prosecutions before MSPB	1		1							
8	Number of informal stays obtained	25		25							
9	Number of formal stays obtained	4		4							
10	Number of PPP complaints mediated	30		33							
11	Number of PPP complaints mediated resulting in settlement	18		20							
12	Number of individual corrective actions obtained	275		280							
13	Number of systemic corrective actions obtained	28		30							
14	Number of disciplinary actions obtained	15		15							
15	Number of Hatch Act complaints received	Data-point		Data-point							
16	Percent of Hatch Act complaints closed within 240 days	baseline		baseline							
17	Number of Hatch Act complaints filed with MSPB	1		1							

Goal Table 1B: Goals 18-27

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
18	Percent of successful Hatch Act prosecutions before MSPB	100%		100%							
19	Number of Hatch Act warning letters issued	25		20							
20	Number of corrective actions obtained	10		10							
21	Number of disciplinary actions obtained	5		5							
22	Number of USERRA referrals received	Data-point ⁵⁷		Data-point ⁵⁷							
23	Number of USERRA merit referrals	Data-point ⁵⁷		Data-point ⁵⁷							
24	Number of USERRA non-merit referrals	Data-point ⁵⁷		Data-point ⁵⁷							
25	Percent of USERRA referrals closed within 60 days	80%		80%							
26	Number of USERRA offers of representation before MSPB	1		1							
27	Number of USERRA corrective actions obtained (formally and informally)	3		3							

⁵⁷ Goals 22-24 represent data points rather than actual performance targets.

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		2							
29	Number of amicus curiae briefs and interventions filed	2		2							
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4		4							

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		baseline							
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%		95%							
33	Number/percent of formal written advisory opinions issued within 60 days of inquiry	baseline		baseline							
34	Revised Hatch Act regulations by FY 2018	N/A		Met							

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		35							
36	Number of agencies/components registered for the 2302(c) Certification Program	baseline		baseline							
37	Number of agencies/components certified and recertified for the 2302(c) Certification Program	baseline		baseline							
38	Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program	9 months		6 months							
39	Number of training and outreach activities, broken down by program area and geographic location	baseline		baseline							
40	Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly	Met		Met							

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		25							
42	Types and frequency of digital media used to share information	250		275							
43	Number of meetings with stakeholder groups	4		4							
44	Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly	Met		Met							

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		Met							
46	Number of whistleblower disclosures	Data-point		Data-point							
47	Number/percent of whistleblower disclosures that also allege related retaliation	Data-point		Data-point							
48	Number/percent of whistleblower disclosures referred to agencies for investigation	50		50							
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							

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		Data-point							
51	Number of favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures	baseline		baseline							
52	Timeliness of OSC’s communication to the President and Congress after receiving an agency investigation report and whistleblower’s comments	baseline		baseline							
53	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	Met		Met							

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		Met							
55	Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.	12		12							
56	Number of training and outreach events that address whistleblower disclosures	baseline		baseline							
57	Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly	Met		Met							

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							
59	Honors Program by FY 2017	Met		Met							
60	Improved and standardized onboarding process by FY 2017, and reassess regularly	Met		Met							
61	Staff training plan by FY 2017, and reassess regularly	Met		Met							
62	Mentorship program by FY 2017, and reassess regularly	Met		Met							
63	Ongoing internal cross-training opportunities by FY 2017, and reassess regularly	Met		Met							
64	Ongoing employee engagement efforts, and reassess regularly	Met		Met							
65	Ongoing work/life balance and other related benefits, and reassess regularly	Met		Met							

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	Met		Met							
67	100% deployment of mobile access to network program resources by FY 2017, and reassess regularly	Met		Met							
68	100% data encryption by FY 2017, and reassess regularly	Met		Met							
69	Ongoing semi-annual assessment of IT needs, and reassess regularly	Met		Met							
70	Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly	Met		Met							
71	Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly	Met		Met							

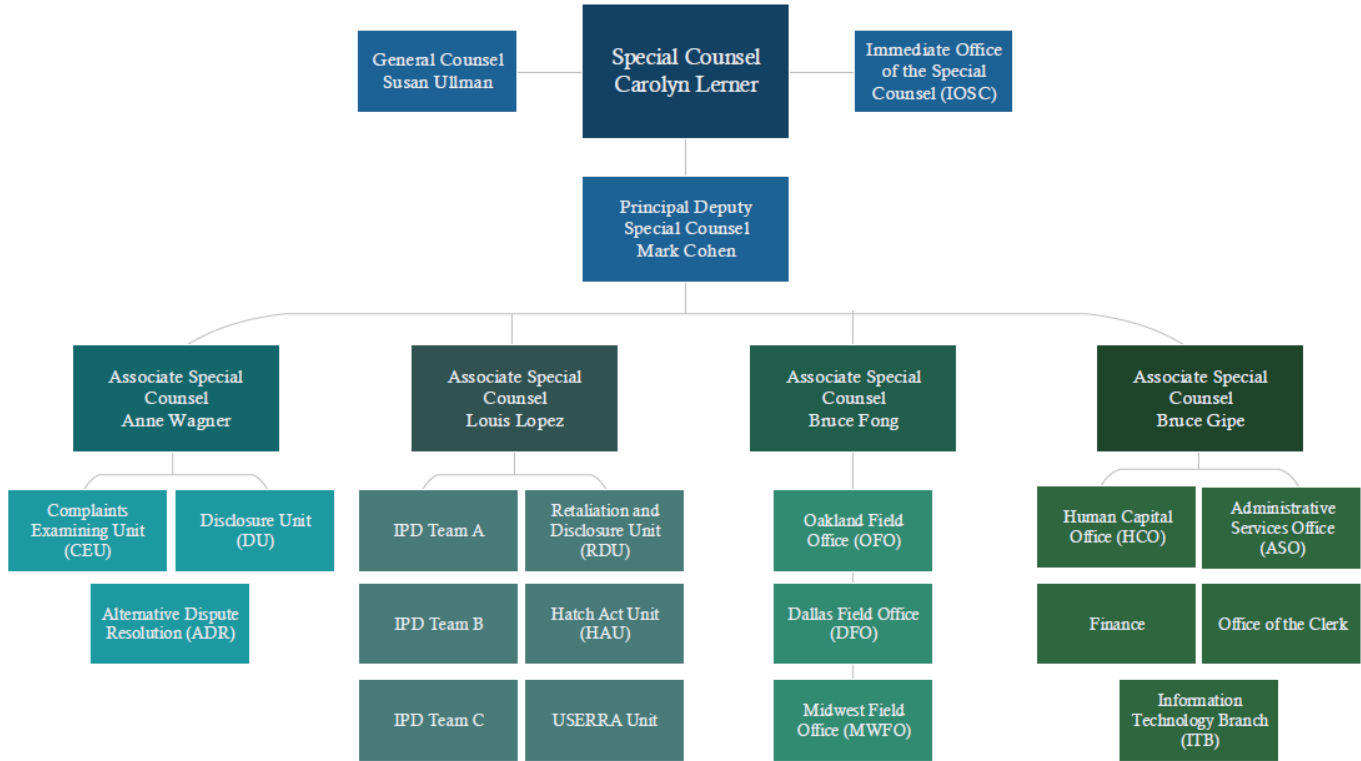
Goal Table 11

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							
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	N/A		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					
75	Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly	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		Met							

Appendix D: OSC Organizational Chart



Appendix E: OSC Strategic Planning Team

Chair

Louis Lopez, *Associate Special Counsel, Investigation and Prosecution Division, Headquarters*

Members

Eric Bachman, *Deputy Special Counsel for Litigation and Legal Affairs, Immediate Office of the Special Counsel*

Patrick Boulay, *Chief, USERRA Unit*

Ginny Castle, *Program Assistant, Oakland Field Office*

Bruce Fong, *Associate Special Counsel, Investigation and Prosecution Division, Field Offices*

Greg Giaccio, *Senior Examiner, Complaints Examining Unit*

Bruce Gipe, *Chief Operating Officer, Administrative Services Division*

Sheryl Golkow, *Attorney, Dallas Field Office*

Karen Gorman, *Chief, Retaliation and Disclosure Unit*

Jane Juliano, *Chief, Alternative Dispute Resolution Unit*

Page Kennedy, *Senior Legal Counsel, Immediate Office of the Special Counsel*

Jennifer Li, *Chief Information Officer, Information Technology Branch*

Ana Galindo-Marrone, *Chief, Hatch Act Unit*

Catherine McMullen, *Chief, Disclosure Unit*

Clarissa Pinheiro, *Chief, Investigation and Prosecution Division, Headquarters*

Nick Schwellenbach, *Senior Communications Specialist, Immediate Office of the Special Counsel*

Martha Sheth, *Team Leader, Complaints Examining Unit*

Chris Tall, *Chief, Detroit Field Office*

Rachel Venier, *Chief, Investigation and Prosecution Division, Headquarters*

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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

ENDNOTES

- 1 Public Law No. 103-94 (1993), codified in Titles 5 and 12 of the United States Code.
- 2 Public Law No. 103-353 (1994), codified at 38 U.S.C. § 4301, et. seq. The Veterans' Employment Opportunities Act (VEOA) of 1998 (Public Law No. 103-424) also expanded OSC's role in protecting veterans. The VEOA makes it a prohibited personnel practice to knowingly take, recommend, or approve (or fail to take, recommend, or approve) any personnel action, if taking (or failing to take) such action would violate a veterans' preference requirement. See 5 U.S.C. § 2302(b)(11). (The former section 2302(b)(11) was re-designated as section 2302(b)(12).)
- 3 5 U.S.C. § 2302(c).
- 4 Public Law 107-71 (2001).