

FISCAL YEAR 2022
CONGRESSIONAL BUDGET JUSTIFICATION
—and—
PERFORMANCE BUDGET GOALS



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
www.osc.gov

TABLE OF CONTENTS

PART 1 – EXECUTIVE SUMMARY	3
Summary of Request	6
Appropriations Language	9
About the Office of Special Counsel	9
OSC’s Docket	9
Strategic Goals	12
OSC’s Internal Organization	13
Components of Budget Request	15
Budget by Program	16
PART 2 – FY 2022 BUDGET REQUEST – ADDITIONAL INFORMATION	17
FY 2022 Budget Request by Budget Object Class	17
Analysis of Resources Table	19
PART 3 – BUDGET PROGRAMS AND PERFORMANCE PLAN	20
FY 2020 Case Activity and Results – All Programs	20
Investigation and Prosecution of Prohibited Personnel Practices	21
USERRA	26
Alternative Dispute Resolution	28
Whistleblower Disclosure Program	30
Hatch Act	35
OSC’s Diversity, Outreach and Training Program	38
PART 4 – ENHANCEMENT OF OPERATIONS	40
Strategic Management of Human Capital	40
Maximizing Efficiencies through use of Shared Service Providers	40
IT Modernization Initiatives	41
IT Goals for FY 2021 – FY 2022	42
Improving Employee Satisfaction and Wellness	42
Telework Initiative	43
Continuity of Operations	43
Risk Management and Program Evaluation	44
APPENDICES	45
Appendix A: Statutory Background	45
Appendix B: Strategic Plan – FY 2017 to FY 2022	47
Appendix C: Goal Tables for New Strategic Plan	61
Appendix D: OSC Organizational Chart	77

PART 1 – EXECUTIVE SUMMARY

The Office of Special Counsel (OSC) stands at the forefront of ensuring the federal government is effective and efficient in carrying out its work on behalf of the American people. Working with whistleblowers to identify wasteful spending and other serious wrongdoing, OSC acts as a critical oversight body to ensure that the federal government is a good steward of taxpayer resources. Due to the nature of OSC's work, resources allocated to the agency provide tangible returns for the taxpayer, as well as strengthen Americans' confidence that the federal government is fair, impartial, and accountable. When whistleblowers disclose to OSC instances of wrongdoing and/or waste, fraud, or abuse at their agencies, they shine a spotlight on the inefficient use of taxpayer dollars and drive real change in how agencies conduct business.

For example, in fiscal year (FY) 2020, a whistleblower alleged that an uncorrected software error led the Treasury Department to fail to collect \$91.5 million in debts owed to the Occupational Safety and Health Administration (OSHA). Following OSC's referral to Treasury and the Department of Labor, the agencies performed investigations that substantiated the allegation, and showed that the same error potentially caused Treasury to fail to collect debts owed to twelve other agencies. Treasury immediately corrected the software error and began collecting the \$91.5 million in debts owed to OSHA. Treasury is also currently performing an audit to determine the amount of debt that must be collected for the other agencies.

During the past fiscal year, OSC also worked with a whistleblower to correct issues at a Department of Veterans Affairs (VA) Community Residential Care Facility (CRC) that placed veterans' health and wellbeing at risk. A whistleblower disclosed to OSC gross mismanagement concerning serious shortcomings in care at the CRC. The VA substantiated this allegation, immediately ceased sending veterans to the CRC, transferred veterans already located at the CRC to other facilities, and implemented policy changes to improve the level of care veterans receive at all CRCs throughout the country.

With the advent of COVID-19, in the spring of 2020, OSC established an internal COVID-19 Task Force to marshal resources to swiftly address whistleblower disclosures and prohibited personnel practices (PPP) related to the pandemic. These disclosures ranged from health and safety concerns associated with agency responses to the pandemic to agency return-to-work plans. The majority of the PPP cases alleged retaliation for making health and safety disclosures related to COVID-19; other allegations included retaliation, discrimination, or other improper actions affecting employees' work conditions related to COVID-19. Under the task force structure, matters were referred expeditiously to agency heads to investigate and immediately address any imminent health and safety concerns. Although the high volume of cases received and the expedited nature of review required significant resources, OSC committed itself to maintaining this accelerated level of review.

In the COVID-19 cases, OSC has been instrumental in obtaining corrective actions, including agencies promptly removing employees who had potential exposure to COVID-19 from their work locations, instituting stricter protocols such as notifying employees regarding the mandatory use of personal protective equipment, and issuing new standard operating procedures regarding mandatory sanitation methods. Many of the corrective actions are so-called "course corrections," where OSC intervened early to put the parties on a better path before more significant harm developed. For example, we worked with agencies to ensure immune-compromised or otherwise vulnerable employees had safe working conditions and helped a parent obtain much-needed Families First Coronavirus Response Act (FFCRA) leave. We also reached out to agencies to correct nondisclosure agreements that violated section 2302(b)(13) and provided training on whistleblower protection law. These systemic actions encourage transparency and information flow during this pandemic and help protect federal whistleblowers from future harm. In addition, OSC is working on a resource-intensive, complex COVID-19 investigation with public and Congressional interest.

These examples highlight the high level of whistleblower confidence in, and satisfaction with, OSC. Maintaining this confidence is a cornerstone of OSC's continued efforts to ensure accountability and promote government effectiveness and efficiency. Whistleblowers often take great risks when they report wrongdoing, and they depend on OSC to protect them against retaliation. OSC works diligently to protect whistleblowers, and, when they have been retaliated against, achieve a favorable outcome for them.

Fortunately, OSC's growing success in achieving favorable outcomes for whistleblowers encourages more individuals to step out of the shadows and report wrongdoing. In FY 2020, despite the raging COVID-19 pandemic, OSC achieved 405 favorable actions, which is 34 percent above the average over the past five fiscal years. Much credit goes to OSC's workforce for this historic achievement in the face of unparalleled headwinds.

OSC's efforts to increase whistleblower confidence have also involved holding accountable those who violate merit system principles by, for instance, retaliating against whistleblowers. In FY 2020, OSC obtained 13 disciplinary actions against individuals found to have violated merit system principles. While this number is lower than the three-year average (FY 2018 – FY 2020) of 21, OSC expects an increase in the number of disciplinary actions in the future to more closely match historical averages when the federal government returns to the office after the pandemic.

Success in raising awareness and confidence about OSC within the federal workforce has been a major driver of increased case filings in recent, non-pandemic years. As such, OSC has had to allocate its resources most efficiently, in order to successfully provide services to all whistleblowers and stakeholders. Between FY 2016 and FY 2018, OSC's case backlog averaged nearly 2,500 cases. By introducing new strategies to process cases more efficiently, OSC was able to reduce the backlog in both FY 2019 and FY 2020.

Specifically, in FY 2019, OSC combined two units with overlapping responsibilities into one, the Investigations and Prosecution Division (IPD). As a result, a single IPD attorney now generally handles each prohibited personnel practice (PPP) case from the start of the investigation through closure of the case. This process eliminates duplicative review and allows OSC to process PPP complaints more efficiently.

The revamp of OSC's complaint processing also led to the creation of a new unit to screen all new PPP and disclosure filings. This unit, the Case Review Division (CRD), filters out cases that can be closed quickly in CRD if, for example, OSC lacks jurisdiction, swiftly refers complaints meriting further review to the appropriate unit, and ensures that OSC's scarce resources are focused on cases where OSC can best assist the complainant.

These process improvements helped reduce the backlog of cases. For instance, between the end of FY 2018 and the end of FY 2020, OSC decreased its backlog by nearly 900 cases. OSC is hopeful that this progress will continue into FY 2022, even when the COVID-19 pandemic subsides and OSC case filings likely rise to pre-pandemic levels.

A fully resourced OSC is essential to ensuring that whistleblowers continue to feel secure in coming forward to identify waste, fraud, abuse, and wrongdoing, and, in turn, creating an effective and efficient federal government that serves as a good steward of taxpayer resources. In addition to supporting federal whistleblowers, and protecting the federal workforce from prohibited personnel practices, OSC seeks remedies for veterans faced with violations of the Uniform Services Employment and Reemployment Act (USERRA) and issues advisory opinions and obtains corrective and disciplinary action for violations of the Hatch Act.

However, there is much more work to be done, which will require additional resources. Simply put, 136 full-time equivalents (FTEs) supported by our FY 2022 Budget Request will not be sufficient for OSC to address the expected rise in caseloads in FY 2022 to pre-pandemic levels. This FTE level would not allow OSC the flexibility to address any other emerging needs during the fiscal year, including those associated with continued

enhancements to OSC's new electronic case management system (eCMS).

Following the deployment of eCMS in the fourth quarter of FY 2019, OSC has sought to make continual improvements to ensure optimal security and system performance for OSC users, and to streamline the case submission process for the public. The relatively new system has created a more efficient process for support staff and attorneys to share information on cases and allowed OSC to go paperless in its case processing. However, additional resources are needed to make incremental enhancements to the system, which are necessary for OSC to utilize the system to its full capacity.

While these efforts will help OSC manage the nearly 6,000 cases filed in the most recent non-pandemic years, they alone are insufficient to continue to reduce the backlog and to sustain the record-high favorable actions achieved in FY 2020. Fully funding OSC ensures that there are appropriate resources to support the agency, reduce the case backlog, and meet the continued rise in personnel salary and benefits costs for OSC employees.

OSC is deeply committed to its mission of protecting whistleblowers, promoting confidence in the agency, processing cases effectively and efficiently, and completing cases in a timely fashion, consistent with statutory requirements. Every dollar invested in OSC represents another opportunity to identify the waste, fraud, and abuse associated with taxpayer dollars, thereby ensuring a better and more effective federal government.

Therefore, pursuant to the Office of Management and Budget's Passback authorization, OSC is requesting funding of \$30,440,000 for FY 2022. The authorized budget request, however, will not allow OSC to hire up to its full capacity and will limit other mission-critical spending, impacting OSC's ability to serve whistleblowers and carry out enforcement of its core statutory authorities.

Summary of Request

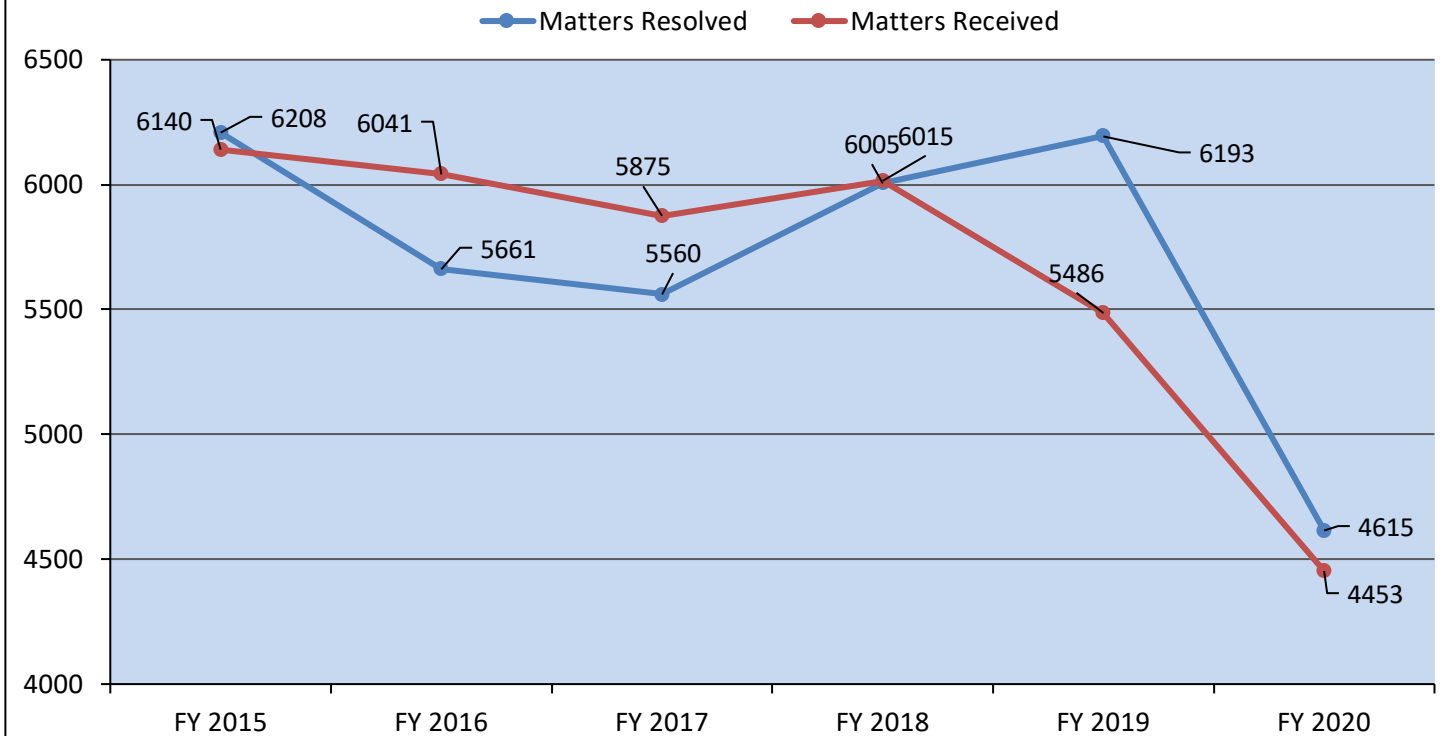
For FY 2022, OSC's authorized request is \$30,440,000. This amount represents a 3.19 percent increase from the FY 2021 appropriation of \$29,500,000 contained in the Consolidated Appropriations Act, 2021, P.L. 116-260. This increase will only allow OSC to cover the rising costs associated with personnel salaries and benefits and will not allow OSC to hire and retain the necessary staff to further its mission and support critical areas of needed improvement. Specifically, in FY 2022, OSC will not be able to retain a number of term-based OSC employees, who are supporting many critical parts of the agency throughout much of FY 2021. This may impact OSC's ability to address the existing backlog and to continue delivering successful case results for the American public.

As the federal workforce likely transitions back to a more familiar workplace setting in FY 2022, OSC anticipates a rise in caseload levels. As a result, OSC needs the appropriate staffing levels to adequately address this expected caseload increase and continue its two-year streak of reducing the case backlog. If OSC is not able to resolve incoming cases expeditiously, cases will carry over to the next fiscal year. Additionally, because of increased workloads and cases being delayed, OSC will likely achieve fewer favorable actions and outcomes in the cases it is able to resolve. As a result, OSC's ability to perform its fundamental mission, and address whistleblower and PPP claims in a timely manner, will be greatly diminished.

OSC is already fully utilizing available resources by working harder, smarter, and more effectively than at any other time in its history. As OSC has received increased funding levels, the agency has expanded upon its already efficient case processing protocols and reached record levels in terms of favorable actions achieved. This correlation shows that OSC is marshaling those additional resources in an efficient manner and utilizing them to achieve greater results for whistleblowers and complainants.

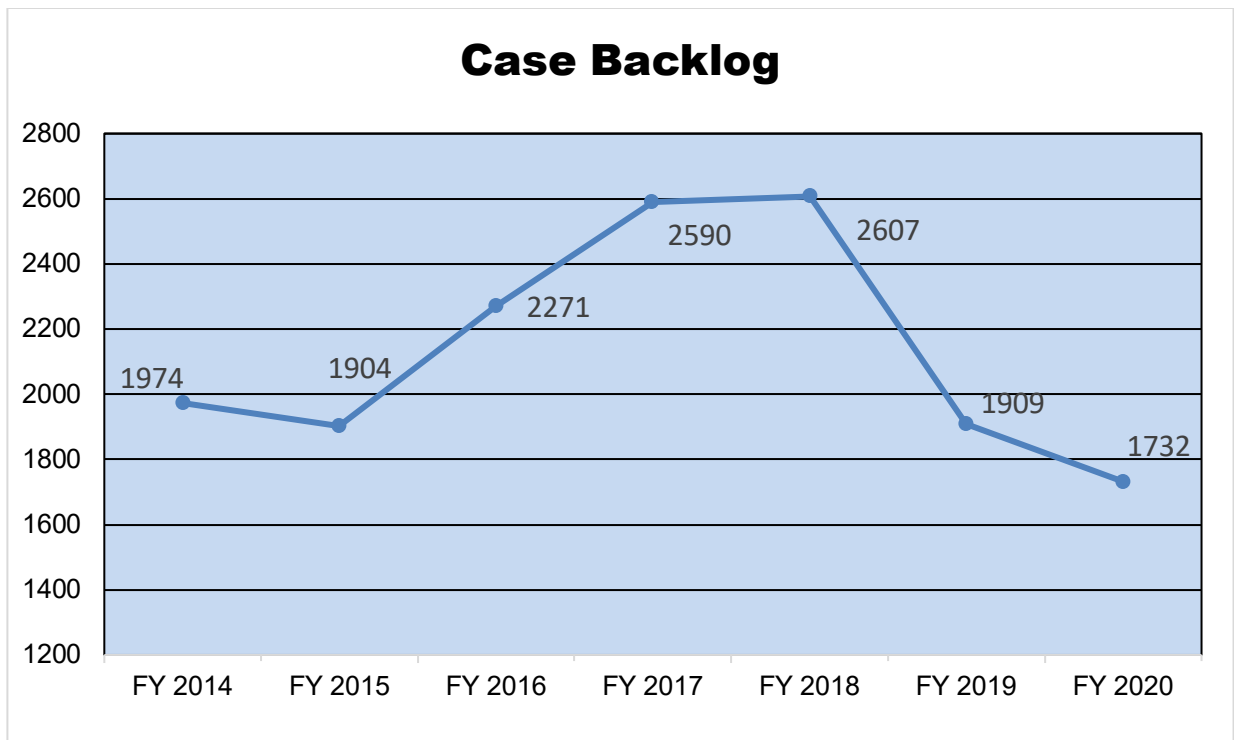
Additionally, OSC has accomplished much more than simply closing cases. For instance, in FY 2020 OSC surpassed its high-water mark in terms of favorable actions obtained in PPP cases, setting an agency record with 405 favorable actions, an increase of nearly 34 percent above the average for the previous five fiscal years.

OSC - Total Matters Resolved vs. New Matters



The federal workforce's growing confidence in OSC's ability to obtain corrective action drives demand for OSC's services. Although OSC has received increased resources in previous appropriations packages, the significant increases in personnel costs have constrained its budget.

OSC employees are proud of and enthusiastic about their work, and aside from the partial government shutdown that occurred in FY 2019, and the pandemic throughout a majority of FY 2020, they have processed exceedingly high caseloads in recent years. Due to the complex nature of many of OSC's cases, extremely high caseloads are untenable for the long-term success of the agency and result in frustration for whistleblowers and other stakeholders alike. This gap between resources and demand, which has resulted in the current backlog (as shown in the table below), must be closed for OSC to successfully fulfill its mission.



OSC's approved budget request will not allow us to meet the expected post-pandemic rise in demand for the agency's services among the federal workforce and further reduce our case backlog. The FY 2022 budget request of **\$30,440,000**, includes funding for the salaries and benefits of approximately **136** FTEs, a slight decrease from OSC's FY 2021 projected staffing level of approximately 137 FTEs.¹ This staffing decrease will be necessary for OSC to operate within its funding level, as the agency is faced with another sizeable pay raise, and personnel benefits increase in FY 2022.

Funding OSC at the proposed authorized level will adversely impact the agency's ability to fulfill our statutory mission to root out waste, mismanagement, and fraud; to protect veterans and federal employees; to ensure accountability, integrity, and fairness in the federal workplace; and to restore and maintain public confidence in the federal merit system.

¹ The staffing reduction would actually be greater than 1 FTE, if OSC's term-based employees that the agency hired in FY 2021 were onboard for all of FY 2021. Given that OSC will not be able to support these term-based employees in FY 2022, and will have to terminate them earlier than otherwise anticipated, the reduction in FTE will be felt even more acutely by OSC in FY 2022.

Appropriations Language

OFFICE OF SPECIAL COUNSEL *FEDERAL FUNDS* SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel, including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$30,440,000.

(Financial Services and General Government Appropriations Act, 2021.)

About the Office of Special Counsel

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

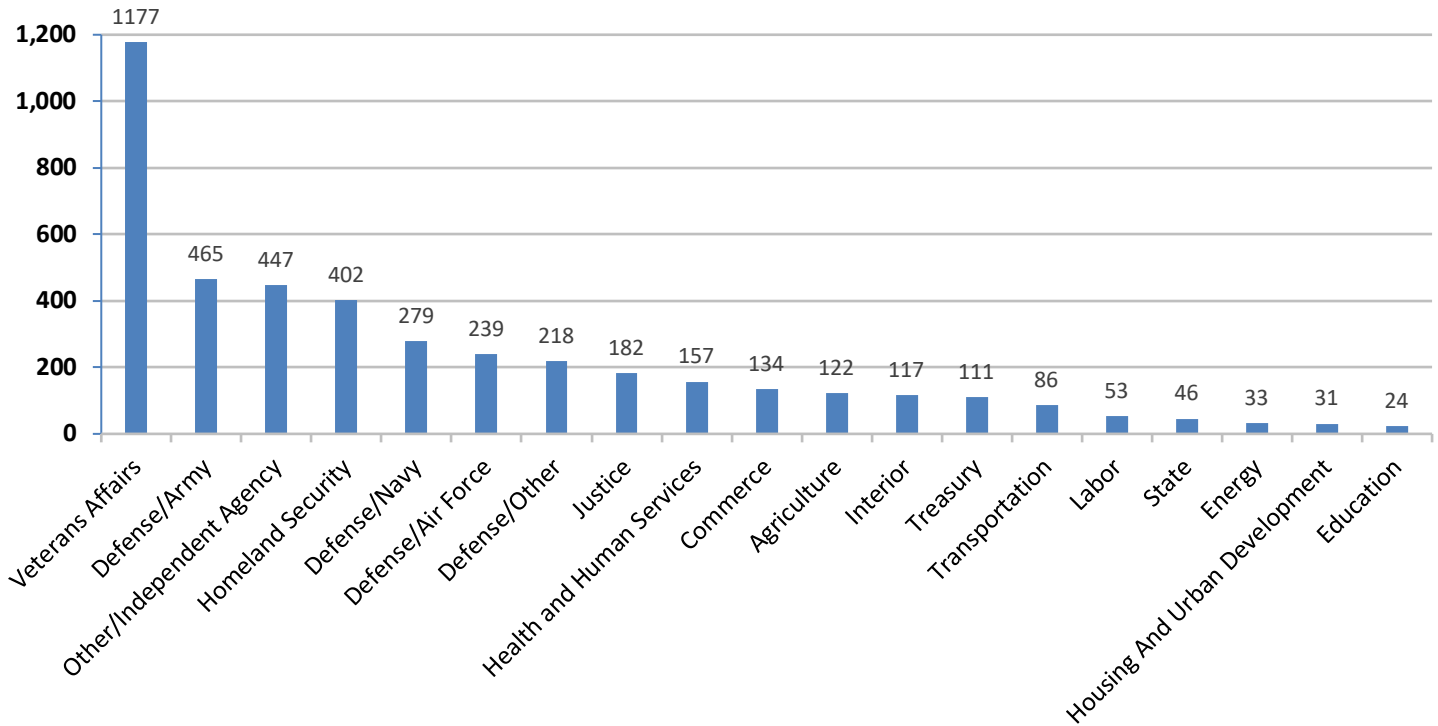
When a whistleblower identifies waste, fraud, abuse, or other wrongdoing at a federal agency, OSC makes sure the whistleblower's concerns are heard and, when warranted, investigated fully, and addressed. OSC also protects federal employees from prohibited personnel practices, such as retaliation for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

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

OSC's Docket

OSC is responsible for addressing whistleblower concerns and PPPs from nearly every sector of the federal government. The chart below depicts the organizations with employees that file the most cases with OSC. We continue to receive more cases from Department of Veterans Affairs (VA) employees than from any other agency, although if the respective components of the Department of Defense (DoD) were aggregated, DoD would be number one.

Total Agencies Providing Casework - FY 2020
(includes all types of OSC cases)



Prohibited Personnel Practices

In FY 2020, OSC received 2,829 new PPP complaints, down from recent highs. This figure would likely have been higher, if not for the COVID-19 pandemic, which greatly impacted operations for federal agencies throughout most of FY 2020. Addressing PPP cases is a key component of OSC's mission and remains critical to promoting confidence and security among whistleblowers and federal employees.

Whistleblower Disclosures

OSC is an important pathway for whistleblowers to report instances of waste, fraud, abuse, or other wrongdoing at federal agencies. Whistleblower disclosures are a significant portion of OSC's caseload, now comprising approximately 26 percent of the agency's new matters. OSC received 1,160 new disclosures in FY 2020. OSC likely would have received more disclosures in FY 2020, if not for the COVID-19 pandemic, which altered the operations of federal agencies for much of the fiscal year.

Retaliation and Disclosure Unit (RDU)

This unit reviews related PPP complaints and disclosures submitted by the same complainant. The assigned RDU attorney serves as the single OSC point of contact for both filings, performing a similar function to the Investigation and Prosecution Division and Disclosure Unit attorneys, and having a single point of contact assisting the complainant with their entire case provides clarity and consistency. Where appropriate, the same attorney investigates PPP complaints, obtains corrective or disciplinary actions, and refers disclosures for investigation. RDU attorneys also refer cases to the Alternative Dispute Resolution Unit to help facilitate mutually agreed-upon settlements.

Hatch Act Unit

The Hatch Act Unit ensures that government service is not tainted by partisan political influences. Hatch Act complaints typically increase around election cycles. Specifically, in FY 2020, the Hatch Act Unit received 440 new complaints, an increase of over 123 percent compared to the previous Presidential election. Further, OSC resolved 280 cases, an increase of nearly 186 percent compared to the prior Presidential election.

OSC also issued over 1,460 advisory opinions in FY 2020, both formal and informal. The agency also issued 34 warning letters, and 12 corrective actions were taken. OSC obtained 8 disciplinary actions in Hatch Act cases (by negotiation or ordered by MSPB) in FY 2020.

USERRA

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

OSC received 24 referrals in FY 2020, and closed 26 cases, three of which involved corrective action.

Strategic Goals

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

OSC’s FY 2022 Strategic Goals and Costs per Goal*

- 1. Protect and promote the integrity and fairness of the federal workplace. \$19,762
- 2. Ensure government accountability. \$4,078
- 3. Achieve organizational excellence. \$6,600

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

Office of Special Counsel's Internal Organization

OSC is headquartered in Washington, D.C. We also have a significant staffing presence in Dallas, Detroit, and Oakland, formerly the locations of three physical offices whose leases OSC decided not to continue in FY 2021, following an efficiency review. As a result, in FY 2021, OSC will maintain a small, physical office in Oakland for Field Office leadership, and both Dallas and Detroit will continue to operate as virtual Field Offices.²

The agency includes several program and support units described below:

Immediate Office of Special Counsel (IOSC)

The Special Counsel and his immediate staff are responsible for policy-making and the overall management of OSC, including supervision of each of OSC's programmatic areas. This office encompasses management of the agency's congressional liaison and public affairs activities.

Office of General Counsel

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

Case Review Division (CRD)

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

Investigation and Prosecution Division (IPD)

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

Disclosure Unit (DU)

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

Retaliation and Disclosure Unit (RDU)

² OSC staff, both at Headquarters and in the Field Offices, began full-time telework as a result of the pandemic on March 16, 2020.

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

Hatch Act Unit (HAU)

This unit enforces and investigates complaints of unlawful political activity by government employees under the Hatch Act of 1939 and represents OSC in seeking disciplinary actions before the MSPB. In addition, the Hatch Act Unit is responsible for providing advisory opinions on the Hatch Act to federal, state, and local employees, as well as to the public at large.

USERRA Unit

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

Alternative Dispute Resolution Unit (ADR)

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

Diversity, Outreach and Training

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

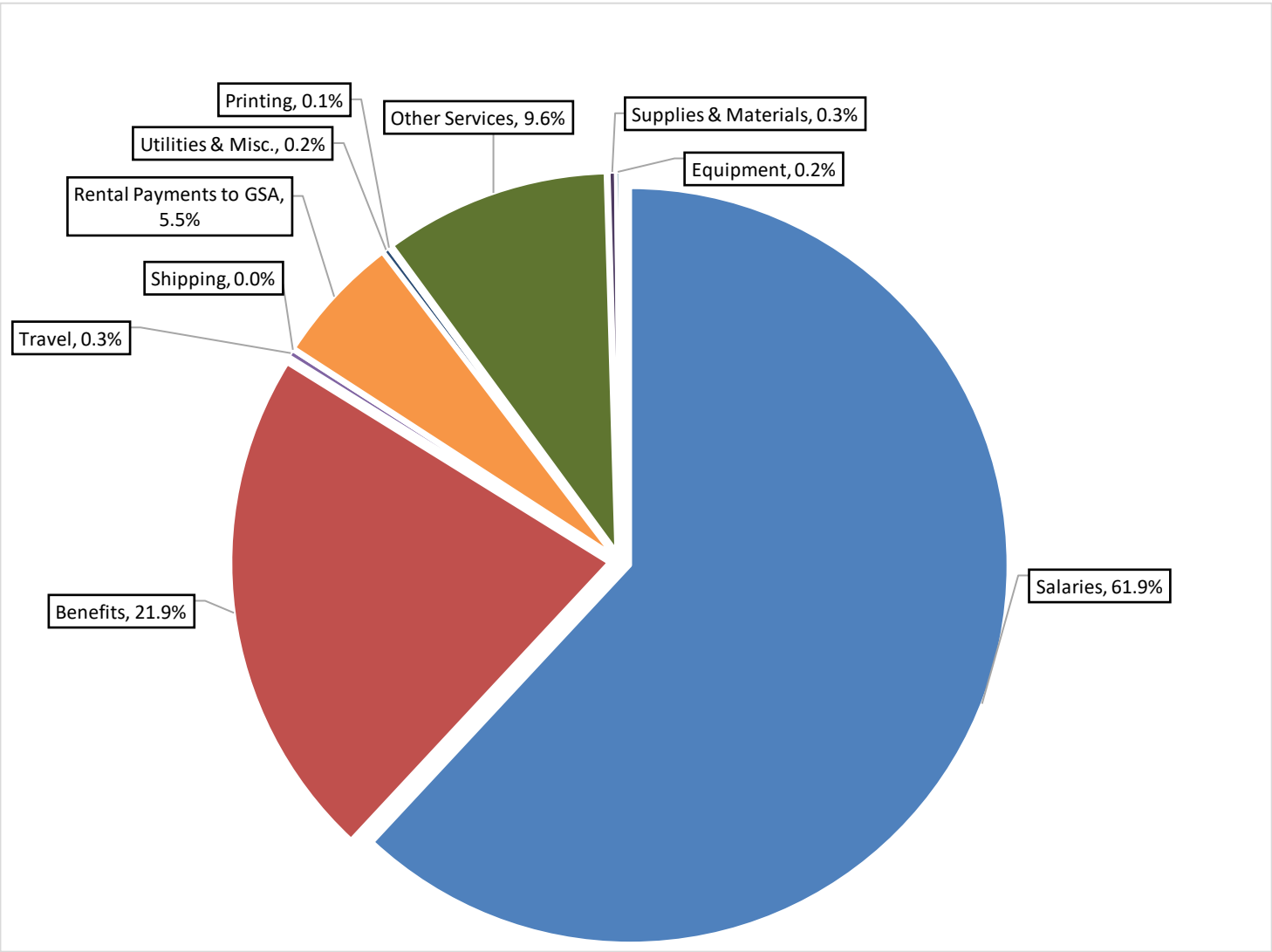
Operations Division

The Operations Division manages OSC's budget and financial operations and oversees the agency's technical, analytical, records, and administrative needs. Component units are the Budget and Finance Office, Human Capital Office, Administrative Services Office, Information Technology Office, and Office of the Clerk. Procurement operations as well as travel are included under the Budget and Finance Office.

The Clerk's Office leads several functional areas, including Freedom of Information Act (FOIA), Privacy Act, Controlled Unclassified Information, and records management. In FY 2020, the Clerk's Office processed 193 FOIA closures, which resulted in a FOIA backlog reduction of 51 percent from the end of FY 2019. In addition, the Clerk's Office received only 9 appeals on their FOIA cases, which is largely consistent with the 8 appeals received in FY 2019. Furthermore, in FY 2020, the Records Management team also successfully transferred approximately 6,500 cases to the National Archives and Records Administration (NARA) for the preservation and documentation of government records.

Components of Budget Request

The following chart estimates how the FY 2022 request will be distributed on a percentage basis.³



³ Shipping, at \$13,000 annually, rounds downward to 0.0 %.

Budget by Program

The following table provides an estimate of the FTE and budgetary resources for each program of the agency, during fiscal years 2021 and 2022.

Budget by Program – Full Agency Request						
	<u>FY 2021⁴ Estimate</u>		<u>FY 2022⁵ Estimate</u>		Increase/Decrease	
Program	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE
Case Review Division	\$1,373	6	\$1,271	6	(\$102)	(0.7)
Investigation and Prosecution of Prohibited Personnel Practices	\$14,142	66	\$14,974	67	\$832	1.6
Retaliation Disclosure Unit	\$1,294	6	\$1,338	6	\$44	0.0
Hatch Act Unit	\$1,079	5	\$1,115	5	\$37	0.0
Whistleblower Disclosure Unit	\$2,524	12	\$2,164	10	(\$360)	(2.0)
USERRA Unit	\$216	1	\$223	1	\$7	0.0
Alternative Dispute Resolution	\$863	4	\$892	4	\$29	0.0
Immediate Office of the Special Counsel	\$1,294	6	\$1,338	6	\$44	0.0
Office of General Counsel	\$974	5	\$892	4	(\$81)	(0.5)
Diversity, Outreach and Training	\$290	1	\$375	2	\$84	0.3
Operations Division	\$5,451	25	\$5,856	26	\$405	1.0
Totals	\$29,500	137	\$30,440	136	\$940	(0.3)

⁴ The FY 2021 Estimate is based upon OSC's FY 2021 Appropriation.

⁵ The numbers may not total exactly due to rounding.

PART 2 – FY 2022 BUDGET REQUEST – ADDITIONAL INFORMATION

OSC's approved request is **\$30,440,000** to fund approximately 136 FTEs and related non-personnel costs for FY 2022. This number of FTEs is only 0.3 below the estimated FY 2021 FTE level, but it will not allow OSC to continue supporting several term-based employees, who are performing vital work to support OSC's mission in FY 2021. As a result, OSC believes it cannot fully execute its mission, and may even experience an increase in its backlog, as a result. Providing funding to support **136** FTEs will not allow OSC to continue producing outsized results for the American public, and will not improve the efficiency of programs and processes. This funding level will also impact OSC's ability to execute critical IT projects in FY 2022, which would enhance operations and improve cybersecurity.

Primary Driver of the FY 2022 increase:

Costs for Current Salaries and Benefits

As a result of supporting nearly the same level of FTEs in FY 2022 as FY 2021, and taking into account a pay raise, personnel benefits increase, step increases, and career ladder promotions, OSC's salaries and benefits costs represent nearly 84 percent of OSC's total costs in FY 2022. This is an increase of nearly 1 percentage point from FY 2021, and an increase of approximately 8 percentage points from just four years ago. Therefore, the average cost per FTE is projected to increase in FY 2022, versus FY 2021 and FY 2020.

Resumption of HQ Rent Costs

OSC's rent is projected to be nearly \$1.67M in FY 2022, an increase of over \$100,000 from FY 2021. OSC had received free rent for much of FY 2020, as per terms negotiated in our new 15-year lease at the existing HQ location in Washington, D.C.

FY 2022 Budget Request by Budget Object Class

Below is a detailed projection of the expenditures that will be required in each Budget Object Class (BOC) during FY 2022, along with the actuals for FY 2020 and the projection for the current year, FY 2021.

Budget Table 1 – Budget Object Classification of Obligations: FY 2020–2022 (in thousands of dollars)			
Budget Object Classification of Obligations	FY 2020 (Actual)	FY 2021* (Projected)	FY 2022 (Projected)
11.0 Personnel compensation	17,768	18,347	18,852
12.0 Civilian Personnel Benefits	5,898	6,149	6,668
13.0 Benefits for Former Personnel	66	0	0

21.0 Travel and transportation of persons	67	20	85
22.0 Transportation of things	6	13	13
23.1 Rental payments to GSA	641	1,546	1,665
23.3 Communications, utilities and misc. charges	43	78	75
24.0 Printing and reproduction	15	17	17
25.0 Other services	2,375	3,219	2,928
26.0 Supplies and materials	61	61	88
31.0 Equipment	559	50	50
32.0 Leasehold improvements	0	0	0
Total	27,498	29,500	30,440

Notes Concerning the Above BOC Line Items:

Object Class 11.0 Personnel Compensation Costs:

Overall personnel compensation will increase in FY 2022, as compared to FY 2021, due to supporting nearly the same level of FTEs in both years, albeit with a 2.7 percent raise required by OMB in FY 2022. Any additional personnel compensation increases will impact OSC's ability to support the budgeted level of FTEs.

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 2022 are increasing on an FTE basis primarily due to an increase in agency retirement system contributions, rising by 1.1 percentage points from FY 2021 to FY 2022.

Object Class 13.0 Benefits for Former Personnel

These costs include pensions, annuities, and other benefits (i.e., voluntary separation payments or severance pay) for former employees, or their survivors, based on (at least in part) the length of service to the Government.

OSC had some costs in this area in FY 2020, due to one employee exercising the decision to take a voluntary separation incentive payment (VSIP), which OSC offered to eligible staff. Additionally, OSC had some costs in FY 2020 associated with severance pay for a former employee.

OSC has not projected, or budgeted, any costs in this area for FY 2021 and FY 2022, respectively, as it does not expect to incur any costs.

Object Class 21.0 Travel and Transportation of People:

During FY 2022, OSC expects travel to return to near-normal levels, assuming the conclusion of the current COVID-19 pandemic, thus the increase in this area compared to FY 2020 and FY 2021.

Object Class 23.1 Rental Payments to GSA:

This category reflects the lease costs of the agency's headquarters facility, and a small satellite physical office for OSC's Oakland Field Office, along with rent and tax escalations. OSC estimates that total agency rent will be nearly \$1.67 million for FY 2021, as compared to nearly \$1.55 million for FY 2020.

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 2022 for the headquarters facility.

Object Class 25.0 Other Services:

OSC outsources its accounting services, financial and procurement systems, payroll services, travel services, and procurement services, which all fit under the Services BOC. The agency began to modernize our IT infrastructure in earlier years and that effort will continue into FY 2022, including continued improvements to our electronic case management system.

Object Class 31.0 Equipment:

In FY 2020, OSC had significant equipment costs, due to the purchase of new computers to replace devices that were approaching their end of use. In both FY 2021 and FY 2022, OSC anticipates some minor equipment costs to continue supporting the agency's modernization efforts.

Analysis of Resources – Fiscal Years 2020-2022

For a high-level summary of resources during fiscal years 2020-2022, see Budget Table 2 below.

Budget Table 2 – Analysis of Resources				
FY 2020-2022				
<i>(in thousands of dollars)</i>				
Description		FY 2020 (Actual)	FY 2021 (Projected)	FY 2022 (Projected)
Budget authority	Direct	27,500	29,500	30,440
	Reimbursable	0	0	0
Total		27,500	29,500	30,440
Outlays		24,545	26,297	27,135
Employment	Direct-full time equivalent	138	137	136
	Reimbursable-full time equivalent	0	0	0
Total		138	137	136

PART 3 – BUDGET PROGRAMS AND PERFORMANCE PLAN

FY 2020 Case Activity and Results – All Programs

Word of OSC’s effectiveness in achieving positive results for the federal community is spreading. The number of new cases before the agency has risen dramatically in concert with OSC’s success. OSC’s efficiency and effectiveness at resolving cases has risen just as dramatically. In FY 2020, for example, while receiving 4,453 cases and resolving 4,615 cases, OSC achieved 405 favorable actions, the highest level in the agency’s history, and nearly 27 percent above the FY 2019 level alone.

However, assuming more regular agency operations in FY 2022 following the pandemic, the number of new cases will likely rise significantly, as will the backlog of cases, absent additional resources beyond the FY 2022 Budget Request level. Given the anticipated increase in case numbers, OSC’s expected staffing level under the FY 2022 Budget will make it difficult for OSC to maintain the agency’s record of success.

During FY 2020, OSC received 4,453 new matters across its program areas. **Table 1** below summarizes overall OSC case intake and dispositions in FY 2020, with comparative data for the previous four fiscal years. More detailed data can be found in **Tables 2-7** in sections below relating to the four specific components of OSC’s mission—PPP cases, Hatch Act matters, whistleblower disclosures, and USERRA cases.

The case levels OSC has seen in the past five years are unprecedented and have required the agency to adjust its approach to executing its mission. For instance, from FY 2015 to FY 2020, OSC received an average of nearly 5,700 cases a year, an average that likely would have been even higher, if not for the partial government shutdown in FY 2019, and the COVID-19 pandemic in FY 2020, both of which impacted caseload levels

In FY 2020, cases involving the Department of Veterans Affairs (VA) comprised over 26 percent of OSC’s cases - up from approximately 19 percent of the caseload just seven years ago. Through resolution and processing of these cases, OSC has played a critical role in re-establishing trust in the VA and encouraging employees to identify and address chronic threats to patient care.

Agencies’ required participation in OSC’s Section 2302(c) Certification Program is an excellent opportunity to conduct training for a growing number of federal employees and promote adherence to the law. Twenty-four (24) agencies were certified in FY 2019 and an additional twenty-six (26) in FY 2020. However, managing this program and handling the increasing number of cases that result from greater awareness of OSC requires additional resources.

Additionally, OSC conducted an agency record 188 outreach events in FY 2019, and 207 outreach events in FY 2020. The primary focus of these efforts is prevention of Hatch Act and PPP violations. These efforts also inform the federal workforce that OSC is a secure channel to disclose evidence of waste, fraud, and abuse.

As a result of OSC’s successes and outreach efforts, OSC’s profile among federal employees has increased significantly, resulting in increased awareness of OSC as an avenue for disclosing wrongdoing and seeking redress from PPP actions. As a result, in non-pandemic years, likely starting with FY 2022, OSC expects to again start receiving significantly higher levels of cases, and will likely struggle to keep up with the new case filings under the projected FY 2022 staffing levels, thereby eliminating the progress in reducing the backlog achieved in FY 2019 and FY 2020.

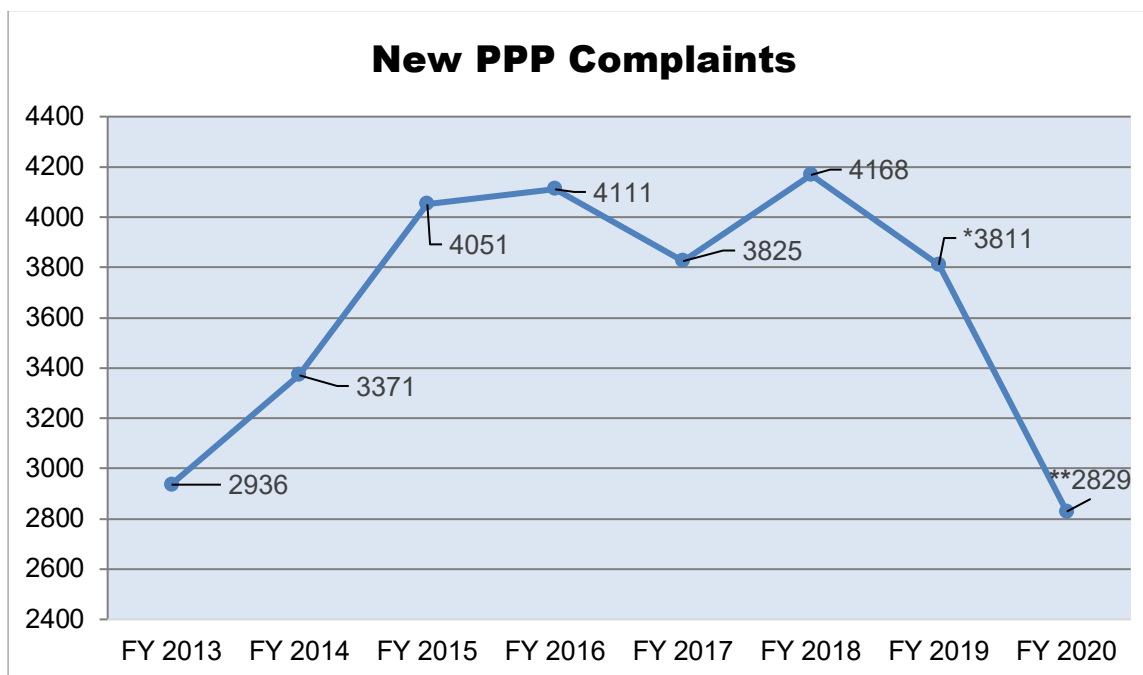
TABLE 1 - Summary of All OSC Case Activity

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Matters⁶ pending at start of fiscal year	1,901	2,271	2,592	2,616	1,888
New matters received	6,041	5,875	6,015	5,486	4,453
Matters closed	5,661	5,560	6,005	6,193	4,615
Matters pending at end of fiscal year	2,272	2,590	2,607	1,909	1,732
Hatch Act advisory opinions issued	1,641	1,325	1,386	1,111	1,461

Investigation and Prosecution of Prohibited Personnel Practices

- OSC experienced approximately a 30 percent reduction in new PPP matters when comparing FY 2020 to FY 2015, primarily because of the COVID-19 pandemic, which greatly impacted case levels in FY 2020. Despite this decrease, OSC projects new case levels to return to their recent, historically high levels beginning in FY 2022.
- In non-pandemic years, new PPP complaints have regularly surpassed 3,800 cases each year, a level unheard of just seven years ago. PPP cases are the most time- and resource-intensive cases for OSC. PPP cases also represent a critical route through which OSC builds whistleblower confidence by ensuring whistleblowers are protected from retaliation for a disclosure.

(See Figure 1 below and Table 2: Summary of All Prohibited Personnel Practice Complaints Activity – Receipts and Processing)



⁶ “Matters” in this table includes prohibited personnel practice cases, whistleblower disclosures, USERRA cases, and Hatch Act cases.

Figure 1:

*OSC experienced a partial government shutdown in FY 2019, which impacted the total number of PPP complaints the agency would have likely received during a standard fiscal year.

**OSC experienced a significant reduction in PPP complaints, primarily because of the COVID-19 pandemic.

- Strains on resources, in conjunction with an increased demand for OSC’s services, negatively affect OSC’s ability to meet statutory deadlines in resolving cases. The percentage of PPP complaints processed within 240 days is approximately 80 percent, and while this is an increase over FY 2017 and FY 2018 (77 and 76 percent, respectively), it is a reduction from FY 2019 (82 percent), and still 7 percent below the average rate from FY 2011 – FY 2016.
- OSC is also working diligently to meet statutory deadlines for whistleblower disclosures. Congress acted during the first quarter of FY 2018 to extend from 15 days to 45 days the statutory timeframe within which OSC is required to decide whether to refer disclosures to the appropriate agencies or close them without further action. While OSC closed 37 percent of cases in the 15-day statutory time frame in FY 2017—an all-time low during the past decade—extending the time frame to 45 days has resulted in the requirement being met in 86 percent of the cases in FY 2020.

Resource Estimates

During FY 2022, OSC’s Case Review Division will use approximately 6 FTE at a cost of \$1,271,495. During FY 2021, we estimate the program will require 6 FTE at a cost of \$1,373,305.

During FY 2022, OSC’s Investigation and Prosecution Division will use approximately 67 FTE at a cost of \$14,973,970. During FY 2021, we estimate the program will require 66 FTE at a cost of \$14,142,261.

During FY 2022, OSC’s Retaliation and Disclosure Unit will use approximately 6 FTE at a cost of \$1,338,415. During FY 2021, we estimate the program will require 6 FTE at a cost of \$1,294,214.

TABLE 2 - Summary of All Prohibited Personnel Practice Complaints Activity – Receipts and Processing⁷

		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Pending complaints carried over from prior fiscal year		1,405	1,657	1,969	2,057	1,409
New complaints received ⁸		4,124	3,825	4,168	3,811	2,829
<i>Total complaints</i>		5,529	5,482	6,137	5,868	4,238
Total complaints processed and closed		3,870	3,512	4,073	4,447	3,096
Complaint processing times	Within 240 days	3,307	2,716	3,100	3,659	2,476
	Over 240 days	554	782	967	788	621
Percentage processed within 240 days		85%	77%	76%	82%	80%

⁷ Complaints frequently contain more than one type of allegation. This table, however, records all allegations received in a complaint as a single matter.

⁸ “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.

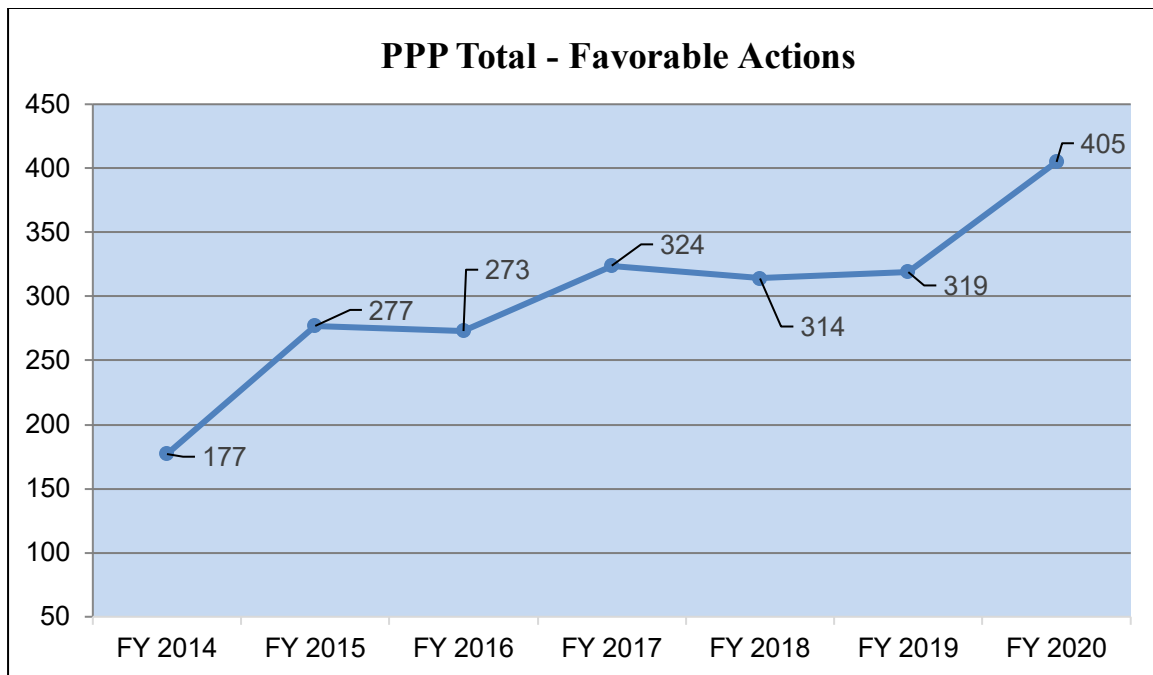
TABLE 3 - Summary of All Favorable Actions – Prohibited Personnel Practice Complaints						
		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Total favorable actions negotiated with agencies (all PPPs)	No. of actions⁹	273	324	314	319	405
	No. of matters	216	264	249	259	323
Total favorable actions negotiated with agencies (reprisal for whistleblowing)	No. of actions	215	244	236	234	317
	No. of matters	173	209	196	192	265
Disciplinary actions negotiated with agencies		15	16	22	27	13
Stays negotiated with agencies		40	45	47	31	54
Stays obtained from MSPB		7	7	2	1	0
Stay extensions obtained from MSPB		4	10	10	1	0
Corrective action petitions filed with the MSPB		0	0	1	0	0
Disciplinary action complaints filed with the MSPB		0	0	0	0	0

Goals and Results – Prohibited Personnel Practices

In FY 2020, OSC received 2,829 new PPP complaints, almost 10 percent higher than FY 2011. This figure likely would have been much higher, if not for the COVID-19 pandemic, which had significant operational impacts upon federal agencies in FY 2020.

Despite the pandemic, however, OSC still achieved 405 favorable actions in FY 2020, the most in agency history, and 34 percent above the average from FY 2015 through FY 2019.

⁹ The “number of actions” refers to the total number of favorable actions that were obtained; the “number of matters” refers to the total number of cases (or matters) from which the favorable actions were derived (e.g., one case/matter may have multiple favorable actions).



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

Notable FY 2020 Case Summaries

- Complainant, an environmental officer, alleged that the agency investigated and removed him because he disclosed that the agency employed an abnormal review process in reviewing a mineral license in violation of the National Environmental Protection Act. OSC concluded that the investigation and resulting removal were retaliatory prohibited personnel practices and issued a formal statutory report to the agency. After the agency failed to act on OSC’s report and recommendations for corrective action, OSC petitioned the MSPB for corrective action and an indefinite stay of his removal, pending a decision. MSPB granted the stay and, at OSC’s request, approved a settlement agreement for full corrective action, which included reinstatement, full back pay and benefits, a clean record, a retroactive promotion, a modified chain-of-command to protect the complainant from future retaliatory action, a time-off award, upgraded performance ratings, a two-year priority consideration for any qualified vacancy at the agency, \$180,000 in compensatory and consequential damages, and \$20,000 in attorney’s fees.
- Complainant, a program manager, alleged that the agency issued her a lowered performance appraisal, denied her a bonus, subjected her to a change in duties, reprimanded her, and proposed her removal from employment in retaliation for disclosing to the Office of Inspector General (OIG) and others violations of pay regulations and gross waste and mismanagement of disaster relief funds. Complainant also alleged that her supervisor accessed her medical records in furtherance of her proposed removal. Additionally, a charge in complainant’s proposed removal specifically referenced her threats to take legal action against her supervisor, including a grievance, complaint, and civil action. The agency agreed to remove the facially retaliatory charge from its disciplinary table of penalties. With OSC’s assistance, the parties also entered into a settlement agreement. Among other provisions, the agency agreed to make a lump sum payment of \$80,000 and convert over 600 hours of leave without pay to paid on-duty administrative leave. In return, complainant withdrew her OSC and Equal Employment Opportunity (EEO) complaints.

- Complainant, an engineer, alleged that the agency proposed his removal in retaliation for a successful MSPB appeal that he filed challenging the agency's denial of his within grade step increase (WIGI). His MSPB appeal alleged, *inter alia*, that his supervisor withheld the WIGI because he had disclosed Federal Acquisition Regulation violations. The agency proposed complainant's removal shortly after the MSPB found in his favor. OSC negotiated a settlement agreement between the parties, in which the complainant took a promotion with a different agency and withdrew his complaints and the agency rescinded the proposed removal, improved three performance evaluations, and paid complainant a lump sum of \$37,500.
- Recently, IPD resolved several COVID-19 cases. In one case, complainant, a Senior Executive Service (SES) director, alleged retaliation after reporting to her chain of command and OIG that the agency failed to provide adequate training and personal protective equipment to a team of employees assisting with the COVID-19 pandemic. Complainant further reported that members of the team entered a quarantined area, and then moved freely about the community in hotels and on commercial flights. Complainant had also previously raised concerns about an improper hiring action and had filed an EEO complaint. She alleged that in retaliation for her protected disclosures and activities, she received a directed reassignment to a newly created position outside of her area of expertise and which has no supervisory authority. In a settlement agreement, the agency agreed to rescind the reassignment, return her to her previous position, and pay a total of \$40,000 in attorney's fees.
- In another case, a complainant alleged that in retaliation for disclosing contracting improprieties, he was detailed to work in a COVID-19 screening tent. Complainant had lung issues from his service as a 9/11 first responder and his wife had a chronic lung condition. At OSC's request, the agency agreed to move the complainant to a non-COVID related detail located in an administrative area off-site.
- A medical support assistant alleged that in retaliation for filing an EEO complaint and disclosing a hostile work environment, she was not allowed to telework and had to use sick leave while self-quarantining due to COVID-19. At OSC's request, the agency agreed to change complainant's sick leave to Families First Coronavirus Response Act (FFCRA) leave.

In other whistleblower retaliation and prohibited personnel practice cases, OSC achieved numerous additional corrective actions on behalf of federal employees, including stays of personnel actions, reinstatements, reassignments, backpay, appropriate damages and fees, neutral references, expungement of unlawful disciplinary actions, restoration of leave, reinstatement of duties, expungements of improper letters of reprimand and unlawful suspensions; optional telework; upgrade of performance ratings, Quality Step Increase (QSI) awards, and training. OSC also achieved disciplinary action for officials engaged in wrongdoing, including the demotion of a supervisor, a suspension of a supervisor, and OSC training in response to claims of whistleblower retaliation and obstruction of an employee's right to compete.

Notable FY 2020 Amicus Curiae Briefs

- OSC filed an amicus brief in a petition for review to the MSPB in which the appellant claimed retaliation in part for reporting a possible computer security violation to the agency's Computer Security Incident Response Center, which an administrative judge found not to be a protected activity. In its brief, OSC argued that this decision misinterpreted the new amendment to 5 U.S.C. § 2302(b)(9)(C) by creating an unwarranted distinction between agency components that investigate or review "the agency" and those that investigate or review "internal complaints and issues." To assist the MSPB in adjudicating these types of cases, OSC also

proposes a fair and workable standard for identifying components of an agency with such investigation or review responsibilities.

- OSC filed an amicus brief in an appeal to the U.S. Court of Appeals for the Federal Circuit, in which an employee alleged that she faced retaliation for making protected disclosures and for engaging in protected activities. In the initial decision, the MSPB administrative judge dismissed the case for lack of jurisdiction based on a failure to make protected disclosures – without addressing the employee’s allegations of retaliation for engaging in protected activities, including her OSC disclosure filing, an internal whistleblower retaliation complaint, an unfair labor practice, and her testimony in coworkers’ MSPB and EEO proceedings. OSC’s amicus brief argues that the plain language and legislative history of the WPA, and its subsequent amendments, indicate that the protection against retaliation for employees who make whistleblower disclosures is separate and distinct from the protection against retaliation for employees who engage in protected activities.

USERRA Unit

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

Under USERRA, a claimant alleging a violation by a federal executive agency may either file an appeal with the MSPB or file a complaint with the Department of Labor, Veterans’ Employment and Training Service (VETS). If the claimant chooses to file a complaint with VETS, VETS must investigate and attempt to resolve the complaint. If it cannot resolve the matter, the claimant may direct VETS to refer the complaint to OSC for possible representation before the MSPB. If, after reviewing the complaint and investigative file and conducting any necessary follow-up investigation, OSC is reasonably satisfied that the claimant is entitled to relief under USERRA, it may act as the claimant’s attorney and initiate an action before the MSPB. OSC may also provide representation, when warranted, before the U.S. Court of Appeals for the Federal Circuit.

In addition to resolving and litigating individual USERRA cases, OSC also provides training and technical assistance to help federal agencies better comply with USERRA. For example, OSC has worked with the Department of Defense to ensure that its administration of the “key employee” program does not violate USERRA and conducted USERRA training for employees of the Federal Emergency Management Agency (FEMA) and the State Department. OSC also maintains telephonic and email hotlines to answer USERRA questions from service members and employers.

Resource Estimates

During FY 2022, the USERRA program will have 1 FTE at a cost of approximately \$223,069. During FY 2021, we expect the USERRA program will have 1 FTE at a cost of \$215,702.

Goals and Results – USERRA Unit

TABLE 4 - Summary of USERRA Referral and Litigation

Activity ¹⁰					
	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Pending referrals carried over from prior fiscal year	4	5	3	6	5
New referrals received from VETS during fiscal year	16	17	25	21	24
Referrals closed	15	19	22	22	26
Referrals closed with corrective action	0	3	2	2	3
Referrals closed with no corrective action	15	16	20	20	23
Referrals pending at end of fiscal year	5	3	6	5	3
Litigation cases carried over from prior fiscal year	0	0	0	1	1
Litigation cases closed	0	0	0	0	0
Litigation closed with corrective action	0	0	0	0	0
Litigation closed with no corrective action	0	0	0	0	0
Litigation pending at end of fiscal year	0	0	1	1	1

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

OSC's Strategic Goal 1 under its 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 Strategic Plan.*) Goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

USERRA Successes

OSC protects the civilian employment rights of federal workers who are veterans or serve in the National Guard and Reserves by enforcing USERRA. Examples of recent OSC successes under USERRA include the following:

- An Air Traffic Controller (ATC) trainee left his position within a federal civilian agency for long-term active duty in the U.S. Navy in 2010 after giving proper notice to his agency. When he notified his former manager that he wished to return to the agency after concluding his Navy service in early 2015, the manager told him she could not assist him despite his entitlement to prompt reemployment under USERRA. The agency's Human Resources Office then erroneously told him he would have to apply for open positions listed on the "USA Jobs" website. After submitting multiple applications, he eventually received a tentative job offer as an

¹⁰ This table has been reorganized with some categories and figures changed from prior reports to correct discrepancies and more clearly present relevant information.

ATC in early 2016, over a year after he first requested reemployment. However, before he onboarded into his new position, the agency medically disqualified him to perform ATC duties based on information in his Naval medical records. He appealed the disqualification but had to work in part-time and temporary jobs to pay his bills while his appeal was pending. After OSC received his USERRA complaint and intervened on his behalf, his agency expedited the appeals process, which was decided in his favor, and restored him to duty as an ATC. OSC and the agency are currently negotiating compensation for lost wages due to the agency's failure to promptly reemploy him and/or to find alternative employment for him while his appeal was pending.

- A Security Guard at a U.S. Army Garrison in New York was not given proper credit toward his seniority due to his absence while performing service in the Marine Corps Reserve. As a result, his within-grade salary increase was delayed several months, leading to a loss of pay. At OSC's request, the Army agreed to adjust his seniority, make his pay increase retroactive, and award him all corresponding back pay.
- A Supervisory Information Technology Specialist with the U.S. Navy returned from duty in the Navy Reserve to find that he was reemployed at a lower-status job than the one he had prior to his departure, which was in violation of USERRA. Namely, the employee went from overseeing over 100 employees to five. After several disputed workplace incidents, the Navy subsequently suspended his access to classified information and placed him on indefinite suspension without pay. Lacking income, he was forced to seek additional employment over the next several months. He also appealed his suspension, and the appeal was ultimately decided in his favor after more than two years. Not wishing to return to civilian employment with the Navy, he agreed to a settlement whereby he received several months' worth of back pay and paid leave in exchange for his resignation.

In addition to resolving individual USERRA cases, OSC also provides outreach and technical assistance to help federal agencies better comply with USERRA, often in conjunction with the U.S. Department of Labor (DOL), which refers USERRA cases to OSC after investigation.

Alternative Dispute Resolution

Effective relations in the workplace are critical to Federal government success. OSC plays a unique role in fostering a healthy federal workplace by investigating and prosecuting alleged PPPs, such as retaliation for whistleblowing or other protected activity, unauthorized preferences in employment, nepotism, and other violations of merit systems principles. OSC offers a high-performing ADR program to provide additional options for resolving such complaints.

Among the factors that determine mediation-appropriate cases are the complexity of the issues, the nature of the personnel action, and the relief sought by the complainant. Once a case has been identified as appropriate for mediation, an OSC ADR specialist contacts the parties to discuss the voluntary program and process. Pre-mediation discussions are designed to help the parties form realistic expectations and well-defined objectives regarding the mediation process.

Altogether, OSC's ADR program has averaged a 71 percent rate of successful settlement during the past 5 years. This translates to large savings of time and money to the government, as the government avoids the more costly investigation and prosecution process.

Goals and Results

During FY 2020, 57 cases were offered for mediation by OSC after referral to the ADR Unit. OSC completed 30 mediations, of which 23 settled. OSC mediation provides a streamlined resolution option that gives both sides the opportunity to create a resolution tailored to their needs. Mediation can end paralyzing stalemates between employees and managers in the Federal workplace. Federal government agencies, as well as OSC, achieve greater efficiencies by reducing the time necessary to reach a resolution. (*See Table 6.*)

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

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Cases Reviewed for Mediation	101	188	174	70	60
Mediations Offered	71	92	86	58	57
Mediations Conducted	40	65	39	39	40
Cases Withdrawn Before Mediation Completed	16	27	11	2	10
Completed Mediations	24	38	28	37	30
Completed Mediations Resulting in Settlement	16	31	21	24	23
Percentage of Completed Mediations Resulting in Settlement	67%	82%	75%	65%	77%
Cases Resolved Without Need for Mediation	0	1	1	0	2
Carryover to Next FY – Mediations in Process	18	20	19	18	22
Carryover to Next FY – Cases in Review	4	11	2	4	1

Resource Estimates

During FY 2022, the ADR program will have 4 FTEs at a cost of approximately \$892,277. During FY 2021, we expect the ADR program will have 4 FTEs at a cost of \$862,809.

OSC's Strategic Goal 1 under its 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 Strategic Plan.*) Goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2020 Case Summaries

Note: Mediations at OSC are conducted pursuant to the ADR Act of 1996 and we therefore cannot provide identifying information about mediation cases.

- Complainant, a product director, made disclosures of a hostile work environment to the agency's Inspector General. S/he alleged that in retaliation, agency management imposed a geographic reassignment, demotion,

and a significant change in working conditions, duties, and responsibilities. Through mediation, the agency agreed to transfer the complainant to a desired new position, provide backpay and additional future compensation to balance lost wages due to the change in duties, compensatory damages, and attorney's fees.

- Complainant, a mental health worker, made disclosures regarding improper management practices pertaining to customer service; some publicity followed. As a result, the complainant believed that s/he was repeatedly not selected for jobs, career advancement stalled, and was subjected to a hostile environment. The parties worked to repair their relationship and brainstormed solutions. They engaged in a dialogue about the workplace environment; the complainant was comfortable with the commitment s/he obtained from managers to maintain a workplace free of hostility. The agency also provided the complainant a salary increase and a monetary payment which included attorneys' fees.
- Complainant reported a number of issues to the Office of Inspector General and notified her/his supervisor of the disclosures. S/he alleged that in retaliation for the disclosures, s/he received negative performance evaluations, was not selected for promotions, and experienced a significant change in duties when complex and specialized assignments were replaced with more basic ones. The parties reached a settlement agreement that provided the complainant step increases and associated backpay, reinstated leave, a performance award, and attorney's fees.
- Complainant, a police officer, alleged retaliation for disclosing potential wrongdoing by the Chief of Police. In particular, complainant resigned from his/her position because of the alleged hostile work environment and retaliation. A tentative job offer for a new position was rescinded after the complainant's former supervisor falsely informed the new potential employer that complainant had resigned in lieu of termination. Through mediation, the parties agreed to terms including compensatory damages and lost wages that resulted from the former supervisor's false statements.
- After making disclosures to leadership regarding concerns that they had lied to Congress, complainant alleged that in retaliation, agency management imposed a geographic reassignment, and, later, a significant change in working conditions, duties, and responsibilities. Through mediation, the agency agreed to transfer the complainant to a desired new position with increased salary, restore sick leave, and pay compensatory damages and attorney's fees.
- Complainant, a criminal investigator, made disclosures regarding employee misconduct and alleged retaliation when s/he received a lowered performance evaluation, was the subject of several internal investigations, and was geographically reassigned. Through mediation, the parties were able to reach a resolution that rebuilt trust and rehabilitated complainant's reputation. The agency provided the complainant with a monetary payment, restored leave, and issued a letter commending complainant's accomplishments at the agency.

Whistleblower Disclosure Program

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

Under 5 U.S.C. §1213(a), federal employees, former federal employees, or applicants for federal employment may disclose information they reasonably believe evidences a violation of law, rule, or regulation, or gross

mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. OSC reviews the information submitted by whistleblowers and advises the Special Counsel whether there is a substantial likelihood that the type of wrongdoing described in § 1213(a) has occurred or is occurring. When the Special Counsel makes a substantial likelihood determination, OSC transmits the disclosure to the head of the relevant agency for action. The agency is required to conduct an investigation and submit a report to OSC describing the results of the investigation and the steps taken in response to the investigative findings. Under § 1213(e), the whistleblower is also provided with a copy of the report for comment. The Special Counsel is required to review the report to determine whether it meets the requirements of the statute and its findings appear reasonable. OSC forwards the report to the President and appropriate congressional oversight committees. (An alternative process is available by statute for OSC to refer matters to agencies for investigation without the Special Counsel making a substantial likelihood determination.)

OSC has worked with whistleblowers to identify millions of dollars in mismanaged or wasteful spending at agencies. For example, OSC referred to the Secretary of the Treasury and the Secretary of Labor allegations that the Treasury Department's Bureau of Fiscal Service (BFS) and the Labor Department's Occupational Safety and Health Administration (OSHA) failed to take action on debts OSHA transferred to Treasury for collection. The Treasury and Labor department investigations substantiated the allegations and led to BFS correcting a software error which had prevented the collection of approximately \$91.5 million in debts owed to OSHA. As a result, BFS is beginning to collect OSHA's outstanding debts.

Although OSC provides a direct avenue for achieving cost savings throughout the government, the true value of OSC's work is in providing a process to identify problems before they become too costly. By providing a safe channel for whistleblower disclosures, OSC regularly reins in waste, fraud, abuse, and threats to public health and safety that pose the very real risk of catastrophic harm to the public and potentially huge remedial and liability costs for the government. For example, OSC referred to the Secretary of Veterans Affairs allegations that employees at the Greater Los Angeles (LA) Healthcare System placed patients at risk by failing to investigate and remediate serious patient care concerns at several approved Community Residential Care Facilities (CRCs). The agency investigation substantiated the allegation of compromised patient care. In response, the agency took immediate action to cease transfers to California Villa and to transfer veterans residing there to other facilities, and implemented several policy changes to strengthen its CRC oversight.

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

Resource Estimates

During FY 2022, OSC's whistleblower disclosure program will use approximately 10 FTEs at a cost of \$2,163,771. During FY 2021, we estimate the program will require 12 FTEs at a cost of \$2,523,717.

Goals and Results – Whistleblower Disclosures

OSC's Strategic Objective 2 is to ensure government accountability by acting as a channel for whistleblowers in the federal workforce to disclose information. The following tables describe the two operational goals supporting this strategic objective. Disclosure cases have risen dramatically in recent years. From FY 2015 to FY 2018, the unit received disclosures at levels ranging from 50 to 100 percent higher than the levels seen earlier in the decade. The number of disclosures received in both FY 2019 and FY 2020 decreased from prior year levels.

However, these numbers were impacted by the unprecedented government shutdown in FY 2019, and the COVID-19 pandemic, which greatly disrupted the operations of federal agencies throughout much of FY 2020. OSC expects to receive disclosures at pre-pandemic levels in future years, likely beginning with FY 2022. Consequently, the Unit's backlog will remain a significant challenge.

OSC's Disclosure Unit participated in the COVID-19 Task Force that OSC established in the spring of 2020. As part of this agency effort, disclosure allegations were reviewed on an expedited basis and, if appropriate, referred to the head of the agency involved for investigation, and any immediate action necessary, to address health and safety concerns. OSC committed significant staff resources to this effort and maintained an accelerated level of review for these cases to ensure prompt and timely referral of COVID-19-related issues. The Disclosure Unit will continue its work on these cases, reviewing agency reports as the investigations are completed.

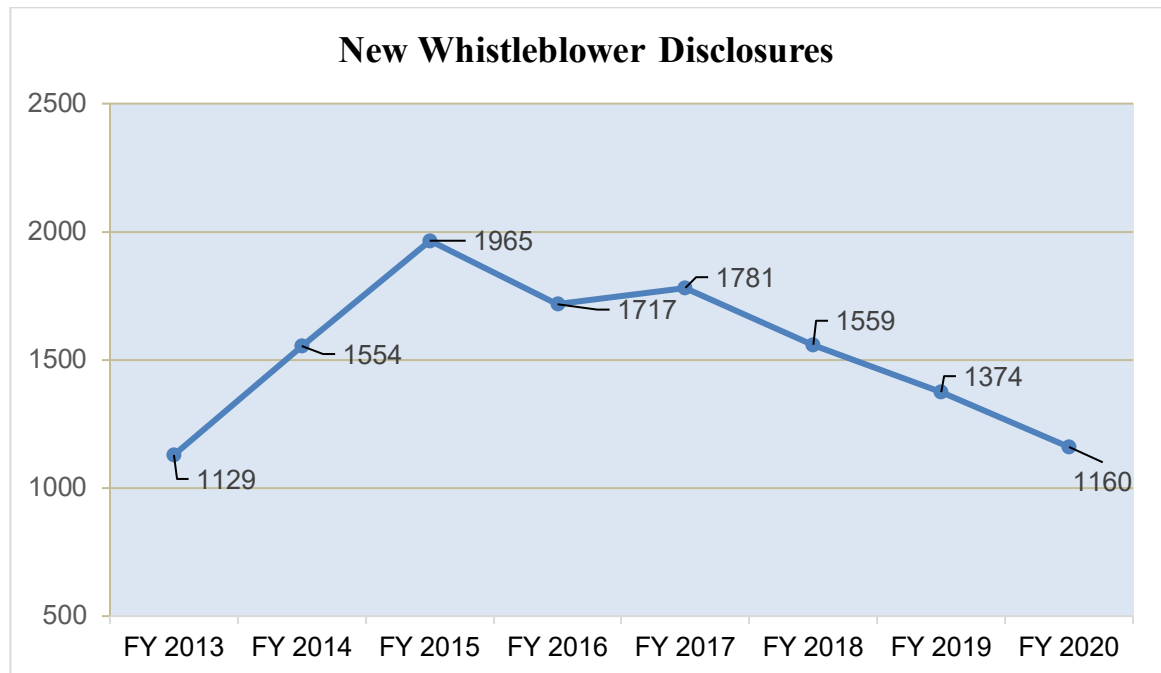


TABLE 7 - Summary of Whistleblower Disclosure Activity – Receipts and Dispositions ¹¹						
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Pending disclosures carried over from prior fiscal year	433	449	497	493	421	317
New disclosures received	1,965	1,717	1,781	1,559	1,374	1,160
Total disclosures	2,398	2,166	2,278	2,052	1,795	1,477
Disclosures referred to agency heads for investigation and report	62	40	59	139	73	81
Referrals to agency IGs	0	0	1	0	0	0
Agency head reports sent to President and Congress	72	78	66	41	64	89
Results of agency investigations and reports	Disclosures substantiated in whole or in part					
	63	68	50	36	43	62

¹¹ 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.

	Disclosures unsubstantiated	9	10	15	5	21	27
Disclosure processing times	Within 15 days	830	654	733			
	Over 15 days	1,117	1,015	1,056			
	Within 45 days ¹²				968	1,188	1,042
	Over 45 days				656	291	171
Percentage of disclosures processed within 15 days		42%	39%	40%			
Percentage of disclosures processed within 45 days					59%	80%	86%
Disclosures processed and closed		1,947	1,669	1,789	1,624	1,479	1,213

OSC's Strategic Goal 2 under its 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 Strategic Plan.*) Goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2020 Case Summaries

OSC is authorized to refer whistleblower disclosures of wrongdoing in five areas: (1) violations of a law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; and (5) substantial and specific danger to public health or safety. In FY 2020, examples of OSC successes involving whistleblower disclosures include the following:

•Violation of law, rule, or regulation; gross mismanagement; a gross waste of funds

Treasury's Failure to Collect Over \$91.5 million in Debts Owed to Government Agencies. OSC referred to the Secretary of the Treasury and the Secretary of Labor allegations that Treasury's Bureau of Fiscal Service (BFS) and Labor's Occupational Safety and Health Administration (OSHA) failed to take action on debts OSHA transferred to Treasury for collection. The Treasury and Labor investigations substantiated the allegations, determining that an uncorrected software error prevented BFS from collecting approximately \$91.5 million in debts owed to OSHA. Treasury confirmed that an additional 12 agencies were affected by this error and is completing an audit to address any uncollected debts held by other agencies. Treasury has targeted July 31, 2021, as a completion date for the audit, and will provide OSC with a copy of the completed audit when available. BFS immediately corrected the software error, updated policies and procedures, and began collecting OSHA's outstanding debts.

•Violation of law, rule, or regulation; gross mismanagement; and a substantial and specific danger to public health and safety

Securing Reimbursement for Veterans Medical Transportation. OSC referred to the Secretary of Veterans Affairs allegations that the Texas Valley Coastal Bend Health Care System (VCB HCS), Harlingen, Texas, engaged in wrongdoing by failing to pay private ambulatory companies and municipalities that transported veterans to VCB HCS and failing to reimburse veterans who paid for the transport themselves. The agency

¹² The FY 2018 National Defense Authorization Act altered disclosure processing time standards from 15 to 45 days. OSC began using 45 days as a metric in FY 2018.

substantiated that VCB HCS failed to reimburse private ambulance providers and municipalities for the cost of special mode transportation (SMT), and did not reimburse veterans where vendors billed veterans directly due to delays in VA processing the vendors' claims. The agency attributed the failure to make the payments to confusion around the entity responsible for the payments. The VCB HCS instructed vendors and staff that the Financial Service Center would receive and pay invoices going forward. In response to these findings, the report recommended that all SMT claims from the date following the conclusion of the pilot program be reviewed and processed in a timely manner and that VCB HCS contact SMT vendors to verify that any veterans who paid vendor bills for SMT be reimbursed upon payment from the VA to the vendors. The agency did not substantiate the allegation that VCB HCS lacked a processing system to receive invoices and dispense payments for emergency transportation.

In July 2020, the VA provided an update on the report's recommendations which confirmed that all invoices had been paid and new invoices were being paid in fewer than 14 days. Further, VCB HCS implemented training on SMT processing and payment procedures, and all Beneficiary Travel staff had completed training as of February 2020.

•Violation of law, rule, or regulation and a substantial and specific danger to public health and safety

Violation of Firearms Safety Protocols in Rapid-Response Drills. OSC referred to the Secretary of Veterans Affairs allegations of wrongdoing at the Butler Healthcare Center (Butler HCC), Police Service in Butler, Pennsylvania. The whistleblower disclosed that the Police Service leadership ran active-threat training without providing police officers advance notice, and while the responding officers were on-duty and carrying loaded-duty weapons. The whistleblower also alleged that this dangerous practice had been reported to the facility's Associate Director of Operations, but no corrective action had been taken.

The agency substantiated the allegations finding that Police Service supervisors were conducting rapid-response drills (RRDs) in a manner that simulated an actual duty call, in other words, live-action, scenario-based training exercises rather than RRDs. It is a violation of firearms safety protocols to conduct live-action, scenario-based training exercises with on-duty, armed officers. In response to the investigation, the Butler HCC Police Service suspended all RRDs pending revision of the relevant standard operating procedures. The updated standard operating procedures were issued on April 13, 2020. In addition, the VA Office of Security and Law Enforcement and the Veterans Health Administration are conducting a comprehensive review of security and law enforcement programs and functions to evaluate the need for a centralized management entity across the Department. The Special Counsel determined that the report contains the information required by statute and the findings appear reasonable.

•Violation of Law, Rule or Regulation

CBP's Improper Denial of Entry to Asylum Seekers. OSC referred to the Secretary of Homeland Security allegations of misconduct at the Customs and Border Protection (CBP), Tecate Port of Entry in California, specifically, that CBP managers directed officers to deny aliens seeking asylum entry into the U.S. at the Tecate Port of Entry. The whistleblower also disclosed that no record or physical documentation of asylum seekers was generated by CBP officers at the Tecate Port of Entry when they encounter asylum seekers, contrary to the requirements of agency policy. The agency substantiated several of the allegations. However, the agency also

concluded that certain metering practices used at the Tecate Port of Entry, and other U.S. ports of entry, were permissible. The constitutionality of these practices is currently under review by federal courts.

In addition to these cases, OSC referred allegations of the following: VA violations of federal health and sterility standards regarding sterile compound rooms; VA misconduct, including understaffing leading to unnecessary delays in care at VA Medical Center in Florida and the failure of a dialysis unit of a VA Medical Center in Wisconsin to meet space, infection control, and PPE standards and requirements; and serious violations of Federal Aviation Administration (FAA) policy leading to safety concerns. These are just a few of the many cases in which OSC substantiated allegations and effectuated remediation of government wrongdoing.

Hatch Act Unit

The Hatch Act of 1939 aims to insulate the merit system from improper partisan political influence. In FY 2019, OSC received 280 new Hatch Act complaints, and in FY 2020, OSC received 440 complaints. Both years represent record levels of cases received since FY 2012. We believe this increase reflects a growing awareness of the Hatch Act and vigilance for apparent violations.

OSC enforces compliance with the Hatch Act by investigating allegations to determine whether the evidence supports a determination that a violation has occurred. If so, OSC will issue a warning letter to the subject, attempt to informally resolve the violation, negotiate a settlement, or prosecute the case before the MSPB.

OSC also provides federal, state, and local (including Washington, D.C.) government employees, as well as the public at large, with advisory opinions and advice on the Hatch Act, enabling individuals to determine whether they are covered by the Act and whether their contemplated activities are permitted under the Act. In this role, OSC regularly advises the White House, cabinet members, and other senior management officials throughout the federal government, as well as state and local government officials and the media.

Investigations

OSC investigates allegations to determine whether the evidence of a Hatch Act violation supports corrective and disciplinary action. If a determination is made that a violation has occurred, OSC can issue a warning letter to the subject, attempt to informally resolve the violation, negotiate a settlement, or prosecute the case before the MSPB. OSC resolved 280 Hatch Act complaints in FY 2020. (*See Table 8.*)

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 2020, OSC issued 1,461 total advisory opinions, including 56 formal written advisory opinions.

Resource Estimates

During FY 2022, the Hatch Act program will use approximately 5 FTEs at a cost of approximately \$1,115,346. During FY 2021, we estimate the cost of this program to be \$1,078,511 with 5 FTEs.

Outreach and Training

To further its advisory role, OSC is very active in training and outreach efforts. In FY 2020, OSC conducted 51 training and outreach presentations to various Federal agencies and employees concerning the rights and responsibilities under the Hatch Act. Many of these programs involved high-level agency officials.

Goals and Results – Hatch Act Unit

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

TABLE 8 - Summary of Hatch Act Complaint and Advisory Opinion Activity

		FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Formal written advisory opinion requests received		64	45	26	52	46	60
Formal written advisory opinions issued		60	43	24	46	52	56
Total advisory opinions issued ¹³		1,023	1,641	1,325	1,155	1,111	1,461
New complaints received ¹⁴		106	197	253	263	281	440
Complaints processed and closed		131	98	234	286	245	280
Warning letters issued		28	21	37	49	49	34
Corrective actions taken by cure letter recipients	Withdrawal from partisan races	8	4	6	5	4	2
	Resignation from covered employment	3	1	2	2	2	0
	Other	0	5	2	3	5	10
	Total	11	10	10	10	11	12
Disciplinary action complaints filed with MSPB		2	3	0	2	0	4
Disciplinary actions obtained (by negotiation or ordered by MSPB)		9	5	4	6	5	8
Complaints pending at end of fiscal year		40	139	156	133	168	323

OSC’s Strategic Goal 1 under its 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 Strategic Plan.*) Goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Notable FY 2020 Case Summaries

¹³ All oral, e-mail, and written advisory opinions issued by OSC.

¹⁴ Includes cases that were reopened.

MSPB Litigation

- OSC litigated a case against a U.S. Department of Justice immigration judge who violated the Hatch Act when she promoted then-Presidential candidate Hillary Clinton's plan for immigration reform during a deportation hearing over which she presided in March 2016. The individual at the immigration hearing was facing deportation and a subsequent ten-year bar on reentry into the United States, which the judge called "a pretty harsh thing" that Clinton intended to change, provided "the Senate becomes a Democratic body and there's some hope that they can actually pass immigration legislation." The judge said the Republicans, on the other hand, "aren't going to do anything" about immigration "if they can help it," other than to "try to deport everybody." The Administrative Law Judge (ALJ) found the judge's actions merited "a considerable sanction given the public nature of her position" and imposed a fine of \$1,000, the maximum possible civil penalty, along with a 30-month debarment from federal service because the judge had since retired. The decision is final.
- OSC litigated a case against a VA doctor who violated the Hatch Act by running for the U.S. Senate, using the VA logo in campaign materials, including on campaign business cards, encouraging fellow VA employees to campaign for them and view their campaign website and video, and having a patient provide a testimonial for their campaign video. OSC charged the employee with 15 different Hatch Act violations. The ALJ found that OSC proved 11 of the 15 charges and imposed the maximum available penalty: a civil fine of \$1,000¹⁵ and a five-year debarment from federal service. Removal was not an option because the employee left federal employment after OSC filed the complaint. The employee filed a petition for review with the MSPB, which is pending.
- OSC filed a complaint charging a Navy civilian employee with violating the Hatch Act's prohibitions against engaging in political activity while on duty or in the federal workplace and knowingly soliciting political contributions. OSC alleged that the employee, an elected party official, used social media to solicit contributions for political candidates and used federal agency computers to compose, review, and edit party-related materials, such as a "social media strategy" directed toward the success or failure of partisan political candidates. In addition, the employee sent dozens of emails soliciting political contributions, composed and published several online articles soliciting party contributions, and used agency computers to update a party Facebook account during the workday. The employee retired after OSC filed the complaint and, in a settlement agreement, agreed to pay a civil fine of \$1,000 and to accept a three-year debarment from federal employment.

Disciplinary Action Obtained through Settlement Negotiations

- After filing a complaint with the MSPB, OSC settled a case against a Department of Energy employee who used their position to provide a guided tour of a federal facility to a candidate seeking a partisan political office. The purpose of the tour, which was not open to the general public, was to provide the candidate with information to be used for the campaign. For example, photographs taken during the tour were posted to the campaign's social media pages. As disciplinary action for the violation, the employee agreed to resign from their job and accept a three-year debarment from future federal employment.
- OSC entered into a settlement agreement with a Defense Logistics Agency employee who violated the Hatch Act on numerous occasions by sending partisan political emails and making political Facebook posts while at work. The employee also used Facebook to solicit political contributions nearly two dozen times in violation

¹⁵ \$1,000 is the statutory maximum penalty, but that amount is subject to annual adjustment by the Merit Systems Protection Board, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. Currently, the adjusted amount is \$1,125.

of the Hatch Act. During OSC's investigation, the employee admitted they were aware of the Hatch Act and that their supervisor had counseled them about the Act prior to engaging in the prohibited activity. In a settlement agreement, the employee agreed to a 90-day suspension without pay.

- OSC entered into a settlement agreement with another Defense Logistics Agency employee who violated the Hatch Act by displaying the words "Vote Republican" on a PowerPoint presentation they gave while on duty and in the federal workplace. The employee had received extensive Hatch Act training and was explicitly told prior to giving the presentation that certain images they planned to use, including the "Vote Republican" image, would be problematic. In a settlement agreement, the employee agreed to a 30-day suspension without pay for his violation.
- OSC settled a case against a Food and Drug Administration employee who solicited political contributions despite receiving advice from OSC that the Hatch Act prohibited them from engaging in that activity. The employee authorized the creation of a social media page featuring their name and image that was used several times to solicit political contributions, including at least one that the employee admitted they posted personally. The employee also co-hosted a fundraiser for a candidate for partisan political office and allowed their name to be used in connection with two other political fundraising events, all in violation of the Hatch Act. The employee agreed to a 120-day suspension without pay.

Outreach and Education Program

The Outreach and Education Program assists agencies with meeting the statutory mandate of 5 U.S.C. § 2302(c) and provides training to federal entities and stakeholders in each of the areas within OSC's jurisdiction: PPPs under the Civil Service Reform Act, Hatch Act, whistleblower disclosures, and USERRA.

OSC developed a five-step educational program, the 2302(c) Certification Program (Certification Program), in FY 2002. This program offers guidance to agencies and provides easy-to-use methods and training resources to assist agencies with fulfilling their statutory obligations. OSC developed new supervisory training to meet the new annual training requirement mandated under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.

Two of the primary goals of OSC's Certification Program are to ensure that federal agencies inform their workforces, in consultation with OSC, about the rights and remedies available to them under the whistleblower protection and PPP provisions of the Civil Service Reform Act, and to train supervisors to prevent violations of the statutes. Agencies that complete the program receive a certificate of compliance from OSC. At the end of FY 2020, 129 agencies and agency components were either certified or registered for certification.

As noted above, OSC also conducts formal and informal training/outreach presentations to educate the federal workforce in each of the areas within OSC's jurisdiction, as well as train supervisors on their particular obligations under the relevant statutes. OSC conducted 188 training presentations in FY 2019, and 207 presentations in FY 2020. One hundred and nine (109) of these FY 2020 presentations focused on prohibited personnel practices.

OSC was forced to cease all in-person trainings for much of FY 2020 due to COVID-19. Despite this cessation, OSC worked diligently to significantly transform its training procedures and began providing trainings in a virtual environment. OSC maintained a rigorous training schedule because of the switch to virtual trainings. In fact, OSC exceeded its FY 2020 target and met its highest level of training and outreach, outperforming all prior fiscal years.

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

OSC's Strategic Goal 1 under its 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 Strategic Plan.*) Goal tables were developed to track agency performance against the Strategic Plan and can be found in *Appendix C*.

Resource Estimates

During FY 2022, we estimate the Outreach and Education program will use nearly 2 FTE at a cost of \$374,756. During FY 2021, we estimate the program will use 1 FTE at a cost of \$290,479.

PART 4 – ENHANCEMENT OF OPERATIONS

Strategic Management of Human Capital

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

In late-2019, we appointed a senior attorney manager to conduct a thorough review of all Operations Division units. As a result, we reallocated and supplemented specific resources to better meet the agency's needs and more efficiently accomplish OSC's mission. We instituted best practices initiatives across the Operations Division, including regular reviews of agency staffing, performance, and training, balanced with budget priorities.

The agency enhances employee development and skills through internal opportunities, legal internships, in-house mission-specific training, and targeted, external training. Furthermore, OSC promotes cross-training programs to enable employees to learn new skills and participate in the work of several units.

We developed performance plans for SES employees that link to the agency's mission and strategic goals. OSC implemented appropriate, measurable performance goals for each employee and provides personnel flexibilities and tools, including leave flexibilities, alternative work schedules, and a robust telework program. OSC uses promotions and performance awards to incentivize good work and reward high-performing employees. Finally, OSC captures valuable information and ideas from the annual Federal Employee Viewpoint Survey (FEVS), which management uses to refine and improve our operational environment.

Maximizing Efficiencies through use of Shared Service Providers

As a smaller federal agency with limited resources, OSC is strategic about maximizing its operational efficiency. A key piece of OSC's strategy is the use of third-party shared service providers to perform highly technical and transactional operational procedures in areas such as accounting and contracting. This strategy is in line with recent government trends in which multiple White House Administrations have encouraged agencies to maximize their use of shared service providers to achieve operational efficiency while limiting costs.

OSC currently has interagency agreements with the U.S. Department of Agriculture's National Finance Center to conduct payroll and personnel processing and with the IBC to perform budget accounting, budget execution, accounting, travel management, procurement, and procurement system hosting services for OSC. In FY 2020, OSC moved to the SmartPay 3 charge card program, utilizing the GSA shared pool vehicle to save costs and reduce administrative burden. Also, in FY 2020, OSC utilized GSA for procurement services and the Program Support Center at the Department of Health and Human Services for transit services. OSC will continue to look for areas in which the value equation makes sense to move functions to Shared Services.

To promote best in-class purchasing for micro purchases, OSC utilizes a three-pronged strategy of 1) limiting the number of authorized purchase-holders within the agency 2) providing regular training for purchase cardholders stressing the need for proper documentation, and 3) periodic auditing of purchase cardholders' transactions, and purchase logs, to ensure compliance with agency policy. To promote best in-class purchasing for other purchases,

OSC uses GSA schedules, quotes from vendors, and Requests for Information to successfully complete market research and get an accurate cost for the goods or services required. Part of the market research process includes exploring all procurement sources, both governmental and non-governmental, for obtaining the goods or services required. If the goods or services can be obtained from another federal agency at a reduced cost, OSC enters into an inter-agency agreement with the government supplier. On the other hand, if the private sector can provide more competitive pricing, OSC works with its contracting team to create a Request for Proposal (RFP) and encourage multiple vendors to bid, thereby ensuring the agency receives the most competitive price. OSC achieves significant cost savings through this approach.

OSC will continue to evaluate where shared service providers may be able to save additional costs. The analysis will include all areas of administrative support, human resources operations, and IT services, as well as other operations that may be appropriate. OSC previously used inter agency agreements with Department of Interior and Department of Justice to assist with Information Security requirements. In addition, OSC will continue to consult with its contracting shared service provider to discuss planning and procurement methods that will best leverage existing government vehicles and contracts to achieve greater savings and efficiencies.

IT Modernization Initiatives

OSC is committed to leveraging technology to streamline operations and increase the effectiveness of its IT programs to support the agency's mission. While the agency has made significant progress in modernizing and securing its technological systems, we will continue to fund those efforts and to make new investments to optimize processes for case management, cybersecurity, data and reporting, electronic filing, records management, and internal processes and procedures.

Electronic Case Management System (eCMS)

OSC continues to build new features within eCMS to enhance the systems capabilities. Recently, OSC met the requirements of OMB Memorandum M-19-21 for the electronic management of permanent records by building a connection to house case files electronically. Simply put, the eCMS system moves OSC into the future with an online, cloud-based system that allows the agency to operate in a paperless environment, updates and improves the way government employees file complaints, streamlines our processing of those complaints, and refines our records management responsibilities, once a case is resolved.

Electronic Filing of Complaints – OSC Form 14

With the launch of eCMS, OSC released a new Complaint and Disclosure Form (OSC Form-14), which streamlines the gathering of information for complaints. This new fillable PDF form allows complainants to file with OSC without having to log-in to a system. OSC is currently looking to add a complimentary web portal for Form 14. This would require the complainant to create an account, however, OSC is looking to use Login.gov as a shared service to streamline the process. Having an account would allow complainants to complete the form via a web browser and view their case status, providing the filer a more modern capability.

Cybersecurity Enhancements

OSC implemented cybersecurity enhancements within its network by utilizing existing licenses and resources efficiently. With limited resources, it is imperative to utilize robust security suites that are already integrated with existing network infrastructure. This is critical to OSC, as operating a 24x7 Security Operations Center (SOC) is not feasible for a small agency. OSC is researching Security Operations Center as a Service offerings from other Federal Agencies. In addition, OSC continues to work with the Department of Homeland Security to deploy the

new CDM Defend-F program. This program is designed to fortify the cybersecurity of all government networks and systems.

IT Goals for FY 2021 – 2022:

1. Continue to enhance OSC’s cloud-based eCMS to provide the agency with tools for managing cases effectively in support of paper reduction and IT modernization.
 - Building a new modern web portal to allow filers to submit a complaint via a web browser. OSC recently changed its complaint process to use a dynamic fillable PDF, however, a web portal would allow additional features.
 - Adding capabilities for eDiscovery and large file transfers required in case-related tasks.
 - Enhancing the system, per user requirements.
 - Aligning a data maturity model with OSC’s adoption of the Federal Data Strategy 2020 Action Plan.
 - Augmenting integrated electronic document management folders within the case management system, allowing for a smooth transition to electronic records, well ahead of the December 2022 deadline.
2. Replace OSC’s outdated laptops and Surface Pros with new laptops across the enterprise. Surface Pros are not sufficient as primary devices for the significant case work and document review performed by OSC. Some devices are over four years old, and replacing the legacy devices will allow for a better user experience and more efficient performance of work to meet OSC’s mission. OSC rebuilt its baseline security image, continuing the use of Windows 10 and adding additional security capabilities.
3. Reduce the impact of cybersecurity risks by safeguarding IT systems, sensitive data, and networks by implementing cutting edge cybersecurity capabilities and Security Operations Center as a Service.
4. Continue working with DHS to implement CDM Defend-F program to allow OSC to know who and what are on the network in real-time.
5. Per OMB Memorandum M-21-07, Federal agencies are to transition to Internet Protocol Version 6 (IPv6) by 2025. As we rebuild and upgrade our technology, OSC is incorporating and considering the IPv6 requirement.
6. OSC began implementing Trusted Internet Connection (TIC 3.0) compliant technology, which includes testing a Secure Access Service Edge (SASE), as OSC transitions to a more cloud-based environment.
7. As good stewards of taxpayer funds, OSC will continue to gain cost efficiencies and build a secure scalable network through the further reduction of its physical network footprint and leverage cloud-based solutions to allow for a dynamic workforce.

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

Improving Employee Satisfaction and Wellness

Over the past several years, OSC implemented several key initiatives to enhance employee satisfaction and wellness: OSC made available on-site, no-fee flu vaccinations and blood pressure checks; organized a blood donor drive; conducted retirement benefits information sessions; and instituted a program to pay for professional credentials (bar membership fees) for attorneys. Additionally, OSC provided nine Continuing Legal Education courses at no charge to enhance professional development and help attorney staff meet bar credential

requirements. OSC continues to administer the FEVS. Management is actively engaged in addressing employee awareness and participation through email, meetings, an internal electronic newsletter, promotions, and feedback sessions.

Additionally, during the COVID-19 crisis, while OSC staff predominantly telework from their homes, OSC instituted Wellness Wednesdays to further employee engagement and help make a positive impact upon employee mental and physical well-being. These agency-wide Wellness Wednesday presentations have covered multiple topics, ranging from yoga and meditation sessions to basic First Aid and CPR Training to Financial Planning, which aim to provide OSC employees with tools and knowledge to improve both their personal and professional quality of life.

Telework Initiative

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

With the emergence of COVID-19 in early 2020, OSC made system improvements to enable all employees to telework, and in mid-March, the agency transitioned to mandatory telework (we are conducting a phased reopening of our HQ building, and are in the first phase of reopening as of the writing of this document). Improvements that allowed the agency to go to 100 percent telework include the migration to Skype Online, which enabled a full deployment of Microsoft Teams (allowing video teleconferencing and the ability to answer main line calls remotely) and software to allow our IT Help Desk to remote into a user's computer at home to assist with technical issues. Because of the successful move to 100 percent telework, OSC was able to continue to meet its mission without disruption. OSC will continue to improve our telework program and the infrastructure necessary to support it.

In June 2020, OSC established a Return to Worksite (HQ) Task Force and issued a plan for a deliberate, phased-in, and safe return to OSC's worksite. Then, in January 2021, pursuant to new OMB and CDC guidance, OSC established a coronavirus coordination team to supplement the return-to-work plan to include continuing telework capability, a 25% maximum limit on occupancy during times of significant community transmission, updated face covering and physical distancing requirements, and revised travel guidance. OSC will continue to follow this guidance as we transition back to the office, and we are confident we can continue to carry out our mission, serve our stakeholders, and protect the health and safety of our employees through FY 2022 and beyond.

Continuity of Operations

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

OSC must safeguard vital records and information, establish an alternative or virtual operating site, and validate

capability through tests, training, and exercises. In the past year, OSC became fully electronic, requiring all Federal records to be maintained electronically in OSC's cloud system. OSC's ability to seamlessly continue to operate in the face of unanticipated disruption was demonstrated last year when the agency temporarily moved to 100% telework during the pandemic. IT continues to implement new technologies allowing access to agency resources in a secure, but agile manner, such as implementing remote access. OSC's cloud approach provides built-in redundancy to our data, along with automatic failover and enhancements in performance.

Management – Risk Management and Program Evaluation

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

As we implement the Program Management Improvement and Accountability Act of 2015, OSC is working to increase efficiency, reduce costs, and address high-risk areas via Enterprise Risk Management (ERM) efforts. More specifically, OSC has implemented a structured program review process that will enable us to achieve mission goals, save taxpayer dollars, and enhance service delivery more consistently and efficiently. OSC is focused on dedicating more time to gaining program efficiencies and effectively handling complex change initiatives.

Efforts in program evaluation and review will be on a continuum, beginning with smaller functions and moving to programs and functions of increasing size and complexity. OSC also implemented an ERM Charter and commenced work on the ERM Profile via the ERM Working Group. The ERM Working Group meets quarterly to address agency risks. The overarching goal is to highlight any underlying weaknesses, provide feasible mitigation strategies, and spur organizational improvement. The ERM Working Group met in advance of the COVID-19 emergency and took steps to ensure that the agency could continue to meet its mission in the event of work disruptions caused by the pandemic. As a result of this work, the agency seamlessly transitioned to mandatory telework in the early days of the pandemic, without interruption, and continued to accomplish its mission.

OSC conducted an analysis of our office space in FY 2020 and determined that the agency would be able to achieve its mission more efficiently by reducing our field office footprint. As a result, OSC decided not to continue the leases for two of our three field offices and reduced the footprint of our third field office beginning in FY 2021. Employees who formerly reported to the field offices in-person now work virtually. Additionally, the savings resulting from the discontinued leases will be reallocated to personnel expenses, thereby furthering OSC's ability to achieve its mission effectively.

APPENDIX A

STATUTORY BACKGROUND

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

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

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

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

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

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

That same year, Congress passed the Hatch Act Modernization Act of 2012 (HAMA). HAMA modified the

penalty provision of the Hatch Act to provide a range of possible disciplinary actions for federal employees. It also permitted state or local government employees to run for partisan political office unless the employee's salary was entirely funded by the federal government. Lastly, it changed the status of District of Columbia government employees by including them in the prohibitions on state and local employees rather than treating them as federal employees.

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

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

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

Introduction

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

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

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

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

political office unless the employee's salary is entirely funded by the federal government, and changed the status of DC government employees from federal employees to state and local government employees.

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

About OSC

Background

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

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

In 1989, Congress passed the WPA, making OSC an independent agency within the Federal executive branch. The WPA also strengthened protections against retaliation for employees who disclose Government wrongdoing and enhanced OSC's ability to enforce those protections. 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 Branch.

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

Strategic Planning Process

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

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

This Strategic Planning Team met regularly over six-months to conduct an organizational review of

OSC's programs and services, and then identify new strategic goals, objectives, strategies, and metrics for the strategic plan. OSC also set up a page on its intranet to provide all agency personnel with information and to solicit feedback during the strategic planning process.

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

OSC received 12 substantive comments from internal and external stakeholders in writing as well as during the scheduled meetings: five submissions from employees, and seven submissions from good Government groups, a Federal management association, a public-sector union, and a private citizen. Comments that went beyond the scope of the draft strategic plan were reviewed and considered generally.

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

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

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

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

Finally, OSC received a limited number of comments regarding its internal operations and efforts at achieving organizational excellence. In response to these comments, the agency expanded its strategy to identify best practices from all agency programs, as opposed to only from certain ones. One submission suggested OSC consider having an ombudsperson to handle internal and external stakeholder disputes. In recent years, OSC has implemented several mechanisms to communicate better with employees, keep staff engaged, and resolve workplace disputes. These efforts have been well received. In addition, OSC has been successful in working closely with external Governmental and non-Governmental stakeholders on the agency's work, including promptly responding to concerns brought to OSC's attention. Nevertheless, the agency will consider this recommendation as it moves forward with the implementation of the strategic plan.

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

Mission, Vision, Strategic Goals, and Core Values

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

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

Strategic Goals:

Protect and promote the integrity and fairness of the Federal workplace.

Ensure Government accountability.

Achieve organizational excellence.

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

Core Values:

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

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

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

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

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

Strategic Goals, Objectives, Strategies, and Metrics

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

Objective 1: Fairly and promptly investigate and prosecute cases.

Objective 2: Obtain timely and effective relief in cases.

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

Strategies:

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

Data Points and Metrics:

General

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

PPP Enforcement

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

- Number of disciplinary actions obtained.

Hatch Act Enforcement

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

USERRA Enforcement

- Number of referrals received.
- Number of merit referrals.
- Number of non-merit referrals.
- Number/percent of referrals closed within 60 days.
- Number of offers of representation before MSPB.
- Number of corrective actions obtained (formally and informally).

Objective 3: Enhance strategic use of enforcement authority.

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

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

- Provide timely and appropriate Hatch Act advice and information.

- Work closely with OPM to revise the Hatch Act regulations.

Data Points and Metrics:

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

Objective 5: Expand training and outreach efforts nationwide.

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

Strategies:

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

Data Points and Metrics:

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

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

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

input, feedback, and collaboration from stakeholders.

Strategies:

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

Data Points and Metrics:

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

Strategic Goal 2 – Ensure Government accountability.

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

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

Strategies:

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

Data Points and Metrics:

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

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

OSC returns substantial sums to the Federal Government by pressing for appropriate action to remedy waste and fraud disclosed by whistleblowers. Through its oversight of agency reports on referred whistleblower disclosures,

OSC uncovers individual and systemic violations of Federal law and evaluates the reasonableness of agency responses, encourages cost savings occasioned by the identification and cessation of Government waste, and resolves serious health and safety threats. A key objective is to improve the timeliness and outcomes of agency reports. OSC will improve communication with agencies concerning their statutorily-mandated reports, including their content and timeliness, as well as seek alternative resolutions of whistleblower disclosures.

Strategies:

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

Data Points and Metrics:

- Percentage of referred whistleblower disclosures that are substantiated by agencies.
- Number of favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures.
- Timeliness of OSC's communication to the President and Congress after receiving an agency investigation report and whistleblower's comments.
- Implementation of measurement to capture scope of benefits to Government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security and/or tax dollars saved or recovered, by FY 2017, and reassess regularly.

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

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

Strategies:

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

Data Points and Metrics:

- Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly.
- Number of times that favorable outcomes of whistleblower disclosures are disseminated via press

releases, social media, etc.

- Number of training and outreach events that address whistleblower disclosures.
- Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly.

Strategic Goal 3 – Achieve organizational excellence.

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

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

Strategies:

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

Data Points and Metrics:

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

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

OSC will be a good steward of tax-payer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will deploy mobile access to network programs in compliance with directives that move the Government

toward a virtual work environment, while ensuring continuity of operations in times of work interruption and providing greater flexibility to employees. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

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

Data Points and Metrics:

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

- Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly.

Factors Affecting Achievement of Strategic Plan

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

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

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

Additionally, OSC has had limited ability to invest in, but increased need for, long-term improvements in technology. OSC will be called upon to ensure that the technological environment in which it conducts its work is modern and secure. By proactively assessing the information security needs and the technological requirements of employees and stakeholders, OSC plans to improve efficiency, security, and the customer experience. Continuous assessment of information technology requisites against available resources will help ensure that OSC achieves organizational excellence despite these challenges.

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

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

Appendix C: Goal Tables for New Strategic Plan Fiscal

Years 2017-2022¹⁶

Goal Table 1A: Goals 1-14

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

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
1 Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
2 Number of PPP complaints received	Data-point	4,112	Data-point	3,824	Data-point	2,829	Data-point		Data-point	
3 Number of whistleblower retaliation complaints received	Data-point	1,861	Data-point	1,925	Data-point	2,073	Data-point		Data-point	
4 Number of whistleblower retaliation complaints closed within 240 days	Baseline	1,667	Baseline	1,917	Baseline	1,773	Baseline		Data-point	
5 Average age of PPP complaints at closure	Baseline	166	Baseline	142.97	Baseline	166.79	Baseline		Baseline	
6 Number of PPP complaints filed with MSPB	1	1	1	0	1	0	1		1	
7 Number of successful PPP	1	0	1	0	1	0	1		1	

¹⁶ Due to the continuous development, and evolving nature of the new electronic case management system (eCMS), which OSC implemented in August 2019, some datapoints reported in the previous Performance and Accountability Reports may differ slightly from the case tables in the FY 2022 Congressional Budget Justification.

	prosecutions before MSPB										
8	Number of PPP complaints mediated	33	29	33	37	33	30	33		30	
9	Number of PPP complaints mediated resulting in settlement	20	22	20	24	20	23	20		20	
10	Number of informal stays obtained	25	47	25	29	25	53	25		25	
11	Number of formal stays and related extensions obtained	4	12	8	2	8	0	0		0	
12	Total favorable PPP actions ¹²	206	309	206	211	275	398	206		215	
13	Number of systemic corrective actions obtained	30	57	32	60	32	72	45		45	
14	Number of disciplinary actions obtained	15	19	15	27	15	13	15		15	

Goal Table 1A Explanatory Notes

¹²: This metric was revised in OSC's Strategic Plan to reflect the number of individual corrective actions obtained, instead of total favorable PPP actions. This is reflected in the results for FY 2019, as well as the targets for FY 2021 and FY 2022.

- A.** **Goal Table 1B** details the data points and performance metrics for OSC's work investigating, litigating, and resolving Hatch Act complaints. OSC met six out of six goals in FY 2020. Metric 15 is a datapoint.

Goal Table 1B: Goals 15-21**Goal 1: Protect and promote the integrity and fairness of the federal workplace****Objective 1: Fairly and promptly investigate and prosecute cases****Objective 2: Obtain timely and effective relief in cases**

Description of Target		FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
15	Number of Hatch Act complaints received	Data-point	263	Data-point	281	Data-point	440	Data-point		Data-point	
16	Percent of Hatch Act complaints closed within 240 days	Baseline	65%	Baseline	75%	60%	83%	65%		65%	
17	Number of Hatch Act complaints filed with MSPB	1	3	1	0	1	4	1		1	
18	Percent of successful Hatch Act prosecutions before MSPB	100%	100%	100%	N/A	100%	100%	100%		100%	
19	Number of Hatch Act warning letters issued	20	49	22	49	25	34	25		25	
20	Number of corrective actions obtained	10	10	10	11	10	11	10		10	
21	Number of disciplinary actions obtained	5	6	5	5	5	8	5		5	

B. Goal Table 1C details the data points and performance metrics for OSC's work investigating, litigating, and resolving USERRA complaints. During FY 2020, OSC met two out of three metrics. OSC completed 87 percent of USERRA legal reviews within 60 days and obtained three corrective actions.

Goal Table 1C: Goals 22-27**Goal 1: Protect and promote the integrity and fairness of the federal workplace****Objective 1: Fairly and promptly investigate and prosecute cases****Objective 2: Obtain timely and effective relief in cases**

Description of Target	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
------------------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------

22	Number of USERRA referrals received	Data-point	25	Data-point	21	Data-point	24	Data-point		25	
23	Number of USERRA merit referrals	Data-point	4	Data-point	6	Data-point	3	Data-point		5	
24	Number of USERRA non-merit referrals	Data-point	21	Data-point	15	Data-point	21	Data-point		20	
25	Percent of USERRA referrals closed within 60 days	80%	86%	75%	83%	80%	87%	80%		80%	
26	Number of USERRA offers of representation before MSPB	1	1	1	0	1	0	1		1	
27	Number of USERRA corrective actions obtained (formally and informally)	3	3	3	3	3	3	3		3	

- C. **Goal Table 2** details OSC's efforts to enhance its strategic enforcement authority, as it relates to the third objective under Strategic Goal 1. OSC met three out of three goals in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
28	Number of PPP reports published on website	2	2	2	2	2	4	2		2	
29	Number of amicus curiae briefs and interventions filed	2	5	2	2	2	2	2		2	
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4	10	4	15	4	10	8		8	

D. Goal Table 3 details the Hatch Act advisory opinions provided by OSC, pursuant to OSC's fourth objective under Strategic Goal 1. In FY 2019, OSC met or partially met three out of four goals.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
31	Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry	Baseline	100%	Baseline	97%	98%	100%	98%		98%	
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%	99.9%	95%	87%	98%	97%	95%		95%	
33	Number/percent of formal written advisory opinions issued within 60 days of inquiry	Baseline	89%	Baseline	83%	75%	85%	75%		75%	
34	Revised Hatch Act regulations by FY 2018	Met	Partially Met	Met	Partially Met	Met	Partially Met	Met		Met	

E. Goal Table 4 details OSC's training and outreach efforts pursuant to OSC's fifth objective under Strategic Goal 1. OSC met five out of six goals in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
35	Number of agencies/components contacted regarding the 2302(c) Certification Program	35	164	70	165	100	160	140		140	
36	Number of agencies/components registered for the 2302(c) Certification Program	Baseline	21	20	33	15	24	15		15	
37	Number of agencies/components certified and recertified for the	Baseline	23	20	24	15	26 ³⁷	15		10	

	2302(c) Certification Program										
38	Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program	6 months	10.17 months	9 months	9.55 months	8 months	10 months	9 months		10 months	
39	Number of training and outreach activities, broken down by program area and geographic location	Baseline	198	150	188	165	207 ³⁹	165		130	
40	Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

Goal Table 4 Explanatory Notes

³⁷: Number of agencies and agency components certifying/recertifying for the Section 2302(c) Certification Program will vary in response to the three-year recertification cycle. For example, due to increased certifications in FY 2019 and FY 2020, we expect that a smaller number of agencies will be due for recertification in FY 2021, based on the three-year cycle.

³⁹: Number of trainings will increase and decrease in each fiscal year based on a number of factors, including, for instance, (1) the almost 75 percent increase in Hatch Act trainings we have observed during election years; and (2) an increase in Section 2302(c) trainings based on years in which a higher percentage of agencies are due for recertification at the end of the three-year cycle, creating a “lumpy forecast.” Despite the cessation of all in-person training due to COVID-19, OSC was able to implement a significant transformation to meet the needs of this virtual environment and transition all OSC training to virtual training. In fact, OSC exceeded its FY 2020 target and met its highest level of training and outreach, outperforming all prior fiscal years.

Program Area	Total	Outside Beltway*
PPP	109	12
HA	51	6
DU**	44	0
USERRA	2	0
ADR	1	0

Trainings held outside the D.C. area include trainings held in California, Georgia, Maryland, New York, South Carolina, Texas, and Virginia. Please note that after the transition to virtual training, employees taking the training were located across the country and overseas.

* Some PPP trainings are held in conjunction with the annual statutory training and counted separately.

**Most whistleblower disclosure trainings (DU) are held in conjunction with PPP trainings and counted separately.

- F.** **Goal Table 5** details OSC’s communications with stakeholders and the public, consistent with the sixth objective under Strategic Goal 1. OSC met three out of four goals in FY 2020. OSC issued a total of 27 press releases in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
41	Number of press releases issued	25	46	40	18	40	27	30		30	
42	Types and frequency of digital media used to share information	275	211	275	221	275	327	275		250	
43	Number of meetings with stakeholder groups	4	52	10	56	10	54 ⁴³	30		30	
44	Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

Goal Table 5 Explanatory Notes

⁴³: In FY 2020, OSC had 54 meetings with stakeholder groups, including the following:

- 11 meetings for general OSC outreach
- 24 meetings with congressional staff and representatives
- 12 meetings with agency officials, including secretaries and general counsels
- 7 meetings with inspector general offices

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

Strategic Goal 2 has three objectives:

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

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

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

These objectives directly relate to OSC’s investigations of whistleblower disclosures. Like prior fiscal years, OSC continues to receive significant numbers of new disclosures. OSC will continue its commitment to providing a safe, confidential channel for federal employees to report evidence of fraud, waste, abuse, or threats to public safety. OSC developed and deployed a new electronic filing form in FY 2019 that is designed to improve convenience and enhance the whistleblower reporting experience.

A. Goal Table 6 relates to the first objective under Strategic Goal 2 and details OSC’s efforts to ensure government accountability by providing a safe, confidential and secure reporting channel for stakeholders and the public. In FY 2020, OSC received 1,160 new whistleblower disclosures. OSC met three out of three goals in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
45	New electronic form by FY 2017, and refine as appropriate	Met	Not Met	Met	Met ⁴⁵	Met	Met	Met		Met	
46	Number of whistleblower disclosures received	Data-point	1,554	Data-point	1,374	Data-point	1,160	Data-point		Data-point	
47	Number of whistleblower disclosures that also allege related retaliation	Data-point	492	Data-point	562	Data-point	330	Data-point		Data-point	
48	Number of whistleblower disclosures referred to agencies for investigation	50	139 formal/ 22 informal	50	72 formal/ 59 informal	75	81 formal/ 52 informal	70		70	
49	Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

Goal Table 6 Explanatory Notes

⁴⁵: New electronic form was implemented in FY 2019.

- B. Goal Table 7** relates to the second objective under Strategic Goal 2 and details OSC's efforts to ensure government accountability by providing timely and appropriate outcomes for referred whistleblower disclosures. For Goal Table 7, OSC met its one goal in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
50	Percentage of referred whistleblower disclosures that are substantiated by agencies	Data-point	76% formal / 46% informal	Data-point	N/A ⁵⁰	Data-point	71% formal/63% informal	Data-point		Data-point	
51	Number of cases with favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures	Baseline	6 disciplinary / 47 corrective	Baseline	16 disciplinary / 72 corrective	Baseline	16 disciplinary / 104 corrective ⁵¹	Baseline		Baseline	
52	Timeliness of OSC's communication to the President and Congress after receiving an agency investigation report and whistleblower's comments	Baseline	71 days	Baseline	116 days	Baseline	162 days	Baseline		Baseline	
53	Implementation of measurement to capture	Met	Met	Met	Met	Met	Met	Met		Met	

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											
--	--	--	--	--	--	--	--	--	--	--	--

Goal Table 7 Explanatory Notes

⁵⁰: Because of the implementation of OSC’s new electronic case management system (eCMS) in the fourth quarter of FY 2019, some FY 2019 data could not be reported on at that time.

- ⁵¹: FY 2020 Formal referrals with disciplinary action – 8
FY 2020 Informal referrals with disciplinary action – 8
FY 2020 Formal referrals with corrective action – 78
FY 2020 Informal referrals with corrective action – 26

C. **Goal Table 8** related to the third objective under Strategic Goal 2 and details OSC’s efforts to enhance awareness of outcomes of referred whistleblower disclosures. For Goal Table 8, OSC met four out of four goals in FY 2020.

Goal Table 8

Goal 2: Ensure government accountability

Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures

Description of Target		FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
54	Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly	Met	Not Met	Met	Met	Met	Met	Met		Met	
55	Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.	12	42	40	52	40	44	40		40	
56	Number of training and outreach events that address whistleblower disclosures	Baseline	105	90	158	95	109	95		85	
57	Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

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

Strategic Goal 3 has three objectives:

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

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

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

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

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

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

Goal Table 9 tacks the first objective under Strategic Goal 3 and details OSC's efforts to achieve organizational excellence by recruiting, developing, and retaining a highly talented, engaged, and diverse workforce. For Goal Table 9, OSC met eight out of eight goals in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
58	Human Capital Plan by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
59	Honors Program by FY 2017 and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
60	Improved and standardized onboarding process by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
61	Staff training plan by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
62	Mentorship program by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
63	Ongoing internal cross-training opportunities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
64	Ongoing employee engagement efforts, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
65	Ongoing work/life balance and other related benefits, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

B. **Goal Table 10** relates to the second objective under Strategic Goal 3 and details OSC's efforts to improve the use of existing technology and deploy new IT systems to enhance organizational operations. For Goal Table 10, OSC met or partially met six out of six goals in FY 2020.

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 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
66	Transition to electronic case management system by FY 2017, and reassess regularly; Going live with the records in the eCMS by FY 2018; Incorporate business process by FY 2019	Met	Not Met	Met	Met ⁶⁶	Met	Met	Met		Met	
67	100% deployment of mobile access to network program resources by FY 2017, and reassess regularly	Met	Met	Met	Met ⁶⁷	Met	Met ⁶⁷	Met		Met	
68	100% data encryption by FY 2017, and reassess regularly; A – encryption of data at rest B – encryption of data in transit	Met	A – Met B - Not Met	Met	Met ⁶⁸	Met	Met ⁶⁸	Met		Met	
69	Ongoing semi-annual assessment of IT needs, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
70	Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
71	Ongoing maintenance of IT staff of 5% of agency work	Met	Not Met	Met	Not Met ⁷¹	Met	Partially Met ⁷¹	Met		Met	

force, and reassess regularly											
-------------------------------	--	--	--	--	--	--	--	--	--	--	--

Goal Table 10 Explanatory Notes

⁶⁶: OSC successfully deployed eCMS at the end of FY 2019.

⁶⁷: OSC continues to monitor and assess mobile access to OSC network resources.

⁶⁸: OSC utilizes Microsoft Office 365 (O365) for storing its data as well as for e-mail transmission. With O365, OSC data is encrypted at rest and in transit. OSC IT staff will continue to assess and monitor data encryption techniques to continue to enhance the security of OSC data.

⁷¹: In FY 2019, OSC did not meet the goal of maintaining IT staff at 5 percent of agency workforce, as a result of OSC IT staff undergoing a complete turnover and operating with minimal resources. At the end of FY2019, IT staff consisted of three FTE. During FY 2020, OSC was able to hire IT staff to meet this metric. However, due to IT staff departures late in the fiscal year, OSC was unable to rehire staff in time to meet this requirement by fiscal year-end.

- C. **Goal Table 11**, consistent with the third objective under Strategic Goal 3, details OSC's efforts to monitor, evaluate, and improve efficiency and effectiveness of programs and processes. For Goal Table 11, OSC met five out of five goals in FY 2020.

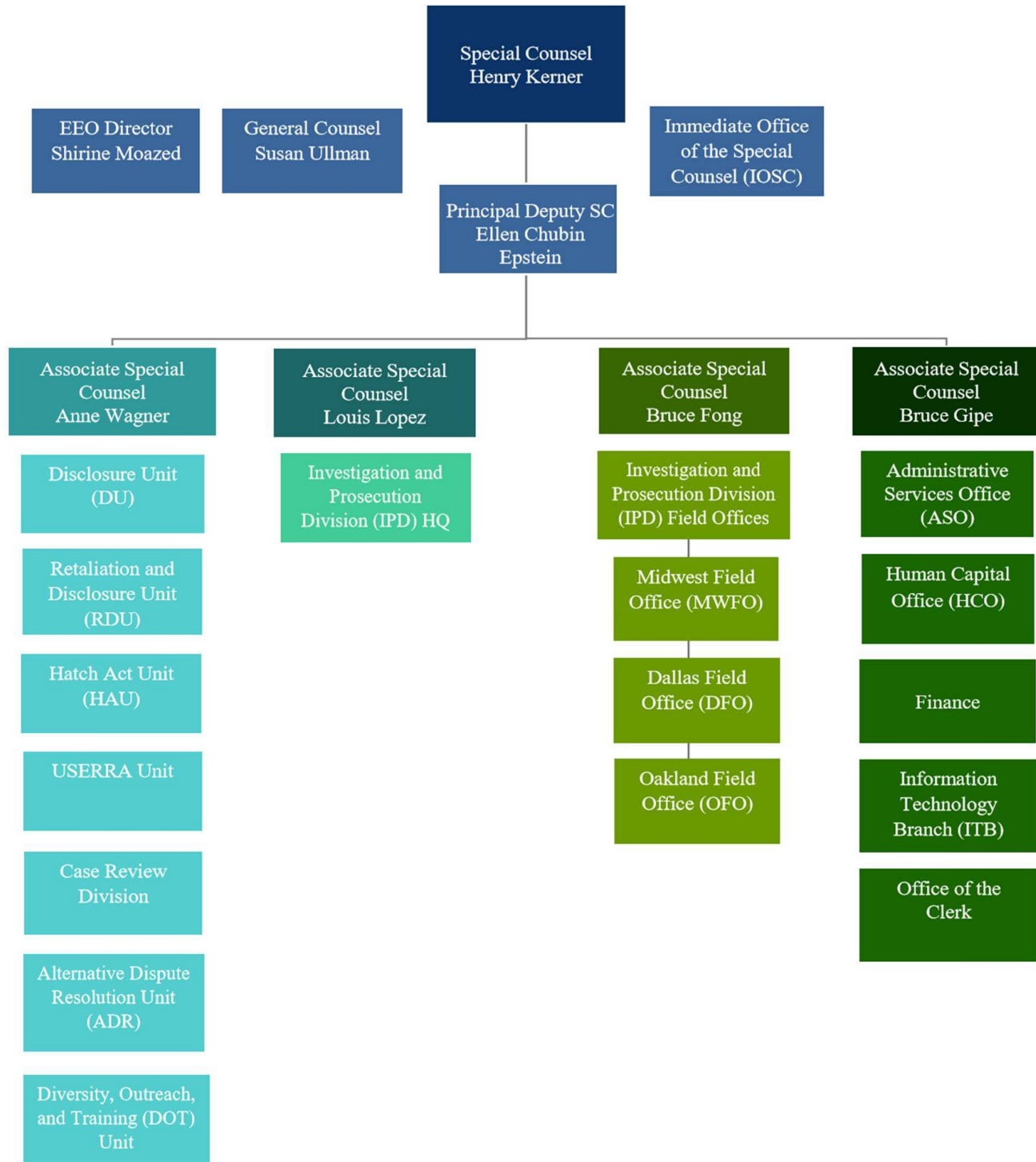
Goal Table 11											
Goal 3: Achieve organizational excellence											
Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes											
Description of Target		FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result	FY 2022 Target	FY 2022 Result
72	Creation and implementation of institutional approach to evaluate programs and processes by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
73	Completion of first evaluation of program(s) or process(es) to identify best practices and areas of improvement by FY 2018, and proceed with evaluation of additional programs and processes regularly thereafter	Met	Met	Met	Met	Met	Met	Met		Met	
74	Implementation of best practices and responses to areas of improvement identified in first evaluation of program(s) or process(es) by FY 2019, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	
75	Enhanced method for determining customer satisfaction with programs and	Met	Met	Met	Met	Met	Met ⁷⁵	Met		Met	

	processes by FY 2017, and reassess regularly										
76	Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

Goal Table 11 Explanatory Notes

⁷⁵: The 2018 OSC reauthorization as found in section 1097 of the National Defense Authorization Act for Fiscal Year 2018 (NDAA) requires OSC to establish a survey pilot program to collect information and improve service at various stages of case review. OSC formed a working group to design and establish a survey, sought appropriate external approvals for the collection of information, and implemented the survey in Fiscal Year 2019. In FY 2020, specifically, the survey was sent to approximately 4,473 complainants with open or closed cases. OSC received a total of 763 responses.

Appendix D: OSC Organizational Chart



U.S. Office of Special Counsel

**1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505**

202-804-7000

or

1-800-872-9855

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.

Agency Web Site:

www.osc.gov