

FISCAL YEAR 2023
CONGRESSIONAL BUDGET JUSTIFICATION
—and—
PERFORMANCE BUDGET GOALS



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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 responsible 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, a case from FY 2020 pertaining to Treasury's failure to collect over **\$90 million** in debts owed to OSHA continued to pay dividends in FY 2021, as Treasury collected over \$8 million of the outstanding debt. Treasury also confirmed that an additional 12 agencies were affected by this same issue, and is currently completing an audit to address any uncollected debts held by other agencies.

Additionally, in FY 2021, OSC referred to the Secretary of Veterans Affairs allegations that employees' actions at the VA Salt Lake City Health Care System (VA Salt Lake; Salt Lake City, Utah) resulted in patients not being reimbursed for eligible services, and claims not being processed for patients. The agency investigated the allegations and determined that the VA Salt Lake personnel failed to identify and inform dual-eligible veterans about the impact of their benefit election on their costs; thus, the VA Salt Lake lost revenue totaling approximately **\$89,000**. Consequently, the agency implemented several corrective measures, such as verifying that relevant personnel were trained on and able to explain TRICARE benefits to dual-eligible veterans. The agency also recommended establishing and monitoring internal controls and performance standards for relevant staff, and that managers regularly assess staff to ensure that they are equipped to perform their duties.

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.

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 2021, despite the raging COVID-19 pandemic, OSC achieved 393 favorable actions, which is 20 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 commit prohibited personnel practices by, for instance, retaliating against whistleblowers. In FY 2021, OSC obtained 33 disciplinary actions against individuals found to have committed violations. This number is approximately 77 percent higher than the prior five-year average (FY 2016 – FY 2020), and OSC expects disciplinary actions to remain similarly high 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 has reduced the backlog by over 1,000 cases since the end of FY 2018.

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.

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. The 141 full-time equivalents (FTEs) supported by our FY 2023 Budget Request will not be sufficient for OSC to maintain or add staff needed to address the expected rise in caseloads in FY 2023 to pre-pandemic levels. In addition, as most of our resources support personnel-based expenses, the FY 2023 Budget Request would not provide 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 sought to make further 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 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 and records management. 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 OSC employed these efforts to effectively and efficiently manage the nearly 6,000 cases filed annually, the FY 2023 Budget Request does not provide sufficient resources that will allow OSC to continue to reduce the backlog and to sustain the significant level of favorable actions achieved in FY 2021. 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.

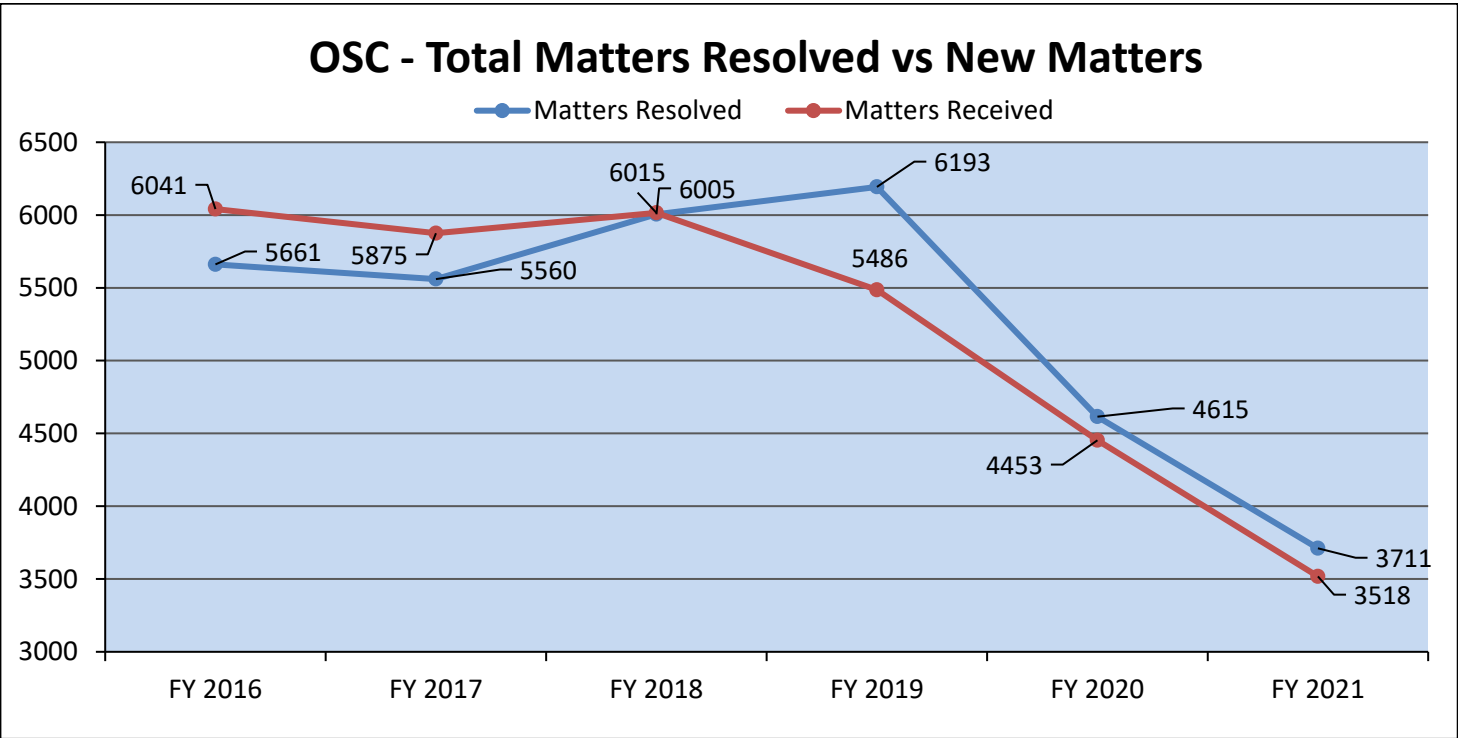
Therefore, pursuant to the Office of Management and Budget's Passback authorization, OSC is requesting funding of **\$31,990,000** for FY 2023. The authorized budget request, however, will not allow OSC to hire up to its full capacity to address a likely rise in caseload levels and will limit other mission-critical spending, impacting OSC's ability to serve whistleblowers and carry out enforcement of its core statutory authorities.

Summary of Request

For FY 2023, OSC's authorized request is \$31,990,000. This amount represents an 8.4 percent increase from the FY 2022 level of \$29,500,000 contained in the Continuing Appropriations Act, 2022 (Division A of P.L. 117-43, as amended). The authorized request will only allow OSC a slight increase in FTE levels, as a result of a sizable, projected pay raise of 4.6 percent to personnel salaries, which may impact OSC's ability to address the expected rise in the agency's caseload, and to continue delivering successful results for the American public.

As the federal workforce begins transitioning 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 caseload increase and continue its three-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.

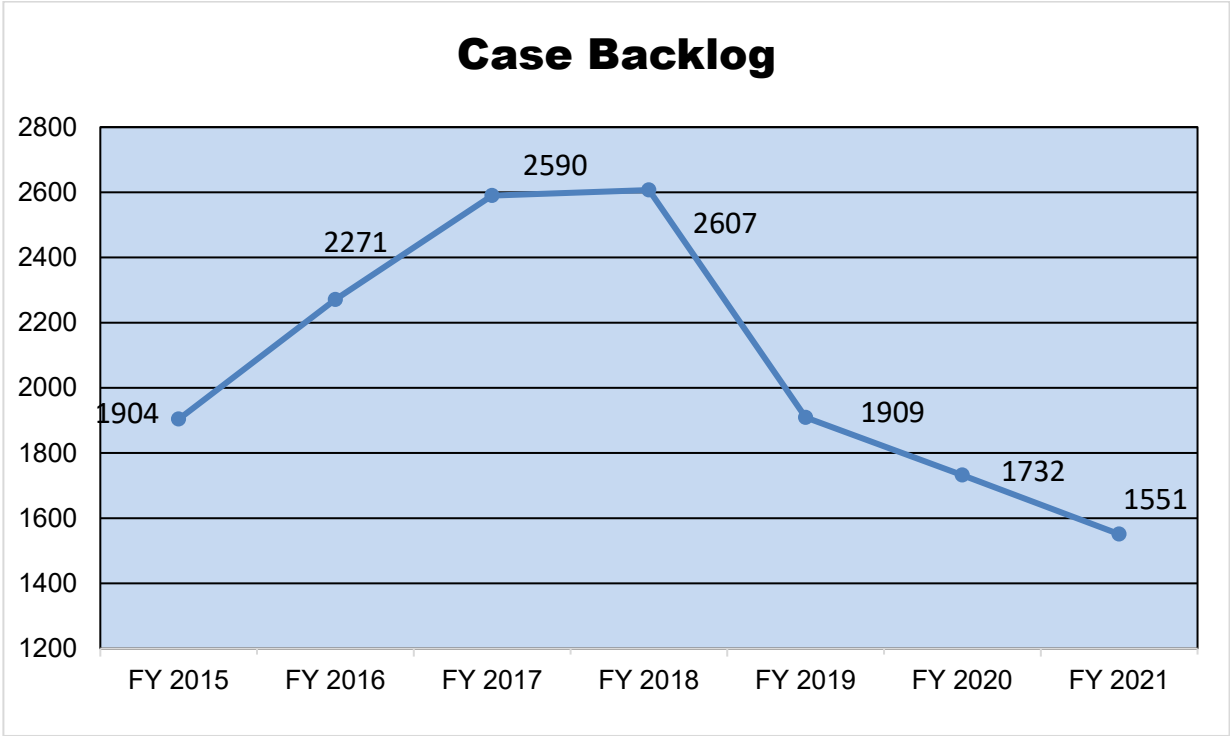
OSC is already fully utilizing available resources by working harder, smarter, and more effectively than at any other time in its history. As OSC has received increased funding levels, the agency has expanded upon its already efficient case processing protocols and reached record levels in terms of favorable 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 2021, OSC achieved 393 favorable actions in PPP cases, the second highest level in agency history, an increase of nearly 20 percent above the average for the previous five fiscal years.

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 affecting the federal government since mid-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.



The FY 2023 approved budget request of **\$31,990,000** includes funding for the salaries and benefits of approximately **141** FTEs, a minor increase from OSC’s FY 2022 projected staffing level of approximately 139 FTEs. This minor increase in FTEs will not allow OSC to meet the expected post-pandemic rise in demand for the agency’s services among the federal workforce and further reduce the agency’s case backlog.

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; protect veterans and federal employees; ensure accountability, integrity, and fairness in the federal workplace; and restore and maintain public confidence in the federal merit system.

Appropriations Language

OFFICE OF SPECIAL COUNSEL *FEDERAL FUNDS* SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel, including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$31,990,000, of which \$1,599,500 to remain available until September 30, 2024.¹

Note.—A full-year 2022 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2022 (Division A of P.L. 117-43, as amended). The amounts included for 2022 reflect the annualized level provided by the continuing resolution.

About the Office of Special Counsel

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

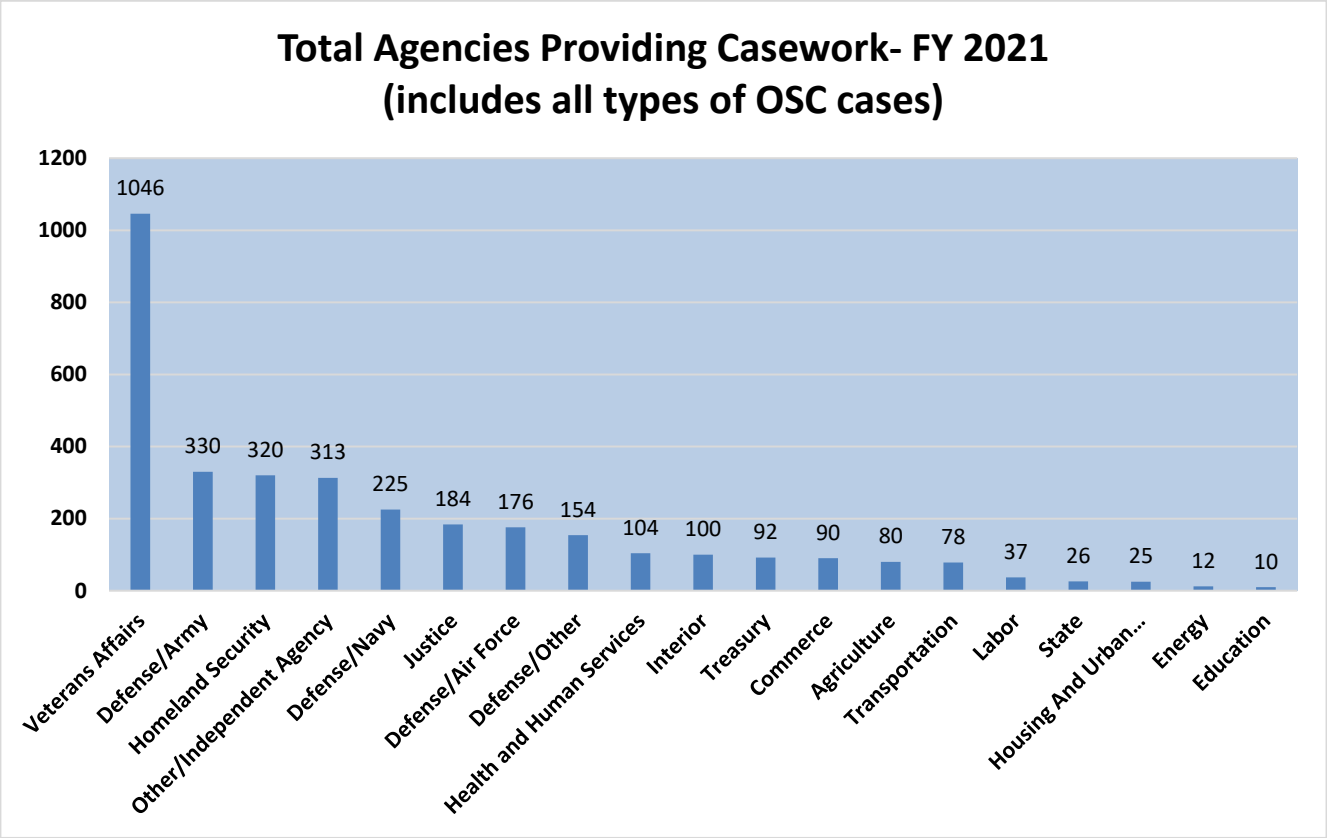
When a whistleblower identifies waste, fraud, abuse, or other wrongdoing at a federal agency, OSC makes sure the whistleblower's concerns are heard and, when warranted, investigated fully and addressed. OSC also protects federal employees from prohibited personnel practices, such as retaliation for making 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.

¹ OSC is requesting five percent of the agency's FY 2023 budget be made available for two years. This request would make OSC's appropriation comparable to similar agencies. For example, MSPB received 5.27 percent of its FY 2021 appropriation as a two-year fund.

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.



Prohibited Personnel Practices

In FY 2021, OSC received 2,304 new PPP complaints, down from recent highs. This figure would likely have been higher, if not for the COVID-19 pandemic, which continued to impact operations for federal agencies and departments throughout most of FY 2021. 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 906 new disclosures in FY 2021. OSC likely would have received more disclosures in FY 2021, if not for the COVID-19 pandemic, which continued to alter the operations of federal agencies.

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 2021, the Hatch Act Unit received 289 new complaints, which was approximately even with the previous five-year average. Further, OSC resolved 375 cases, an increase of 64 percent compared to the prior five-year average.

OSC issued 1,043 advisory opinions in FY 2021, both formal and informal. The agency also issued 62 warning letters, and 4 corrective actions were taken. OSC obtained 7 disciplinary actions in Hatch Act cases (by negotiation or ordered by MSPB) in FY 2021.

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 19 referrals in FY 2021, and closed 17 cases.

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 2023 Strategic Goals and Costs per Goal*

- 1. Protect and promote the integrity and fairness of the federal workplace. \$20,608
- 2. Ensure government accountability. \$4,024
- 3. Achieve organizational excellence. \$7,358

*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, OSC continues to maintain a small, physical office in Oakland for Field Office leadership, and both Dallas and Detroit 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)

This division serves as the initial intake point for all PPP and disclosure allegations. CRD screens all new allegations to ensure that PPPs and disclosures are directed to the appropriate OSC component. CRD also closes allegations that are duplicative, filed with MSPB, outside of OSC's jurisdiction, or untimely.

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)

This unit reviews related PPP complaints and disclosures submitted by the same complainant. The assigned 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. OSC Headquarters began transitioning back to an in-office presence as of March 1, 2022.

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

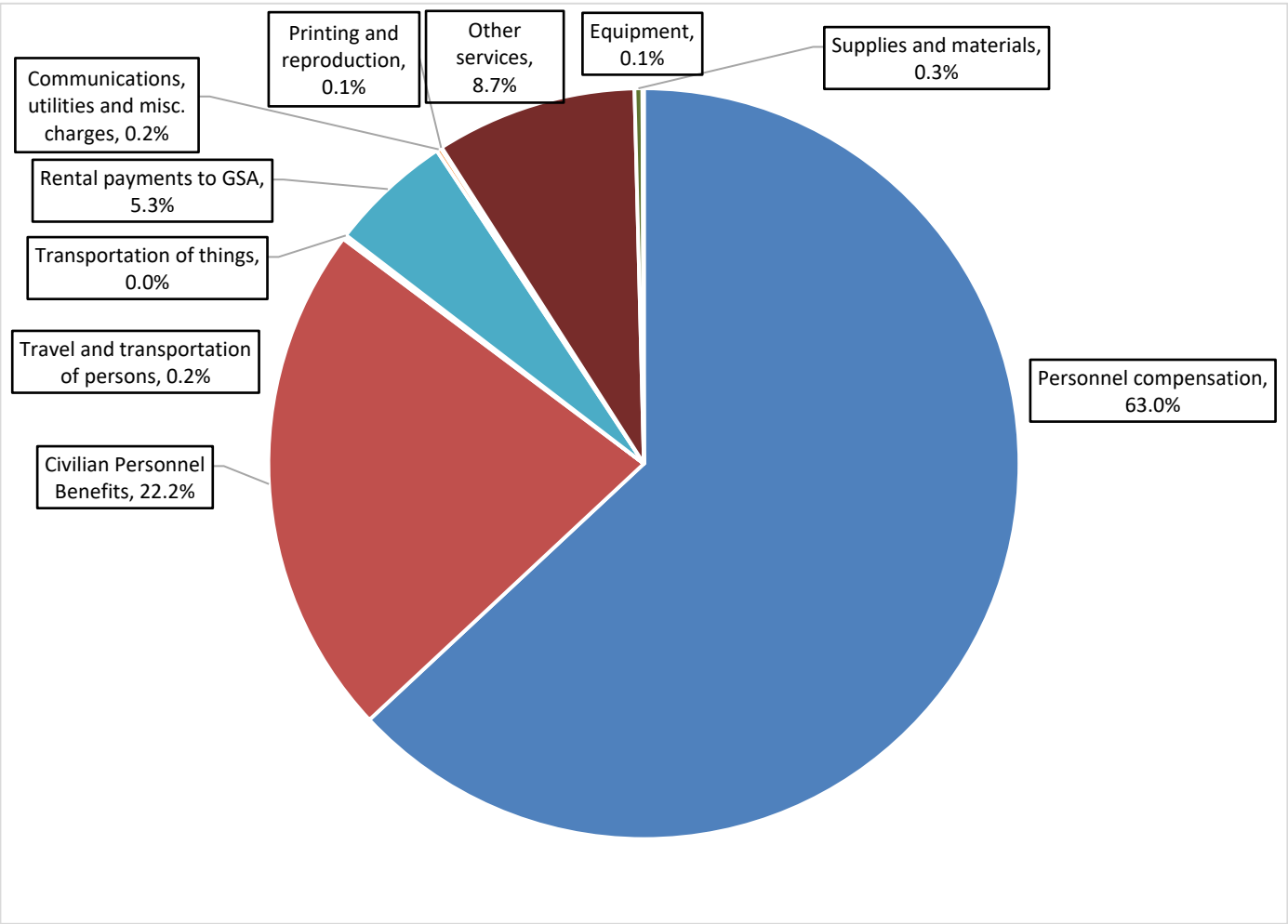
The Operations Division manages OSC's budget and financial operations and oversees the agency's technical, analytical, records, and administrative needs. Component units are the Budget and Finance Office, Human Capital Office, Administrative Services Office, Information Technology Office, and Office 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 2021, the Clerk's Office processed 169 FOIA closures, which reduced the FOIA backlog by 33 percent from the end of FY 2020. At the end of FY 2021, OSC's FOIA backlog stood at only 14. In addition, OSC has not received any new lawsuits.

OSC's Privacy Program also has published a system of records notice (SORN) for reasonable accommodations, and finalized the agency's regulations, which are pending approval with OMB. Further, in FY 2021, the Records Management team also successfully transferred nearly 3,800 cases to the National Archives and Records Administration (NARA) for the preservation and documentation of government records. Lastly, in terms of records management, OSC transitioned to paperless recordkeeping as of February 2021.

Components of Budget Request

The following chart estimates how the FY 2023 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 2022 and 2023.

Budget by Program – Full Agency Request ⁴						
	<u>FY 2022⁵ Estimate</u>		<u>FY 2023 Estimate</u>		Increase/Decrease	
Program	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE	Amount (in 1000s)	FTE
Case Review Division	\$1,279	6	\$1,297	6	\$18	(0)
Investigation and Prosecution of Prohibited Personnel Practices	\$13,980	66	\$15,133	67	\$1,153	1
Retaliation Disclosure Unit	\$1,485	7	\$1,593	7	\$108	0
Hatch Act Unit	\$1,151	5	\$1,365	6	\$214	1
Whistleblower Disclosure Unit	\$1,882	9	\$1,980	9	\$98	(0)
USERRA Unit	\$212	1	\$228	1	\$15	0
Alternative Dispute Resolution	\$1,032	5	\$1,138	5	\$106	0
Immediate Office of the Special Counsel	\$1,294	6	\$1,365	6	\$71	(0)
Office of General Counsel	\$849	4	\$910	4	\$62	0
Diversity, Outreach and Training	\$356	2	\$382	2	\$26	0
Operations Division	\$5,980	28	\$6,599	29	\$619	1
Totals	\$29,500	139	\$31,990	141	\$2,490	2

⁴ The numbers may not total exactly due to rounding.

⁵ The FY 2022 Estimate is based upon the level provided to OSC in the FY 2022 Continuing Resolution.

PART 2 – FY 2023 BUDGET REQUEST – ADDITIONAL INFORMATION

OSC's approved request is **\$31,990,000** to fund approximately 141 FTEs and related non-personnel costs for FY 2023. This number of FTEs is two above the estimated FY 2022 FTE level, but may not allow OSC to effectively handle higher caseloads that will likely occur as federal agency operations return to normal following the pandemic. As a result, OSC believes it cannot fully execute its mission, and may even experience an increase in its backlog. Providing funding to support **141** FTEs will only allow OSC to keep pace with current caseload levels, but will not allow OSC to address the likely rise in caseload levels that will occur, thus impacting the agency's ability to continue producing sizable results for the American public. This funding level will also impact OSC's ability to effectively execute critical IT and HR projects in FY 2023, which would enhance operations throughout the agency.

Primary Driver of the FY 2023 increase:

Costs for Current Salaries and Benefits

Given that OSC's FY 2023 Budget projects to support two more FTE than FY 2022, and includes a 4.6 percent pay raise, step increases, and career ladder promotions, OSC's salaries and benefits represent over 85 percent of OSC's total costs in FY 2023. This is an increase of approximately 6 percentage points from just five years ago. Therefore, the average cost per FTE is projected to increase in FY 2023, versus FY 2022 and FY 2021.

HQ Rent Costs

OSC's rent is projected to be nearly \$1.69M in FY 2023, an increase of over \$20,000 from FY 2022.

Other Services

In FY 2023, OSC also plans to begin expanding its use of shared services, possibly pertaining to payroll-related functions. This expansion of shared services allows OSC to focus on its primary mission of protecting and promoting the integrity and fairness of the federal workplace, and ensuring government accountability. OSC projects total spending of \$2.77M on other services in FY 2023.

FY 2023 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 2023, along with the actuals for FY 2021 and the projection for the current year, FY 2022.

Budget Table 1 – Budget Object Classification of Obligations: FY 2021–2023 <i>(in thousands of dollars)</i>			
Budget Object Classification of Obligations	FY 2021 (Actual)	FY 2022* (Projected)	FY 2023 (Projected)
11.0 Personnel compensation	18,010	18,569	20,169
12.0 Civilian Personnel Benefits	6,340	6,633	7,094

13.0 Benefits for Formel Personnel	14	0	0
21.0 Travel and transportation of persons	35	23	50
22.0 Transportation of things	1	13	13
23.1 Rental payments to GSA	1,631	1,665	1,688
23.3 Communications, utilities and misc. charges	26	76	63
24.0 Printing and reproduction	8	17	17
25.0 Other services	3,236	2,348	2,768
26.0 Supplies and materials	50	88	108
31.0 Equipment	57	69	20
32.0 Leasehold improvements	0	0	0
Total	29,409	29,500	31,990

Notes Concerning the Above BOC Line Items:

Object Class 11.0 Personnel Compensation Costs:

Overall personnel compensation will increase in FY 2023, as compared to FY 2022, not only due to supporting two more FTE, but also because of the sizable 4.6 percent pay raise required by OMB in FY 2023. 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 2023 are increasing on a per FTE basis primarily due to the sizable pay raise required by OMB.

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 2021, due to severance pay for a former employee. OSC has not projected, or budgeted, any costs in this area for FY 2022 and FY 2023 respectively, as it does not expect to incur any costs.

Object Class 21.0 Travel and Transportation of People:

During FY 2023, OSC expects a slight increase in necessary agency travel, assuming the conclusion of the current COVID-19 pandemic, thus the increase in this area compared to FY 2021 and FY 2022.

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 \$1.69 million for FY 2023, as compared to nearly \$1.67 million for FY 2022.

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 2023 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. OSC began to modernize its IT infrastructure in earlier years and that effort will continue into FY 2023, including continued improvements to its electronic case management system (eCMS).

Object Class 31.0 Equipment:

OSC had minor equipment costs in FY 2021, and OSC expects this trend to continue in both FY 2022 and FY 2023, as the agency furthers its modernization efforts.

Analysis of Resources – Fiscal Years 2021-2023

For a high-level summary of resources during fiscal years 2021-2023, see Budget Table 2 below.

Budget Table 2 – Analysis of Resources FY 2021-2023 <i>(in thousands of dollars)</i>				
Description		FY 2021 (Actual)	FY 2022 (Projected)	FY 2023 (Projected)
Budget authority	Direct	29,500	29,500	31,990
	Reimbursable	0	0	0
Total		29,500	29,500	31,990
Outlays		28,688	28,163	30,540
Employment	Direct-full time equivalent	138	139	141
	Reimbursable-full time equivalent	0	0	0
Total		138	139	141

PART 3 – BUDGET PROGRAMS AND PERFORMANCE PLAN

FY 2021 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 2021, for example, while receiving 3,518 cases and resolving 3,711 cases, OSC achieved 393 favorable actions, the second highest level in agency history, and approximately 20 percent above the prior five-year average.

However, assuming more regular agency operations in FY 2023 following the pandemic, the number of new cases will likely rise, as will the backlog of cases, absent additional resources beyond the FY 2023 Budget Request level. Given the anticipated increase in case numbers, OSC's expected staffing level under the FY 2023 Budget will make it difficult for OSC to maintain the agency's record of success.

During FY 2021, OSC received 3,518 new matters across its program areas. **Table 1** below summarizes overall OSC case intake and dispositions in FY 2021, with comparative data for the previous five 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 2016 to FY 2021, OSC received an average of over 5,200 new cases a year, a number that likely would have been even higher, if not for the partial government shutdown in FY 2019, and the COVID-19 pandemic that has impacted federal government operations since mid-FY 2020.

In FY 2021, cases involving the Department of Veterans Affairs (VA) comprised nearly 30 percent of OSC's cases - up from approximately 26 percent just a year 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-six (26) agencies were certified in FY 2020 and an additional nineteen (19) were certified in FY 2021. 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 207 outreach events in FY 2020, and conducted 178 outreach events in FY 2021. 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 2023 staffing levels, thereby eliminating the progress in reducing the backlog achieved since FY 2019.

TABLE 1 - Summary of All OSC Case Activity						
	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Matters⁶ pending at start of fiscal year	1,901	2,271	2,592	2,616	1,888	1,736
New matters received	6,041	5,875	6,015	5,486	4,453	3,518
Matters closed	5,661	5,560	6,005	6,193	4,615	3,711
Matters pending at end of fiscal year	2,272	2,590	2,607	1,909	1,732	1,551
Hatch Act advisory opinions issued	1,641	1,325	1,386	1,111	1,461	1,043

Investigation and Prosecution of Prohibited Personnel Practices

- OSC experienced approximately a 44 percent reduction in new PPP matters when comparing FY 2021 to FY 2016, primarily because of the COVID-19 pandemic, which has greatly impacted case levels since FY 2020. Despite this decrease, OSC projects new case levels to return to their recent, historically-high levels once federal agencies and departments return to standard operations following the pandemic.
- As shown in the table below, in recent, non-pandemic years, new PPP complaints regularly surpassed 3,800 cases each year. 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 the New PPP Complaints chart 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.

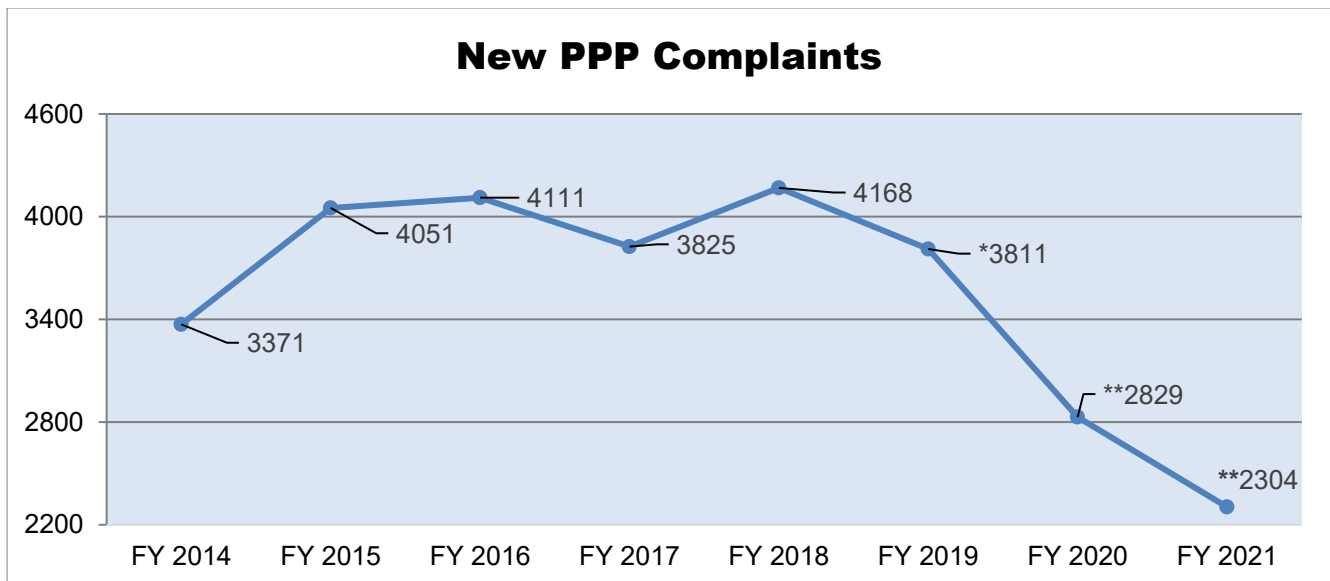


Figure 1:

*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 79 percent, and while this is an increase over FY 2017 and FY 2018 (77 and 76 percent, respectively), it is a reduction from both FY 2019 and FY 2020 (82 percent and 80 percent), respectively, and still 7 percentage points below the average rate from FY 2011 – FY 2016 (86 percent).
- 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 87 percent of the cases in FY 2021.

Resource Estimates

During FY 2023, OSC's Case Review Division will use approximately 6 FTE at a cost of \$1,297,076. During FY 2022, we estimate the program will require 6 FTE at a cost of \$1,279,241.

During FY 2023, OSC's Investigation and Prosecution Division will use approximately 67 FTE at a cost of \$15,132,558. During FY 2022, we estimate the program will require 66 FTE at a cost of \$13,979,635.

During FY 2023, OSC's Retaliation and Disclosure Unit will use approximately 7 FTE at a cost of \$1,592,901. During FY 2022, we estimate the program will require 7 FTE at a cost of \$1,485,146.

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

		FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Pending complaints carried over from prior fiscal year		1,657	1,969	2,057	1,409	1,147
New complaints received⁸		3,825	4,168	3,811	2,829	2,304
Total complaints		5,482	6,137	5,868	4,238	3,451
Total complaints processed and closed		3,512	4,073	4,447	3,096	2,390
Complaint processing times	Within 240 days	2,716	3,100	3,659	2,476	1,883
	Over 240 days	782	967	788	621	499
Percentage processed within 240 days		77%	76%	82%	80%	79%

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 2017	FY 2018	FY 2019	FY 2020	FY 2021
Total favorable actions negotiated with agencies (all PPPs)	No. of actions⁹	324	314	319	405	393
	No. of matters	264	249	259	323	295
Total favorable actions negotiated with agencies (reprisal for whistleblowing)	No. of actions	244	236	234	317	304
	No. of matters	209	196	192	265	223
Disciplinary actions negotiated with agencies		16	22	27	13	33
Stays negotiated with agencies		45	47	31	54	38
Stays obtained from MSPB		7	2	1	0	0
Stay extensions obtained from MSPB		10	10	1	0	0
Corrective action petitions filed with the MSPB		0	1	0	0	0
Disciplinary action complaints filed with the MSPB		0	0	0	0	0

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

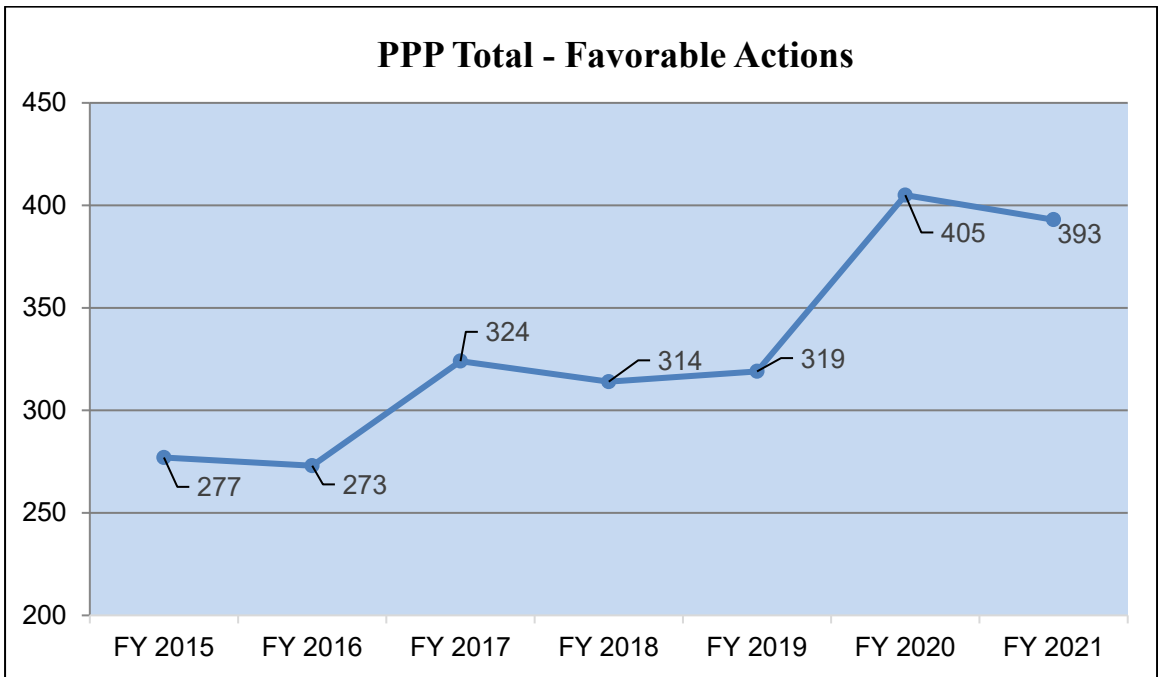
⁸ “New complaints received” includes a few re-opened cases each year, as well as prohibited personnel practice cases referred by the MSPB for possible disciplinary action.

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).

Goals and Results – Prohibited Personnel Practices

In FY 2021, OSC only received 2,304 new PPP complaints, approximately 39 percent lower than the prior five-year average (FY 2016 – FY 2020). This decrease likely would have been much lower, if not for the COVID-19 pandemic, which continued to have significant operational impacts upon federal departments and agencies in FY 2021.

Despite the pandemic, however, OSC still achieved 393 favorable actions in FY 2021, the second-most in agency history, and 20 percent above the average from FY 2015 through FY 2020.



In FY 2016, OSC finalized a Strategic Plan for fiscal years 2017 – 2022 (*See Appendix B for the Prior Strategic Plan*). In accordance with OMB guidance, OSC revised and finalized a new Strategic Plan in FY 2022 (*See Appendix D for the New Strategic Plan (FY 2022 – FY 2026)*).

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 (Prior Strategic Plan) and Appendix E (New Strategic Plan) of this document.

Notable FY 2021 Case Summaries

- Complainant, an industrial hygienist, alleged he was issued a letter of reprimand in retaliation for his discussion on the COVID-19 hotline. Complainant contacted the COVID-19 hotline regarding officials not requiring mask or face coverings in an indoor control room, despite direction by his supervisor to not contact the hotline. Pursuant to OSC’s investigation, the parties entered into a settlement agreement resolving the

complaint. The agency agreed to rescind the letter of reprimand, pay complainant's attorney's fees, and conduct OSC training for the human resource representatives.

- Complainant, a supervisory civil engineer, alleged that the agency proposed his removal in retaliation for his disclosing that his supervisor violated contract regulations and for successfully appealing the agency's denial of his step increase. With OSC's assistance, the agency withdrew and expunged the proposed removal, improved three years of performance evaluations, modified complainant's chain of command, and paid complainant \$37,500.
- Complainant, a regional solicitor, alleged retaliation for disclosing that her supervisor was abusing his authority when he engaged in settlement negotiations to offer a corporate defendant a "sweetheart" deal. Complainant alleged the agency reassigned her from her regional solicitor position in Los Angeles to the position of regional administrator in Chicago. Complainant also alleged that the agency initiated an internal harassment investigation against her as further retaliation. At OSC's request, the agency agreed to delay complainant's reassignment for 30 days. When the stay expired, the agency proposed complainant's removal after she refused to accept the reassignment. OSC contacted the agency to schedule a settlement conference to present its preliminary findings and discuss resolution. After OSC offered to present its preliminary findings, the parties engaged in direct negotiations and executed a settlement agreement in which the agency agreed to rescind complainant's reassignment and removal, and reinstate her as regional solicitor. The agency also agreed to restore 100 hours of complainant's sick leave, pay a \$200,000 lump sum for back pay, compensatory damages, and attorney's fees, and not to take any adverse actions against the complainant because of the internal harassment investigation.
- Complainant, an administrative officer, alleged that the agency proposed her removal in retaliation for her disclosing a hostile work environment and violations of agency rules at her department. After an investigation, OSC requested corrective actions and facilitated a settlement agreement. Under the agreement, the agency agreed to pay complainant \$180,000, rescind the proposed removal, provide a letter of recommendation, and issue an outstanding performance rating for fiscal year 2020. Complainant agreed to resign and withdraw all her pending claims against the agency.
- Complainant, a police officer, alleged that his agency suspended him and proposed his removal in retaliation for disclosing numerous instances of abuse of authority by the chief of police and other senior officers to his chain of command, a member of Congress, and Office of Inspector General. Complainant accepted a position elsewhere before a final decision on the removal was issued. In a global settlement, the agency also agreed to pay him \$100,000 in compensatory damages, \$20,000 in attorney's fees, and restore over 200 hours of 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, restoration of leave, reinstatement of duties, expungements of improper letters of reprimand and unlawful suspensions; 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 2021 Amicus Curiae Briefs

- OSC filed an *amicus curiae* brief with the Merit Systems Protection Board in a petition for review that concerned the evidence necessary to establish the causation element—i.e., “contributing factor”—in whistleblower retaliation cases filed under the Whistleblower Protection Act (WPA). In the initial decision, the administrative judge dismissed the appellant’s case after finding that he had failed to show that the agency had knowledge of his protected activity, even though there was other record evidence that linked this activity to the personnel action at issue. In its brief, OSC argued that the WPA and its legislative history confirm that a showing of knowledge or motive on the agency’s part is not necessary. Rather, the statute and its broad remedial purpose—along with well-established precedent—show that adjudicators should consider all record evidence of causation in assessing whether an employee’s protected activity played a role in the resulting personnel action.

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 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). OSC also maintains telephonic and email hotlines to answer USERRA questions from service members and employers nationwide. Lastly, OSC reports its compliance with timeliness requirements for processing USERRA cases to Congress, and the Departments of Labor, Defense, and Justice on a quarterly basis.

Resource Estimates

During FY 2023, the USERRA program will have 1 FTE at a cost of approximately \$227,557. During FY 2022, we expect the USERRA program will have 1 FTE at a cost of \$212,164.

Goals and Results – USERRA Unit

TABLE 4 - Summary of USERRA Referral and Litigation Activity¹⁰					
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Pending referrals carried over from prior fiscal year	5	3	6	5	3
New referrals received from VETS during fiscal year	17	25	21	24	19
Referrals closed	19	22	22	26	17
Referrals closed with corrective action	3	2	2	3	0
Referrals closed with no corrective action	16	20	20	23	17
Referrals pending at end of fiscal year	3	6	5	3	5
Litigation cases carried over from prior fiscal year	0	0	1	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	1	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 prior Strategic Plan (FY 2017 – FY 2022), and Appendix D for the new Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix C and Appendix E of this document.

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 case resolutions:

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

- 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 "USAJOBS" website. After submitting multiple applications, he eventually received a tentative job offer as an ATC in early 2016, 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, four years after his original request. OSC and the agency are currently negotiating compensation for lost wages and benefits from 2015-2019.
- 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 re-employed at a lower-status job than the one he had prior to his departure, which was 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.
- A civilian contractor supporting the U.S. Department of Defense (DOD) left in May 2018 to perform Reserve duty. When he attempted to return to work in July 2018 after his service, DOD prevented him from doing so, asserting that he was no longer eligible for the position. While he eventually found another job, he was unemployed for several months. At OSC's request, DOD agreed to compensate the Reservist for his lost wages while he was unemployed.

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 2021, 39 cases were offered for mediation by OSC after referral to the ADR Unit. OSC completed 30 mediations, of which 16 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 2017	FY 2018	FY 2019	FY 2020	FY 2021
Cases Reviewed for Mediation	188	174	70	60	39
Mediations Offered	92	86	58	57	39
Mediations Conducted	65	39	39	40	30
Cases Withdrawn Before Mediation Completed	27	11	2	10	3
Completed Mediations	38	28	37	30	28
Completed Mediations Resulting in Settlement	31	21	24	23	16+1 case closed in ADR*
Percentage of Completed Mediations Resulting in Settlement	82%	75%	65%	77%	57%
Cases Resolved Without Need for Mediation	1	1	0	2	1
Carryover to Next FY – Mediations in Process	20	19	18	22	17
Carryover to Next FY – Cases in Review	11	2	4	1	2

**This means that after discussion in ADR the party withdrew his/her case*

Resource Estimates

During FY 2023, the ADR program will have 5 FTEs at a cost of approximately \$1,137,786. During FY 2022, we expect the ADR program will have 5 FTEs at a cost of \$1,031,554.

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 prior Strategic Plan (FY 2017 – FY 2022), and Appendix D for the new Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix

Notable FY 2021 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 program specialist, alleged that in retaliation for reporting that a proposed office reorganization was improper, their supervisors significantly changed Complainant's duties, lowered his/her performance appraisal, and issued a reprimand. The parties reached an agreement that included restoration of sick and annual leave, a payment to the complainant, attorney's fees, rescission of the letter of reprimand, modifying Complainant's performance evaluation, and the agency issued a letter to Complainant acknowledging Complainant's dedication and commitment to the agency's mission and values.
- Complainant alleged that in retaliation for filing EEO and OSC complaints, agency management created a hostile work environment and significantly changed his/her work duties. During the mediation process, the agency agreed to make changes to address the alleged hostile work environment. Subsequently, Complainant reported that the changes helped to foster a better working environment. Through mediation, the parties agreed to terms including a voluntary early retirement package and compensatory damages.
- Complainant, a Human Resources manager, alleged that after s/he disclosed hiring and classification violations to officials within and outside the agency, their supervisors lowered his/her performance appraisal, issued a letter of caution and reassigned them to substantially different duties. The parties discussed all their disputed issues in mediation and were able to reach a mutually agreeable solution that included a realignment for the Complainant's job, restoration of leave, and a monetary payment that Complainant could use for career-enhancing training.
- Complainant reported several alleged violations of law, rule or regulations to the Office of Inspector General and notified his/her supervisor of the disclosures. They 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.

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, in FY 2020, 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 subsequent 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. In FY 2021, BFS began to collect OSHA's outstanding debts. BFS has collected approximately \$8.5 million in outstanding debts to OSHA as of early February 2022.

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, in FY 2021, OSC referred to the Secretary of the VA allegations that employees' actions at the VA Salt Lake City Health Care System (VA Salt Lake; Salt Lake City, Utah) resulted in patients not being reimbursed for eligible services, and claims not being processed for patients. The agency investigated the allegations and determined that the VA Salt Lake personnel failed to identify and inform dual-eligible veterans about the impact of their benefit election on their costs, resulting in the VA Salt Lake losing approximately \$89,000 in revenue. As a result, the agency implemented several corrective measures to protect against issues like that occurring in the future.

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 2023, OSC's whistleblower disclosure program will use approximately 9 FTEs at a cost of \$1,979,748. During FY 2022, we estimate the program will require 9 FTEs at a cost of \$1,881,591.

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 from FY 2019 through FY 2021 decreased from prior year levels. However, these numbers were impacted by the unprecedented government shutdown in FY 2019, and the COVID-19 pandemic, which has greatly disrupted federal government operations since mid-FY 2020. OSC expects to receive disclosures at pre-pandemic levels in future years once operations return to normal. 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.

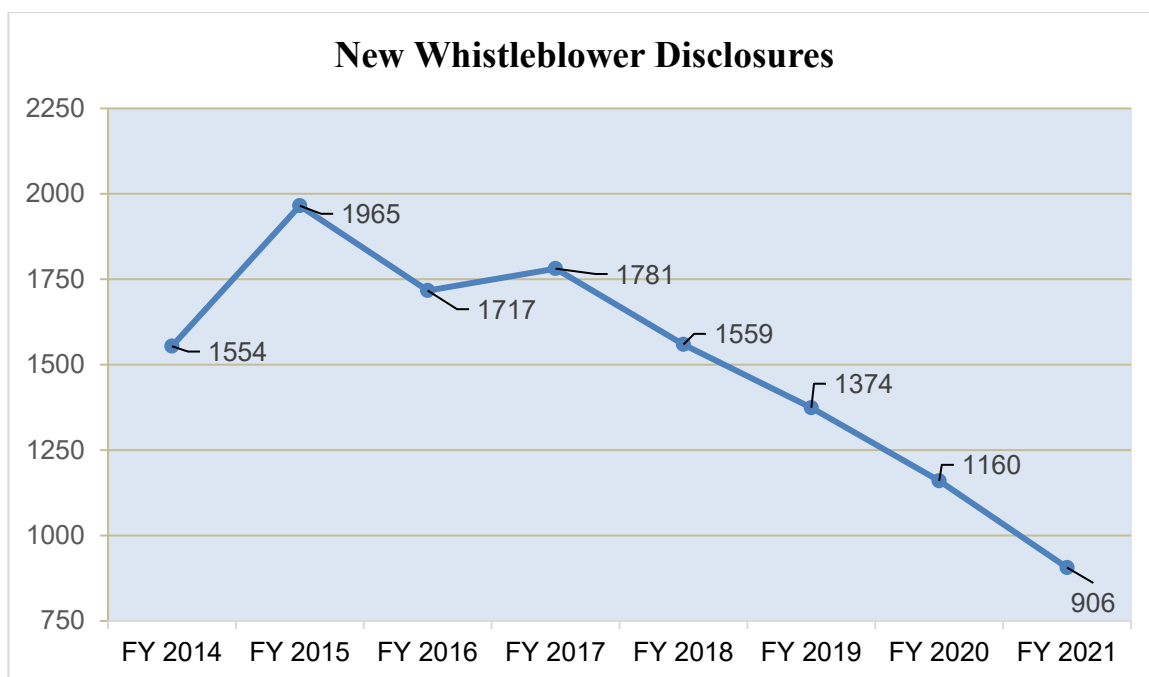


TABLE 7 - Summary of Whistleblower Disclosure Activity – Receipts and Dispositions¹¹

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Pending disclosures carried over from prior fiscal year	449	497	493	421	317	264
New disclosures received	1,717	1,781	1,559	1,374	1,160	906
Total disclosures	2,166	2,278	2,052	1,795	1,477	1,170
Disclosures referred to agency heads for investigation and report	40	59	139	73	81	65
Referrals to agency IGs	0	1	0	0	0	0
Agency head reports sent to President and Congress	78	66	41	64	89	76

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.

Results of agency investigations and reports	Disclosures substantiated in whole or in part	68	50	36	43	62	53
	Disclosures unsubstantiated	10	15	5	21	27	23
Disclosure processing times	Within 15 days	654	733				
	Over 15 days	1,015	1,056				
	Within 45 days ¹²			968	1,188	1,042	809
	Over 45 days			656	291	171	117
Percentage of disclosures processed within 15 days		39%	40%				
Percentage of disclosures processed within 45 days				59%	80%	86%	87%
Disclosures processed and closed		1,669	1,789	1,624	1,479	1,213	929

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 prior Strategic Plan (FY 2017 – FY 2022), and Appendix D for the new Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix C (Prior Strategic Plan) and Appendix E (New Strategic Plan) of this document.

Notable FY 2021 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 Department's Failure to Collect 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 and Labor's Occupational Safety and Health Administration (OSHA) failed to act on debts OSHA transferred to Treasury for collection. The Treasury and Labor investigations substantiated the allegations, determining that an uncorrected software error prevented Treasury from collecting approximately \$91.5 million in debts owed to OSHA. Treasury immediately corrected the software error, updated policies and procedures, and began collecting OSHA's outstanding debts. To date, Treasury has collected nearly \$8.5 million of the debts owed to OSHA.

Additionally, 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 will provide OSC with an additional report upon completion of its audit, which is expected in FY 2022. The audit will include a breakdown of the monetary value of any outstanding debts owed to the 12 additional agencies affected by the

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.

software error. The Special Counsel determined that the findings of the reports appeared reasonable, and the reports met all statutory requirements.

- **Violation of law, rule, or regulation, and substantial and specific danger to public safety**

Violation of Firearms Safety Protocols in Rapid-Response Drills. OSC transmitted to the President and relevant congressional oversight committees a report detailing allegations of wrongdoing at the Butler Healthcare Center Police Service (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 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 contained the information required by statute and the findings appeared reasonable.

- **Gross mismanagement**

Failure to Reimburse Veterans and Bill for Medical Services. OSC referred to the Secretary of Veterans Affairs (VA) allegations that employees at the VA Salt Lake City Health Care System (VA Salt Lake), Salt Lake City, Utah, engaged in conduct that may constitute a gross mismanagement. The whistleblower disclosed that patients were not reimbursed for eligible services and claims from as late as 2016 had yet to be processed, which resulted in patients not receiving reimbursement. The whistleblower further alleged that these issues were due to leadership's failure to train Health Administration Service (HAS) staff how to process claims for reimbursement.

The agency partially substantiated the allegations. The investigation found that patients were not reimbursed for some services because those services were not eligible for reimbursement. However, the investigation determined that VA Salt Lake personnel failed to identify and inform dual-eligible veterans about the impact of their benefit election on their costs. As a result, the investigation concluded that VA Salt Lake lost revenue on 127 unbilled Integrated Disability Evaluation System (IDES) and Line of Duty (LOD) encounters from as early as 2016, which totaled approximately \$89,000, as the agency failed to bill and collect for encounters.

The report did not substantiate that leadership failed to train HAS staff on how to process claims for reimbursement, but concluded that leadership failed to follow up and oversee TRICARE billing. As a result of the investigation, the agency implemented several corrective measures, including verifying that billers and accounts receivable personnel were trained on TRICARE benefits, and able to explain those benefits to dual-eligible veterans. The agency recommended that internal controls and performance standards for billers and accounts receivable staff be established and monitored, and that Fiscal Services document and convey performance expectations to personnel and require that managers regularly assess staff to ensure that they are

equipped to perform their duties. The Special Counsel determined that the report appeared reasonable and met all statutory requirements.

- **Violation of law, rule, or regulation; gross mismanagement; abuse of authority**

Failure to Inform Widowed Spouses of Options with Survivors Benefits Claims. In FY 2021, OSC alerted the President and the Congress that the Social Security Administration (SSA) developed a detailed plan to review and reimburse, where appropriate, over 20,000 widow(er) beneficiaries, after SSA failed to adequately inform them of their survivor benefit options. The corrective action resulted from a whistleblower disclosure to OSC that SSA failed to inform survivors that they could delay, or withdraw and resubmit, their benefits applications until they reached full retirement age (FRA), resulting in a significant loss to beneficiaries over their lifetimes.

Additionally, the SSA also plans to implement new training and control measures to ensure employees accurately inform widow(er) claimants of their options going forward.

In addition to these cases, OSC also referred allegations of the following in FY 2021: the failure to follow prescription drug policy at a VA Healthcare System leading to unsafe practices; mismanagement of a VA Medical Center Home Telehealth Program; failure to properly disinfect and clean a VA Medical Center emergency room; and the improper management of food inventory at a Federal Detention Center. 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 2020, OSC received 440 new Hatch Act complaints, and in FY 2021, OSC received 289 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 375 Hatch Act complaints in FY 2021 (*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 2021, OSC issued 1,043 total advisory opinions, including 28 formal written advisory opinions.

Resource Estimates

During FY 2023, the Hatch Act program will use approximately 6 FTEs at a cost of approximately \$1,365,344. During FY 2022, we estimate the cost of this program to be \$1,151,049 with 5 FTEs.

Outreach and Training

To further its advisory role, OSC is very active in training and outreach efforts. In FY 2021, OSC conducted 14 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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Formal written advisory opinion requests received		45	26	52	46	60	23
Formal written advisory opinions issued		43	24	46	52	56	28
Total advisory opinions issued ¹³		1,641	1,325	1,155	1,111	1,461	1,043
New complaints received ¹⁴		197	253	263	281	440	289
Complaints processed and closed		98	234	286	245	280	375
Warning letters issued		21	37	49	49	34	62
Corrective actions taken by cure letter recipients	Withdrawal from partisan races	4	6	5	4	2	4
	Resignation from covered employment	1	2	2	2	0	0

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

¹⁴ Includes cases that were reopened.

	Other	5	2	3	5	10	0
	Total	10	10	10	11	12	4
Disciplinary action complaints filed with MSPB		3	0	2	0	4	3
Disciplinary actions obtained (by negotiation or ordered by MSPB)		5	4	6	5	8	7
Complaints pending at end of fiscal year		139	156	133	168	323	236

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 prior Strategic Plan (FY 2017 – FY 2022), and Appendix D for the new Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix C (Prior Strategic Plan) and Appendix E (New Strategic Plan) of this document.

Notable FY 2021 Case Summaries

MSPB Litigation

- OSC filed a complaint charging a Federal Aviation Administration (FAA) employee with violating the Hatch Act's prohibitions against using one's official authority to affect the result of an election, engaging in political activity while on duty or in the federal workplace, and knowingly soliciting political contributions. OSC alleged that the employee approached subordinate employees while on duty and in the workplace to request that they make financial contributions to a union's political action committee (PAC). The individual knew that the subordinates had previously declined to make contributions to the union's PAC and approached them at work specifically to discuss their reluctance to do so. In a settlement agreement, the employee agreed to accept a 30-day unpaid suspension as disciplinary action for his Hatch Act violations.
- OSC filed a complaint against a U.S. Department of Housing and Urban Development (HUD) regional administrator, charging them with violating the Hatch Act's prohibition against using their official authority or influence to affect an election. OSC alleged that the employee leveraged one of the relationships they had made, in their official capacity, with a New York City Housing Authority (NYCHA) resident to recruit participants to film a video that would air at the Republican National Convention. In the video, the NYCHA residents explained how their standard of living had improved under the Trump administration. The employee left federal service after OSC filed the complaint. In a settlement agreement, the employee admitted that they engaged in conduct that violated the Hatch Act's use of official authority prohibition and agreed to accept a 48-month debarment from federal employment and pay a \$1,000 civil fine.
- OSC filed a complaint charging a U.S. Postal Service (USPS) employee with violating the Hatch Act's prohibitions against using their official authority or influence to affect an election and engaging in political activity while on duty and in the workplace when they intentionally discarded more than 60 pieces of political mail over the course of a single week in August 2020. The case is pending.

Cases Involving High-Level Presidential Appointees

- OSC investigated allegations that the Secretary of the U.S. Department of Agriculture (USDA) violated the Hatch Act by engaging in political activity in their official capacity and while on official travel. OSC found evidence that the Secretary made comments directed at the electoral success of a presidential candidate during an official USDA event and concluded that they needed to reimburse the Treasury for the costs of that political activity.
- On February 12, 2021, OSC transmitted a report to President Joseph R. Biden finding that a former U.S. Ambassador to the Kingdom of Denmark, violated the Hatch Act on several occasions when she used her official Twitter account to engage in political activity, including by soliciting political contributions.
- OSC investigated allegations that numerous high-level White House and cabinet appointees violated the Hatch Act during the 2020 presidential election. Many of the alleged violations occurred when officials engaged in political activity during official media appearances, and some occurred during the Republican National Convention. Those cases are still pending.

Disciplinary Action Obtained through Settlement Negotiations

- 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 solicitation that the employee admitted to personally posting. 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.
- OSC settled a case against a National Institutes of Health employee who, while at work and despite have significant knowledge of the Hatch Act, made multiple Facebook and Twitter postings over a period of several months that were directed at the success or failure of candidates and political parties. The partisan political social media posts violated the Hatch Act's prohibition against engaging in political activity while in a federal room or building, and the employee agreed to a 30-day suspension without pay as disciplinary action for their violations.
- OSC settled a case against a USDA employee who, while on duty, posted numerous partisan political messages to their personal Facebook account expressing opposition towards presidential candidates and a political party. The employee had knowledge of the Hatch Act and knew their conduct violated the law. They had also previously been disciplined twice for posting on social media while on duty. In a settlement agreement, the employee agreed to serve a 30-day unpaid suspension.

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 2021, 100 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 207 training presentations in FY 2020, and 178 presentations in FY 2021. One hundred fifteen (115) of these FY 2021 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 an almost entirely virtual environment. OSC maintained a rigorous training schedule because of the switch to virtual trainings. As a result, OSC successfully exceeded its training target in both FY 2020 and FY 2021.

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 prior Strategic Plan (FY 2017 – FY 2022), and Appendix D for the new Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix C (Prior Strategic Plan) and Appendix E (New Strategic Plan) of this document.

Resource Estimates

During FY 2023, we estimate the Outreach and Education program will use nearly 2 FTE at a cost of \$382,296. During FY 2022, we estimate the program will use 2 FTE at a cost of \$356,435.

PART 4 – ENHANCEMENT OF OPERATIONS

Strategic Management of Human Capital

OSC's human capital strategy is aligned and integrated with the strategic plan and in support of the agency's mission, goals, and organizational objectives. It contributes to the organizational performance and supports

government-wide workforce priorities consistent with human capital guidance from the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB). The human capital goals are designed to support continuous improvement and accountability, in accordance with the Human Capital Framework as addressed below.

OSC's key human capital initiatives are focused on talent management, promoting a performance-based culture, and improving human capital systems. These initiatives are designed to facilitate a high-performing culture, maximize employee performance, and increase organizational effectiveness while ensuring a merit-based human capital program.

Talent Management

Human capital is OSC's greatest resource and the ability to attract, hire, and retain diverse, talented employees is paramount to achieving agency goals and meeting organizational needs. COVID-19 significantly transformed the workplace and highlighted the importance of an agile workforce. These priorities prompted a workforce analysis, shaping the talent management strategy and workforce plan focused on a professional, highly competent, and diverse workforce. This holistic review of the workforce identified skills gaps and future staffing requirements, and helped create a recruitment strategy. Key elements of the recruitment strategy include expanding outreach activities to attract diverse candidates by communicating opportunities to college students, leveraging communities of practices, and utilizing social media platforms.

OSC understands that not only is promoting a collaborative and flexible workplace necessary for meeting human capital goals and employee engagement, but also that employee satisfaction and wellness are pivotal aspects of our workforce plan. For example, priority areas include sustaining work-life programs to recruit and retain high quality candidates, promoting employee engagement and productivity, and maximizing workforce retention. OSC recognizes the importance of balancing professional and personnel responsibilities, and supports the use of work-life flexibilities. OSC has a robust telework program and 100% of the workforce are designated as eligible to participate. In accordance with OPM's 2021 Guide to Telework and Remote Work in the Federal Government, OSC expanded the telework program to include the use of remote work as a recruitment and retention tool. OSC also encourages the use of alternate work schedules and allows flexibility for dependent care, physical fitness, and wellness activities.

OSC's workforce model is designed for professional development and career growth, as most positions are established with a career ladder. In support of this model, opportunities for cross-training, developmental assignments, details, seminars, and training are available. Additionally, employees are afforded mentorship opportunities with agency executive leadership.

Improving Human Capital Systems

OSC conducted a comprehensive evaluation of the human capital program to assess program execution, service delivery standards, and organizational effectiveness. For example, OSC determined that interagency partnerships and human resources information technology systems are integral to the effectiveness of human capital operation and processes. OSC believes that transitioning to a better integrated, more responsive, and efficient HR service model and processing center would elevate the human capital program. OSC has increased the effectiveness of its personnel security program by leveraging information security systems and Shared Service Providers, which streamlined the execution of OSC's investigation, suitability, and credentialing program. This process has

reduced the time to conduct pre-employment security requirement, and shortened the timeframe to on-board new employees.

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 U.S. Department of Interior's Interior Business Center to perform budget accounting, budget execution, accounting, travel management, procurement, and procurement system hosting services for OSC. In FY 2020, OSC moved to the SmartPay3 charge card program, utilizing the General Services Administration (GSA)'s shared pool vehicle to save costs and reduce administrative burden. Also, in FY 2021, 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 new functions to, or increase the current level of services provided by, shared service providers.

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 provide efficiencies and save additional costs. The analysis will include all areas of administrative support, human resources operations (including payroll processing services), and IT services, as well as other operations that may be appropriate. OSC previously used interagency agreements with the U.S. Department of Interior and the U.S. 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 and security of its IT programs to support the agency's mission, and the service it provides to the public. The agency has

made significant progress in modernizing and securing its technological systems. We will continue to fund those efforts and make new investments to optimize processes for case management, cybersecurity, data and reporting, electronic filing, records management, and internal processes and procedures.

Modernizing Public-Facing Websites, Digital Services, and Records Management

Electronic Case Management System (eCMS)

OSC continues to enhance eCMS, which utilizes FedRAMP-approved cloud technology. To meet the OMB Memorandum M-19-21, OSC implemented a document management tab within eCMS to store case records with the case data in electronic format. This capability streamlines work products for attorneys and helps manage electronic records in a consistent manner. As files continue to be stored in electronic format, the need for additional storage continues to grow. The eCMS system has modernized OSC with an online, cloud-based system that allowed the agency to go paperless, updating and improving the processes for filing, managing, and reviewing complaints, as well as streamlining OSC's records management responsibilities once a case is complete.

Electronic Filing of Complaints – OSC Form 14

OSC released a new Complaint and Disclosure Form (OSC Form-14) in 2019, which streamlines the gathering of information for complaints. This fillable PDF form allows complainants to file with OSC without having to log-in to a system. OSC received comments and concerns on the use of this form and is currently looking to move to an online filing portal. This would require the filer to create an account, however, OSC is looking to use Login.gov as a shared service to streamline the process. The new, online filing portal would allow filers to complete the form via a web browser and monitor the status of their case filing, providing the filer a more modern capability.

OSC.gov Website

OSC launched a new website in 2019. Though the website is a modern site, OSC is looking to transition away from an internal webhosting platform to using cloud.gov Pages. This was previously called Federalist, and is a GSA shared service. Moving to cloud.gov Pages will allow OSC to reduce the management of servers dedicated to hosting the current website, provide cost savings, and allow for a Federally-compliant site from the start.

Cybersecurity Enhancements

OSC continues to mature priority capabilities within the network. Last year OSC deployed Endpoint Detection tools, enhanced IT logging, and implemented encryption across all devices (servers, laptops, and mobile devices). OSC continues to work with DHS CDM Defend-F program in enhancing OSC's network security.

OSC completed the first phase in implementing a new cloud-based VPN solution and will continue to build in additional security enhancements in FY 2023. OSC is well on its way in implementing Zero-Trust Architecture.

IT Goals for FY 2022-2023:

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 Action Plan.
2. Reduce the impact of cybersecurity risks by safeguarding IT systems, sensitive data, and networks by implementing cutting-edge cybersecurity capabilities.
 - Security Operations Center as a Service.
 - Data Categorization and Data labeling.
 - Identity Governance.
 3. Continue working with DHS to implement CDM Defend-F program.
 - Endpoint Detection and Response (EDR) Capability.
 4. Per OMB Memorandum M-21-07, Federal agencies are required 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.
 5. Move OSC.gov website to GSA shared service (cloud.gov Pages).
 6. Replace legacy help desk ticketing software to a Customer Relationship Management (CRM) platform.
 7. Maintain IT hardware using industry lifecycles. In FY 2023, OSC will look to replace current network edge appliances.
 8. 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.

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. The COOP plan ensures 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 have been 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:
PRIOR 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 F.

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, Prior Strategic Plan (FY 2017-2022)

Goal Table 1A: Goals 1-14

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

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target		FY 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	Met	
2	Number of PPP complaints received	Data-point	4,112	Data-point	3,824	Data-point	2,829	Data-point	2,304	Data-point	
3	Number of whistleblower retaliation complaints received	Data-point	1,861	Data-point	1,925	Data-point	2,073	Data-point	1,675	Data-point	
4	Number of whistleblower retaliation complaints closed within 240 days	Baseline	1,667	Baseline	1,917	Baseline	1,773	Baseline	1,371	Data-point	
5	Average age of PPP complaints at closure	Baseline	166	Baseline	142.97	Baseline	166.79	Baseline	177.01	Baseline	
6	Number of PPP complaints filed with MSPB	1	1	1	0	1	0	1	0	1	
7	Number of successful PPP prosecutions before MSPB	1	0	1	0	1	0	1	0	1	
8	Number of PPP complaints mediated	33	29	33	37	33	30	33	29	30	
9	Number of PPP complaints mediated resulting in settlement	20	22	20	24	20	23	20	17 ⁹	20	
10	Number of informal stays obtained	25	47	25	29	25	53	25	38	25	
11	Number of formal stays and related extensions obtained	4	12	8	2	8	0	0	0	0	
12	Total favorable PPP actions ¹²	206	309	206	211	275	398	206	393	215	
13	Number of systemic corrective actions obtained	30	57	32	60	32	72	45	83	45	

14	Number of disciplinary actions obtained	15	19	15	27	15	13	15	33	15	
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Goal Table 1A Explanatory Notes

⁹: One case was closed in the ADR unit, meaning that after discussion with ADR, the respective party withdrew his/her case.

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 five out of six goals in FY 2021. 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	289	Data-point	
16	Percent of Hatch Act complaints closed within 240 days	Baseline	65%	Baseline	75%	60%	83%	65%	75%	65%	
17	Number of Hatch Act complaints filed with MSPB	1	3	1	0	1	4	1	3	1	
18	Percent of successful Hatch Act prosecutions before MSPB	100%	100%	100%	N/A	100%	100%	100%	100%	100%	
19	Number of Hatch Act warning letters issued	20	49	22	49	25	34	25	62	25	
20	Number of corrective actions obtained	10	10	10	11	10	11	10	4	10	
21	Number of disciplinary actions obtained	5	6	5	5	5	8	5	7	5	

B. Goal Table 1C details the data points and performance metrics for OSC’s work investigating, litigating, and resolving USERRA complaints. During FY 2021, OSC met two out of three metrics. OSC completed 88 percent of USERRA legal reviews within 60 days and obtained zero 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	19	25	
23	Number of USERRA merit referrals	Data-point	4	Data-point	6	Data-point	3	Data-point	4	5	
24	Number of USERRA non-merit referrals	Data-point	21	Data-point	15	Data-point	21	Data-point	15	20	
25	Percent of USERRA referrals closed within 60 days	80%	86%	75%	83%	80%	87%	80%	88%	80%	
26	Number of USERRA offers of representation before MSPB	1	1	1	0	1	0	1	1	1	
27	Number of USERRA corrective actions obtained (formally and informally)	3	3	3	3	3	3	3	0	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 two out of three goals in FY 2021.

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	2	2	2	2	2	4	2	2	2	

	published on website										
29	Number of amicus curiae briefs and interventions filed	2	5	2	2	2	2	2	1	2	
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4	10	4	15	4	10	8	24	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 2021, 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%	99%	98%	
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%	99.9%	95%	87%	98%	97%	95%	100%	95%	
33	Number /percent of formal written advisory opinions issued	Baseline	89%	Baseline	83%	75%	85%	75%	64%	75%	

	within 60 days of inquiry										
34	Revised Hatch Act regulations by FY 2018	Met	Partially Met	Met	Partially Met	Met	Partially Met	Met	Partially 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 2021.

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	140	
36	Number of agencies/components registered for the 2302(c) Certification Program	Baseline	21	20	33	15	24	15	15	15	
37	Number of agencies/components certified and recertified for the 2302(c) Certification Program	Baseline	23	20	24	15	26 ³⁷	15	19	10	
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	11 months	10 months	
39	Number of training and outreach activities, broken down by program area and geographic location	Baseline	198	150	188	165	207	165	178 ³⁹	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	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 and FY 2022, 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 continue implementing a significant transformation to meet the needs of this virtual environment and transition all OSC training to virtual training.

Program Area	Total	Outside Beltway*
PPP**	115	1
HA	14	1
DU***	45	0
USERRA	3	0
ADR	1	0

* Almost the entire year of training was conducted virtually. Thus, most 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 2021. OSC issued a total of 23 press releases in FY 2021.

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	23	30	
42	Types and frequency of digital media used to share information	275	211	275	221	275	327	275	363	250	
43	Number of meetings with stakeholders	4	52	10	56	10	54	30	49 ⁴³	30	

	lder groups										
44	Propos al for the establis hment of a regularl y-held confere nce on whistle blowin g in the federal workpl ace by FY 2017, and reasses s regularl y	Met	Met	Met	Met	Met	Met	Met	Met	Met	

Goal Table 5 Explanatory Notes

⁴³: In FY 2021, OSC had 49 meetings with stakeholder groups, including the following:

- 10 meetings for general OSC outreach
- 24 meetings with congressional staff and representatives
- 7 meetings with agency officials, including secretaries and general counsels
- 8 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 2021, OSC received 906 new whistleblower disclosures. OSC met three out of three goals in FY 2021.

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	Met	
46	Number of whistleblower disclosures received	Data-point	1,554	Data-point	1,374	Data-point	1,160	Data-point	906	Data-point	
47	Number of whistleblower disclosures that also allege related retaliation	Data-point	492	Data-point	N/A ⁴⁷	Data-point	330	Data-point	285	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	65 formal/ 43 informal	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	Met	

Goal Table 6 Explanatory Notes

⁴⁵: New electronic form was implemented in FY 2019.

⁴⁷: As noted at the beginning of the Performance Section, because of the implementation of OSC's new electronic case management system (eCMS) in the 4th quarter of FY 2019, some data cannot be reported on at this time. OSC is working diligently to solidify its eCMS reporting capability and will report on this data at the next available opportunity.

- A.** **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 2021.

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	70% formal/62% informal	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	Baseline	20 disciplinary / 94 corrective ⁵¹	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	101 days	Baseline	
53	Implementation of measurement to capture scope of benefits to government resulting from outcomes of	Met	Met	Met	Met	Met	Met	Met	Met	Met	

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

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 2021 Formal referrals with disciplinary action – 17
FY 2021 Informal referrals with disciplinary action – 3
FY 2021 Formal referrals with corrective action – 60
FY 2021 Informal referrals with corrective action – 34

- 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 2021.

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	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	50	40	

56	Number of training and outreach events that address whistleblower disclosures	Baseline	105	90	158	95	109	95	115	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	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 mission 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. In addition, OSC hosts a “Wellness Wednesdays” series of ongoing meetings that help employees by addressing various topics regarding mental health and physical well-being.

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

- A. Goal Table 9** tacks the first objective under Strategic Goal 3 and details OSC's efforts to achieve organizational excellence by recruiting, developing, and retaining a highly talented, engaged, and diverse workforce. For Goal Table 9, OSC met eight out of eight goals in FY 2021.

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	Met	
59	Honors Program by FY 2017 and reassess regularly	Met	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	Met	
61	Staff training plan by FY 2017, and reassess regularly	Met	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	Met	
63	Ongoing internal cross-training opportunities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met	Met	Met	
64	Ongoing employee engagement efforts, and reassess regularly	Met	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	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 six out of six goals in FY 2021.

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	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	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	Met	
69	Ongoing semi-annual assessment of IT needs, and reassess regularly	Met	Met	Met	Met	Met	Met	Met	Met	Met	
70	Ongoing semi-annual assessment of the effectiveness	Met	Met	Met	Met	Met	Met	Met	Met	Met	

	of IT services, and reassess regularly										
71	Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly	Met	Not Met	Met	Not Met ⁷¹	Met	Partially Met ⁷¹	Met	Met	Met	

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 FTEs. 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 2021.

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	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	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	Met	

75	Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met ⁷⁵	Met	Met	Met	
76	Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly	Met	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.

STRATEGIC PLAN (FY 2022-2026)



28 March 2022

U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036-4505

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Message from the Special Counsel



It is my pleasure to present the U.S. Office of Special Counsel's (OSC) Strategic Plan for Fiscal Years 2022-2026. This plan builds on our proven strategies for carrying out OSC's statutory mandate while being responsible stewards of our appropriated funds. The recently implemented streamlining of our internal processes and reorganization of our programmatic units have benefitted OSC, our stakeholders, and American taxpayers over the last several years. This strategic plan lays out a carefully considered roadmap for continued success.

Guided by our mission to safeguard the merit system and hold the government accountable, OSC is an independent federal

agency that protects the rights of roughly 2.1 million federal employees, including service members' employment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). OSC provides a safe channel for federal employees to make disclosures of agency wrongdoing and, importantly, protects them from retaliation once they speak up. Through enforcement of the Hatch Act, OSC is also charged with preventing partisan politics from compromising the integrity of the merit civil service system.

As a small federal investigative and civil prosecutorial agency with government-wide jurisdiction, OSC consistently provides outsized returns for the federal government and achieves exceptional results for complainants. We do this with an emphasis on old-style customer service and an intentional and determined focus on the strategies, goals, and metrics identified in our strategic plan. In short, we are clear about our purpose and our vision for achieving excellence in fulfilling it. Our results reflect that dedication to mission. In turn, we strengthen the federal merit system.

This new strategic plan continues OSC's efforts to achieve organizational excellence and to efficiently allocate our precious resources. Since the release of the previous plan, OSC has combined two units with overlapping responsibilities into one, so that a single attorney generally handles each prohibited personnel practice (PPP) case from the start of the investigation through closure of the case, allowing OSC to process PPP complaints more efficiently. In the new strategic plan, our goals are clear: to build on the efficiencies we have recently achieved, while maintaining an agile, well-functioning organization.

The COVID-19 pandemic has introduced historic challenges for all Americans. The federal workforce, including at OSC, is no different. Nonetheless, OSC has achieved unparalleled success in obtaining favorable outcomes for whistleblowers and other complainants. Our core values – Commitment; Excellence; Independence; Integrity; Vigilance – guide us in meeting these challenges. As we move forward, this new strategic plan sets our course. We are committed to fostering a model workplace with respect for employees and stakeholders and acting fairly, without bias, to honor and uphold the merit system.

With this new strategic plan, OSC is prepared to build on past successes and meet future challenges. Our dedicated staff is located nationwide and, because of the continued COVID-19 pandemic, currently comprises an almost completely remote workforce. This plan equips our staff with a long-term template for success in a challenging and dynamic environment. Together, we look forward to continuing to achieve excellent results for our stakeholders, whistleblowers, and the American people.

A handwritten signature in black ink, appearing to read "Kay J. H." with a stylized flourish at the end.

Introduction

The U.S. Office of Special Counsel vigorously enforces its mandates 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.

As an agency with a relatively modest budget and a critical mission, OSC has been strategic in effectively and efficiently addressing our workload. OSC has met these challenges, achieving a record number of positive results in recent years. In FY 2020, for example, OSC achieved 405 favorable outcomes for federal employees subjected to retaliation and other prohibited personnel practices (PPPs)—an agency record and roughly 32% higher than its average success rate in the previous five years. During the same time period, OSC’s work resulted in 61 substantiated instances of wrongdoing disclosed by whistleblowers, and the identification of millions of dollars of uncollected debts owed to the federal government. OSC also issued more than 1,400 Hatch Act advisory opinions and obtained favorable outcomes for several service members who brought claims under USERRA.

In addition, OSC has provided education and outreach to the federal community with the goal of preventing and deterring violations of civil-service laws. OSC has also published reports of its investigative findings (in redacted format) when doing so may serve an educational purpose and has filed *amicus curiae* briefs aimed at clarifying whistleblower protections. Equally important, OSC has improved communication with its federal stakeholders—both 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 2017, Congress passed the Dr. Chris Kirkpatrick Whistleblower Protection Act, which created a new PPP for the improper accessing of medical records and required agencies to notify OSC if an employee committed suicide after potentially being subjected to whistleblower retaliation. This law also required agencies to train their supervisors on how to handle complaints of whistleblower retaliation and mandated disciplinary action for supervisors who have violated certain provisions. That same year, Congress passed the OSC Reauthorization Act, which significantly clarified that agencies may not withhold information during OSC investigations by asserting common law privileges. The legislation also promoted greater efficiency and accountability within OSC, improved protections against retaliatory investigations and other forms of whistleblower retaliation, and required managers across the federal government to respond appropriately to disclosures of fraud, waste, and abuse.

While OSC’s recent achievements are significant, broad challenges remain and new ones continue to develop. By building on the successes already attained 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 Whistleblower Protection Enhancement Act (WPEA); the Hatch Act; and USERRA.

OSC's roots lie in the reform efforts of Gilded Age America. In 1883, Congress enacted the Pendleton Act creating the Civil Service Commission, which was intended to help ensure a stable, qualified federal workforce free from partisan political pressure. Nearly a century later, amidst 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 reforms to 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 the OSC Reauthorization Act, significantly strengthened the agency's enforcement responsibilities by, for example, clarifying OSC's access to privileged agency materials during its investigations and permitting OSC to file amicus curiae briefs in whistleblower retaliation cases in the federal courts of appeals.

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 employment rights of federal employees who are service members; 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 that are designed to ensure that personnel decisions are made based on merit. PPPs are banned employment-related actions that violate the merit system through employment discrimination, retaliation, improper hiring practices or failure to adhere to the laws, rules, or regulations directly concerning merit system principles. OSC has the authority to investigate and prosecute violations of the 14 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, substantial and specific dangers to public health and safety, and censorship related to scientific research. Through its oversight of government investigations of whistleblower disclosures, OSC regularly reins in waste, fraud,

abuse, illegality, and threats to public health and safety that pose the risk of both catastrophic harm to the public, and large liability costs to the government.

Hatch Act

The Hatch Act, passed in 1939, restricts certain political activities of federal employees, as well as some District of Columbia, state, and local government employees who work in connection with federally funded programs. The law was intended to protect federal employees from political coercion, ensure federal employees are advanced based on merit rather than political affiliation, and make certain federal programs are administered in a nonpartisan fashion. OSC has the authority to investigate and prosecute violations and issue advisory opinions under the Hatch Act.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA, passed in 1994, protects military service members and veterans from employment discrimination because of 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 by the Department of Labor.

Organizational Structure

OSC is headquartered in Washington, D.C. It continues to have a significant staffing presence 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 policymaking and overall management of OSC. This responsibility encompasses supervision of the agency's congressional liaison and public affairs activities.
- Case Review Division (CRD). This division serves as the initial intake point for all PPP and disclosure allegations. CRD screens all new allegations to ensure that PPPs and disclosures are directed to the appropriate OSC component. CRD also closes allegations that are duplicative, filed with MSPB, outside of OSC's jurisdiction, or untimely.
- Investigation and Prosecution Division (IPD). This division is comprised of the headquarters office and three virtual field offices, and is primarily responsible for investigating, prosecuting, and otherwise resolving 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 between the agency and complainant, IPD may bring an enforcement action before the MSPB.
- 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 the responsible congressional oversight committees.
- Retaliation and Disclosure Unit (RDU). This unit handles hybrid cases where a complainant alleges both whistleblower disclosures and retaliation. RDU performs the full range of action in these cases, including

the referral of whistleblower disclosures to agencies and the investigation and prosecution of related retaliation claims, where appropriate.

- Hatch Act Unit (HAU). 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 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.
- Diversity, Outreach, and Training Unit. This unit manages OSC's 2302(c) certification program, including assisting agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c). The unit also provides external education and outreach sessions regarding the laws that OSC enforces. Additionally, the Chief of this unit serves as the Equal Employment Opportunity (EEO) Director, who reports directly to the Special Counsel on the health and effectiveness of OSC's EEO program. The unit answers questions, handles complaints, and ensures access to Equal Employment Opportunity and Anti-Harassment policies and materials.
- Office of General Counsel. This office provides legal advice regarding management, policy, and administrative matters, including ethics programs. This office also defends OSC's interests in litigation filed against the agency.
- Operations Division. This division manages OSC's budget and financial operations, and meets the technical, analytical, records, and administrative needs of the agency. Component units include the Budget and Finance Office, the Human Capital Office, the Administrative Services Office, the Information Technology Office (ITO), and the Office of the Clerk. Functional areas under the Office of the Clerk include the Freedom of Information Act (FOIA), Privacy Act, Controlled Unclassified Information, and records management. Procurement operations as well as travel are included under the Budget and Finance Office. The Information Technology Office maintains the electronic case management system (eCMS) used to process OSC cases, store case-related documents, and generate reporting metrics. In addition, ITO is responsible for the maintenance and compliance of all modern technology platforms used by the agency.

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

Strategic Planning Process

Congress requires Executive Branch agencies to develop and post updated four-year strategic plans on their public websites on an overall timeline that aligns to presidential terms. The strategic planning process offers an opportunity for agencies to reflect on their statutory mission and mandates, reassess prior goals and objectives, and identify new goals and objectives that will enable agencies to fulfill their mission and vision. This process—and the resulting strategic plans—also serves to notify Congress and stakeholders of major factors that may affect agencies' abilities to meet their statutory obligations.

In 2016 OSC undertook a comprehensive process to develop the agency's FY 2017- FY 2022 Strategic plan. With input from employees, congressional oversight and appropriations committee parties, the Office of Management and Budget (OMB), and other stakeholders, the plan was completed. OSC feels the outcomes and results of the plan were successful by all measures - record results were achieved in all program areas during the intervening years, and metrics in the plan were met with an overall average of 82% success rate, with an increased success rate nearly every successive year. Thus, the plan successfully guided agency efforts and resources.

In 2021, OSC reviewed its programs and services and reassessed its strategic goals, objectives, strategies, and metrics. After making appropriate revisions and adjustments, OSC presented an updated strategic plan to OMB, staff from the agency's congressional oversight and appropriations committees, and stakeholders. We believe this plan--more of a refinement than an overhaul--will build on the success of the previous plan. On March 28, 2022, the Special Counsel approved OSC's final strategic plan.

Mission, Vision, Strategic Goals, and Core Values

Mission: *Safeguarding employee rights, holding the government accountable.*

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

Strategic Goals:

1. *Protect and promote the integrity and fairness of the federal workplace.*
2. *Ensure government accountability.*
3. *Achieve organizational excellence.*

OSC's Mission states: "Safeguarding Employee Rights, Holding the 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, encompasses 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 a 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 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.

Each year, OSC receives thousands of complaints, particularly from federal employees alleging whistleblower retaliation. To effectively remedy wrongs and hold agencies accountable, OSC applies 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 to better serve its stakeholders.

Strategies:

- Handle cases in a fair and unbiased manner.
- Maximize effective use of ADR and other resolution methods in cases.

Metrics:

PPP Enforcement

- Percent of complaints closed within 240 days.
- Number of complaints mediated.
- Number of complaints mediated resulting in settlement.
- Number of formal stays obtained.
- Number of informal stays obtained.
- Number of individual corrective actions obtained.
- Number of systemic corrective actions obtained.
- Number of disciplinary actions obtained.
- Number of cases filed with MSPB
- Number of total favorable actions obtained (i.e., formal stay, informal stay, individual corrective action, systemic corrective action, and disciplinary action).

Hatch Act Enforcement

- Percent of cases closed within 240 days.
- Number of cases filed with MSPB.
- Percent of successful prosecutions before MSPB
- Number of warning letters issued.
- Number of corrective actions obtained.
- Number of disciplinary actions obtained.
- Number of total favorable actions obtained (i.e., corrective action and disciplinary action).

USERRA Enforcement

- Percent of referrals closed within 60 days.
- 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 disciplinary action for PPPs, Hatch Act violations, 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 to 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 PPP reports that serve educational purposes, as appropriate.
- Furnish expert technical assistance to aid governmental bodies with formulating policy and precedent.

Metrics:

- Number of PPP reports published on website.
- Number of *amicus curiae* briefs and interventions filed.

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, District of Columbia, 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 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.

Metrics:

- Percent of informal telephonic advisory opinions issued within 3 days of inquiry.
- Percent of informal email advisory opinions issued within 5 days of inquiry.
- Percent of formal written advisory opinions issued within 60 days of inquiry.

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, USERRA, and ADR through its training and outreach programs. Since 2002, OSC has had a voluntary program to ensure compliance with 5 U.S.C. § 2302(c), which requires federal agencies to inform employees about their rights and remedies under whistleblower protection and related laws and prevent violations of PPPs. 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, D.C. area have received OSC training and certification, OSC will continue 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.

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.
- Continue to certify and recertify more agencies/components through the 2302(c) Certification Program.

Metrics:

- Number of agencies/components certified and recertified for the 2302(c) Certification Program.
- Number of trainings conducted.

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, including retaliation. 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 platforms as appropriate (e.g., website, social media).
- Use available analytics to assess effectiveness of communications.

Metrics:

- Number of press releases issued.
- Types and frequency of digital platforms used to share information.
- Types and frequency of website views and activity on digital platforms.

Strategic Goal #2 – Ensure government accountability.

Objective #1: Provide employees with an effective, efficient, and 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, threats to public health or safety, or censorship related to research, analysis, or technical information. To ensure that this safe channel remains effective in promoting change and accountability, OSC developed a 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, and may be downloaded and completed privately. It may be submitted electronically and immediately routed and processed. The user need not establish an account. OSC will work vigorously to review and assess the whistleblower reporting experience to ensure that OSC can better ensure government accountability by providing a safe channel for whistleblowers and their disclosures.

Strategies:

- Continue to use improved, dynamic form to better receive and process whistleblower disclosures and other allegations, such as whistleblower retaliation.
- Ensure timely and appropriate referrals of whistleblower disclosures to agencies for investigation.

Metrics:

- Number of referrals of whistleblower disclosures to agencies for investigation.
- Percent of referrals of whistleblower disclosures to agencies for investigation made within 45 days.

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, and in coordination with whistleblowers, 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, resolves serious health and safety threats, and evaluates claims of censorship related to scientific research. A key objective is to improve the timeliness and outcomes of agency reports. OSC will continue to coordinate with whistleblowers toward this objective. OSC will also continue to improve communication with other agencies concerning their statutorily mandated reports, including their content and timeliness.

Strategies:

- Ensure effective agency investigations by engaging agencies when OSC refers the whistleblower disclosures.
- Maintain communications with agencies before, during, and after agencies' investigations of referred whistleblower disclosures, as appropriate.
- Monitor whistleblower disclosures and referrals to agencies to identify trends or systemic challenges.

Metrics:

- Number of favorable outcomes—both corrective and disciplinary actions—achieved through referrals of whistleblower disclosures.
- Number of days between date of receiving whistleblower's comments on agency investigation report (or any update to report) and date of communication to President and Congress.

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, recognition of strong performance, and other initiatives that will keep employees engaged and equip them to achieve the mission.

Strategies:

- Maintain a current Human Capital Plan that includes effective recruitment, staffing, and retention strategies for attracting, developing, and keeping talent from diverse sources.
- Facilitate training and professional development opportunities to ensure that the agency remains agile and responsive to changing organizational needs.
- Support and evaluate various employee engagement efforts based on Federal Employee Viewpoint Survey results and other methods to capture employee feedback, including consistent communication, constructive mentorship, and effective recognition of staff performance.
- Evaluate a number of internal programs, including the EEO program.
- Continue to emphasize work/life balance and other related benefits.

Metrics:

- Develop and maintain up-to-date Human Capital Plan and reassess regularly.
- Develop Individual Development Plans in support of professional development across the workforce consistent with annual training budget allocation.
- Investigate different approaches to measure employee feedback on the effectiveness of OSC's internal programs such as IT, HR, facilities, training, and EEO.

Objective #2: Improve the use of existing technology and deploy new Information Technology (IT) systems to enhance organizational operations.

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge IT 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:

- Engage with agency staff and Federal partners to assess and implement the technology requirements to support the agency mission and strategic goals.
- Implement data governance and management of OSC data.
- Recruit and retain highly skilled IT staff.
- Meet the Federal strategic goals as outlined in Cybersecurity Executive Order 14028 – Improving the Nation's Cybersecurity.
- Continue modernizing OSC's legacy enterprise architecture with a focus on full cloud enterprise architecture.

- Maintain IT hardware using industry lifecycles to include endpoints (computer), network edge appliances, and core network infrastructure.

Metrics:

- Periodic assessment and reassessment of agency technology requirements.
- Deploy enhancements and reporting capabilities of the current electronic case management system, annually.
- Develop and deploy phased approach for adopting zero-trust network security framework.
- Develop and implement plan to reduce uncategorized data and labeling.
- Ensure that IT staffing remains at 5% of the agency's workforce.

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

While OSC is a small agency, it receives complaints from throughout the federal government, handles cases from all over the country, and derives its authority from several different federal statutes. OSC will regularly conduct informal evaluations of its programs and processes to ensure that it is using effective and efficient approaches for safeguarding employee rights and holding the government accountable. Evaluations will seek to identify best practices and areas of improvement. This vigilant effort of continual introspection and review will help OSC achieve greater efficiencies and customer service in the agency's programs and processes. In addition, OSC will give federal employees a meaningful opportunity to provide input into shaping its work through its annual customer satisfaction survey.

Strategies:

- Identify and implement best practices and address areas of improvement identified in informal evaluations of programs and processes.
- Continue to improve methods for determining customer satisfaction with programs and processes and evaluate data to improve efficiency and effectiveness.

Metrics:

- Hold monthly or regular meetings to evaluate programs and processes and implement any learned best practices.
- Continue to issue and review results of annual survey regarding customer satisfaction with programs and processes and assess potential changes to programs and processes based on customer feedback.

Factors Affecting Achievement of Strategic Plan

While OSC is committed to achieving its mission and vision, there are several internal and external factors that will likely affect the agency's ability to achieve the goals set forth in this Strategic Plan. The primary issues of concern revolve around budget uncertainty and significant technological challenges—amplified by the recent pandemic. For a small-sized agency with a substantial mandate to safeguard employee rights and hold myriad government entities accountable, these factors can present serious challenges to fulfilling OSC's important statutory obligations.

The agency has made difficult choices to ensure balance among its investigative and prosecutorial responsibilities with training and outreach efforts critical to preventing whistleblower retaliation and other unlawful practices. While caseloads fluctuated in FY 2020—largely due to pandemic-related operational changes at federal agencies—OSC expects a return to higher, pre-pandemic caseloads in future years. That being said, the pandemic did not affect OSC's Hatch Act work, which usually increases significantly during presidential-election years and did so in FY 2020.

Additionally, OSC has experienced an increased need for long-term improvements in technology, while grappling with limited funding. The remote working arrangements for OSC's employees required by the pandemic highlighted these challenges. 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.

In response to these challenges, OSC must carefully prioritize and allocate resources to remain efficient, fair, and effective in maintaining the high levels of success achieved in recent years. Accordingly, the agency implemented a reorganization to improve the timeliness and customer service experience in our case processing procedures. OSC is also being proactive in seeking early resolution of meritorious cases, as well as implementing innovative approaches to achieve efficiencies in cases involving both whistleblower disclosures and related retaliation claims. A better funded and more efficient OSC will result in greater stewardship of taxpayer dollars and more effective accountability throughout government.

As an independent agency, OSC must remain agile and focused on upholding the merit system fairly and without bias. In doing so, OSC will continue to emphasize education and outreach and highlight cases with significant educational value or that promote accountability. Through these efforts, OSC can improve federal government culture and remain a steady accountable and transparent presence capable of withstanding administration and leadership changes.

OSC's Strategic Plan contemplates confronting these challenges directly over the next few years to ensure its success. When OSC succeeds, good government and the general public are the ones who truly benefit.

APPENDIX E: Goal Tables, New Strategic Plan, FY 2022 - 2026

- **Goal Table 1A** details the data points and performance metrics for OSC’s work investigating, litigating, and resolving PPP complaints.

Goal Table 1A: Goals 1-10									
<i>Goal 1 - Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 1: Fairly and promptly investigate and prosecute cases</i>									
<i>Objective 2: Obtain timely and effective relief in cases</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
1	Percent of complaints closed within 240 days.	Baseline/datapoint							
2	Number of complaints mediated.	30							
3	Number of complaints mediated resulting in settlement.	20							
4	Number of formal stays obtained.	0							
5	Number of informal stays obtained.	25							
6	Number of individual corrective actions obtained.	220							
7	Number of systemic corrective actions obtained.	50							
8	Number of disciplinary actions obtained.	15							

9	Number of cases filed with MSPB	1							
10	Number of total favorable actions obtained (i.e., formal stay, informal stay, individual corrective action, systemic corrective action, and disciplinary action).	Baseline							

- **Goal Table 1B** details the data points and performance metrics for OSC’s work investigating, litigating, and resolving Hatch Act complaints.

Goal Table 1B: Goals 11-17									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 1: Fairly and promptly investigate and prosecute cases</i>									
<i>Objective 2: Obtain timely and effective relief in cases</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
11	Percent of cases closed within 240 days.	65%							
12	Number of cases filed with MSPB.	2							
13	Percent of successful prosecutions before MSPB	100%							
14	Number of warning letters issued.	30							

15	Number of corrective actions obtained.	10							
16	Number of disciplinary actions obtained.	5							
17	Number of total favorable actions obtained (i.e., corrective action and disciplinary action).	15							

- **Goal Table 1C** details the data points and performance metrics for OSC’s work investigating, litigating, and resolving USERRA complaints.

Goal Table 1C: Goals 18-19									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 1: Fairly and promptly investigate and prosecute cases</i>									
<i>Objective 2: Obtain timely and effective relief in cases</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
18	Percent of referrals closed within 60 days.	80%							
19	Number of corrective actions obtained (formally and informally).	3							

- **Goal Table 2** details OSC’s efforts to enhance its strategic enforcement authority, as it relates to the third objective under Strategic Goal 1.

Goal Table 2: Goals 20-21									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 3: Enhance strategic use of enforcement authority</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
20	Number of PPP reports published on website.	2							
21	Number of amicus curiae briefs and interventions filed.	2							

- **Goal Table 3** details the Hatch Act advisory opinions provided by OSC, pursuant to OSC’s fourth objective under Strategic Goal 1.

Goal Table 3: Goals 21-23									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 4: Provide timely and quality Hatch Act advisory opinions and guidance</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
21	Percent of informal telephonic advisory opinions issued within 3 days of inquiry.	98%							
22	Percent of informal email advisory opinions issued within 5 days of inquiry.	95%							
23	Percent of formal written advisory opinions issued within 60 days of inquiry.	75%							

- **Goal Table 4** details OSC’s training and outreach efforts pursuant to OSC’s fifth objective under Strategic Goal 1.

Goal Table 4: Goals 24-25									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 5: Expand training and outreach efforts nationwide</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
24	Number of agencies/components certified and recertified for the 2302(c) Certification Program.	10							
25	Number of trainings conducted. ²⁵	140							

Goal Table 4 explanatory notes:

²⁵: Number of trainings will increase and decrease in each fiscal year based on a number of factors, including, for instance, (1) the increase in Hatch Act trainings we have observed during election years; and (2) the increase and/or decrease in Section 2302(c) trainings depending upon when agencies are due for recertification at the end of the three-year training cycle, creating a “lumpy forecast.”

- **Goal Table 5** details OSC’s communications with stakeholders and the public, consistent with the sixth objective under Strategic Goal 1.

Goal Table 5: Goals 26-28									
<i>Goal 1: Protect and promote the integrity and fairness of the federal workplace</i>									
<i>Objective 6: Effectively and innovatively communicate with stakeholders and the public</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
26	Number of press releases issued.	25							
27	Types and frequency of digital platforms used to share information.	275							
28	Types and frequency of website views and activity on digital platforms.	Baseline							

Strategic Goal 2, Goal Tables 6-7 – Ensure government accountability.

Strategic Goal 2 has two objectives, which relate to OSC’s investigations of whistleblower disclosures:

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

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

- **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.

Goal Table 6: Goals 29-30									
<i>Goal 2: Ensure government accountability</i>									
<i>Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
29	Number of referrals of whistleblower disclosures to agencies for investigation.	70							
30	Percent of referrals of whistleblower disclosures to agencies for investigation made within 45 days.	90%							

- **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.

Goal Table 7: Goals 31-32									
<i>Goal 2: Ensure government accountability</i>									
<i>Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
31	Number of favorable outcomes—both corrective and disciplinary actions—achieved	70 corrective actions & 10 disciplinary actions							

	through referrals of whistleblower disclosures.								
32	Number of days between date of receiving whistleblower's comments on agency investigation report (or any update to report) and date of communication to President and Congress.	120 days							

Strategic Goal 3, Goal Tables 8-10 – Achieve organizational excellence.

Strategic Goal 3 has three objectives, which relate to the OSC's continual goal of achieving organizational excellence:

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

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

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

- **Goal Table 8** covers 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.

Goal Table 8: Goals 33-35									
<i>Goal 3: Achieve Organizational Excellence</i>									
<i>Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce.</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
33	Develop and maintain up-to-date Human Capital Plan and reassess regularly.	Met							

34	Develop Individual Development Plans (IDP) in support of professional development across the workforce consistent with annual training budget allocation.	Met							
35	Investigate different approaches to measure employee feedback on the effectiveness of OSC's internal programs such as IT, HR, facilities, training, and EEO.	Met							

- **Goal Table 9** 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.

Goal Table 9: Goals 36-40									
<i>Goal 3: Achieve organizational excellence</i>									
<i>Objective 2: Improve the use of existing technology and deploy new Information Technology (IT) systems to enhance organizational operations.</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
36	Periodic assessment and reassessment of agency technology requirements.	Met							

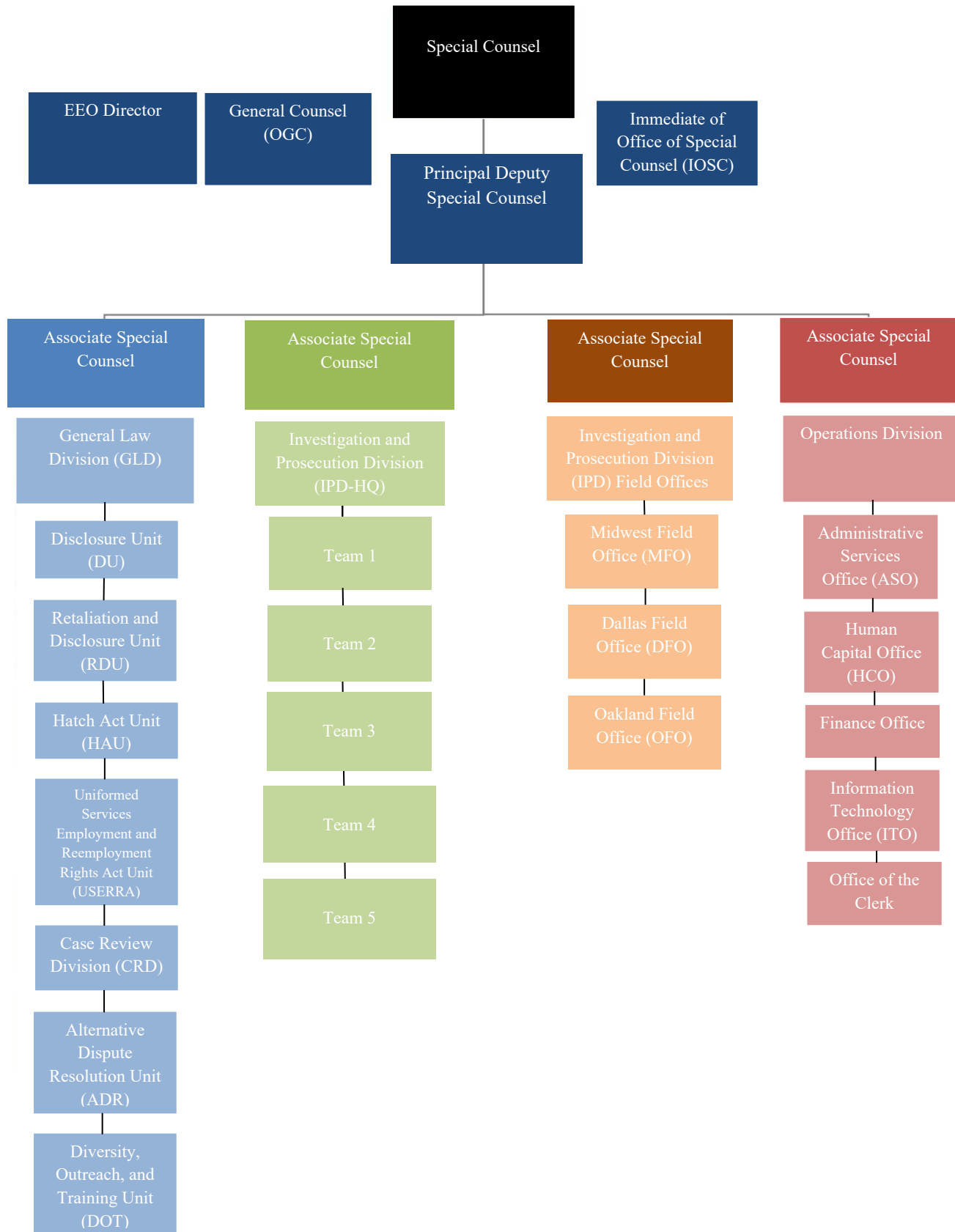
37	Deploy enhancements and reporting capabilities of the current electronic case management system, annually.	Met							
38	Develop and deploy phased approach for adopting zero-trust network security framework.	Met							
39	Develop and implement plan to reduce uncategorized data and labeling.	Met							
40	Ensure that IT staffing remains at 5% of the agency's workforce.	Met							

- **Goal Table 10**, 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.

Goal Table 10: Goals 41-42									
<i>Goal 3: Achieve organizational excellence</i>									
<i>Objective 3: Monitor, evaluate, and improve the efficiency and effectiveness of programs and processes.</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
41	Hold monthly or regular meetings to evaluate programs and processes and implement any learned best practices.	Met							

42	Continue to issue and review results of annual survey regarding customer satisfaction with programs and processes and assess potential changes to programs and processes based on customer feedback.	Met							
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Appendix F: OSC Organizational Chart



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

Agency Web Site:

www.osc.gov