

**FISCAL YEAR 2025  
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—strengthening Americans' confidence that their government is fair, impartial, and accountable. When whistleblowers disclose to OSC instances of waste, fraud, abuse, or other wrongdoing at their agencies, they shine a spotlight on the inefficient use of taxpayer dollars and drive real change in how agencies conduct business.

For example, in FY 2023, an investigation required by OSC uncovered overspending of taxpayer funds amounting to \$20 million over a five-year period because the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) illegally misclassified positions and improperly gave employees law enforcement benefits. Another OSC-required investigation by the Federal Aviation Administration (FAA) substantiated whistleblower allegations that FAA failed to provide proper safety oversight of helicopter and aircraft operators, and that poor maintenance inspections contributed to two aircraft incidents. In response, FAA took steps to improve safety. Both cases show the critical importance OSC plays in ensuring a safe channel for whistleblower reports of wrongdoing within the federal government, and the tangible results OSC achieves in the form of savings to taxpayers and greater safety for all.

Whistleblowers often take great risks when they report wrongdoing, depending on OSC to protect them from retaliation and other prohibited personnel practices (PPPs). When a federal employee whistleblower files a complaint with OSC, experienced attorneys and investigators swiftly evaluate the complaint to determine whether a PPP has been committed, and if so, what relief is available to the employee. OSC may negotiate relief with the employing agency informally or through our Alternative Dispute Resolution program, or file a complaint with the Merit Systems Protection Board (MSPB). OSC's outcomes in PPP cases show compounding success for federal employees who file with us. In 2023, OSC continued to achieve historically high rates of favorable actions to correct wrongdoing and discipline federal managers who violate federal employment laws. OSC achieved 418 corrective and disciplinary actions in FY 2023, which is the second highest in agency history and 13 percent above the average over the last five fiscal years. OSC's disciplinary action rate for FY 2023 is approximately 33 percent higher than the prior five-year average (FY 2018 – FY 2022). With OSC's emphasis on accountability, the disciplinary action rate is expected to remain similarly high in future fiscal years.

OSC's enforcement of the Hatch Act ensures that government operates free from partisan political influence, safeguarding a merit system of government where employees are advanced based on merit and not political affiliation. Robust enforcement of the Hatch act ensures that federal employees' administration of federal programs is non-partisan and protects federal employees from political coercion. OSC's enforcement successes have raised awareness and confidence in our work, building public trust in the government-wide work performed by our agency. In addition, the Hatch Act authorizes OSC to issue advisory opinions, and in FY 2023, the Hatch Act Unit issued 614 advisory opinions.

OSC also enforces the Uniformed Services Employment and Reemployment Rights Act (USERRA), which protects military service members and veterans from employment discrimination on the basis of their service, and

allows them to regain their civilian jobs following a period of uniformed service. In a notable example in 2023, OSC obtained relief for a Maine Air National Guardsman who was wrongfully denied reinstatement in his Postal Service job following his post-9/11 military duty. In a successful prosecution before the MSPB, the veteran was reinstated with full back pay.

These and other successes have been a major driver of increased case filings in recent years. As such, OSC has had to allocate its resources most efficiently 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 nearly 1,200 cases, or 45 percent, since the end of FY 2018.

Specifically, in FY 2019, OSC combined two units with overlapping responsibilities into one, the Investigation 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 has eliminated duplicative review and allowed 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.

With increased intake, partly due to OSC's successes, OSC continues to work efficiently to make the best use of resources in serving roughly 2 million federal employee stakeholders and ensuring public health and safety. OSC's future success will require the full support of OSC's FY 2025 Budget Request. The 135 full-time equivalents (FTEs) supported by our FY 2025 Budget Request represent the minimum number of staff required to address current caseload levels and continue providing outsized results for the American public.

OSC is deeply committed to its mission of protecting whistleblowers and the merit system, promoting confidence in the government, and resolving cases effectively and efficiently, 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, safer, and more efficient federal government.

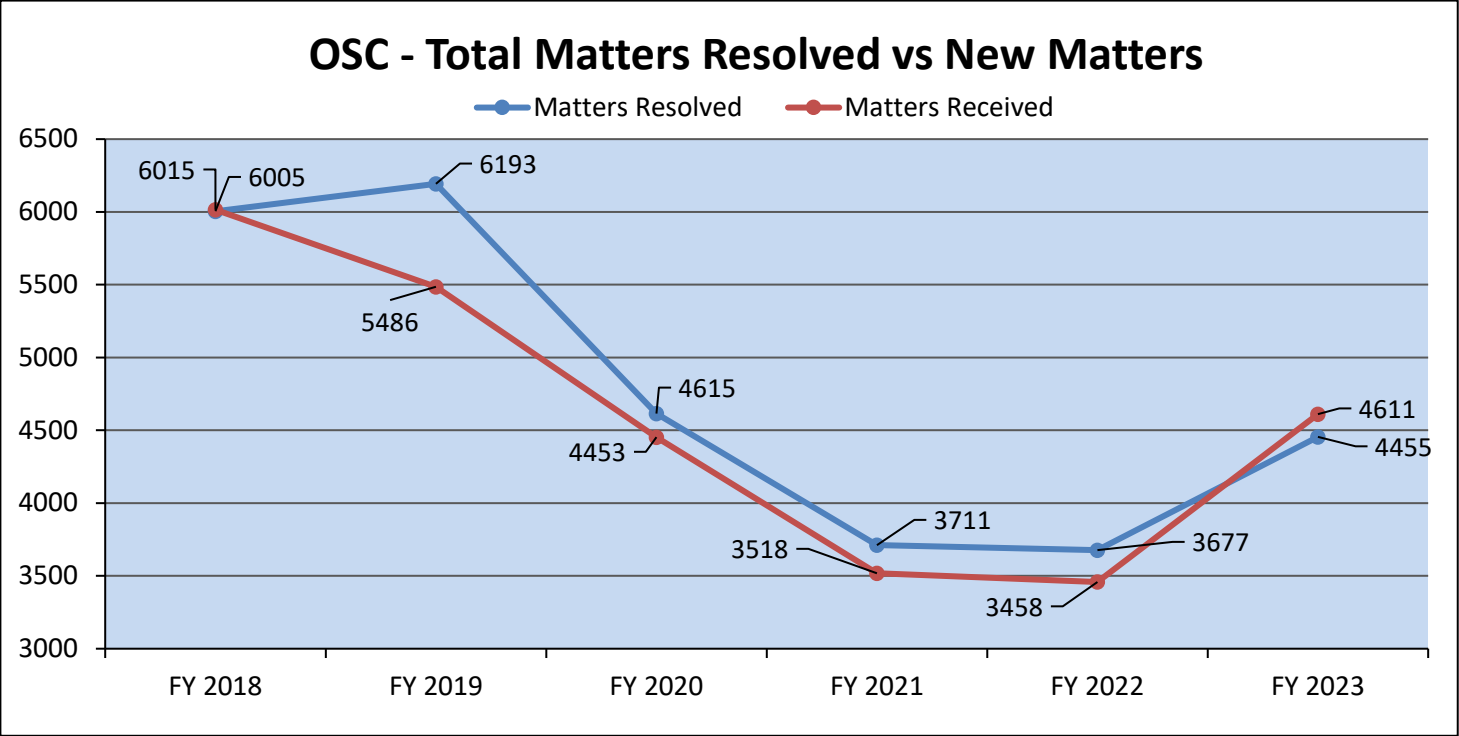
Therefore, pursuant to the Office of Management and Budget's Passback authorization, OSC is requesting funding of **\$33,759,000** for FY 2025. This level will allow OSC to address current caseload levels; invest in key operational areas, such as IT security and modernization; and allow the agency to utilize an eDiscovery tool that will support its casework and litigation efforts.

# Summary of Request

**For FY 2025, OSC's authorized request is \$33,759,000.** This amount represents a 5.8 percent increase above the annualized level provided by the FY 2024 Continuing Resolution. The authorized request contains a 2 percent pay raise, while reflecting an increase of almost 2 FTEs due to the annualization of backfilled positions in FY 2024. Maintaining virtually the same number of staff as FY 2024 will ultimately help OSC address agency caseload levels, continue delivering successful results for the American public, and make key investments in IT security and infrastructure.

In the five years preceding the pandemic, OSC received an average of over 5,900 new cases annually. While the number of new cases received by OSC decreased during the pandemic, the agency experienced a 21 percent increase in cases received in FY 2023, compared to the average number of cases received from FY 2020 to FY 2022. OSC expects the number of cases received to continue increasing in future years. As a result, OSC will employ the appropriate staffing levels to adequately address this caseload increase and continue to reduce 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 potentially increased workloads and cases being delayed, OSC could 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, could be impacted.

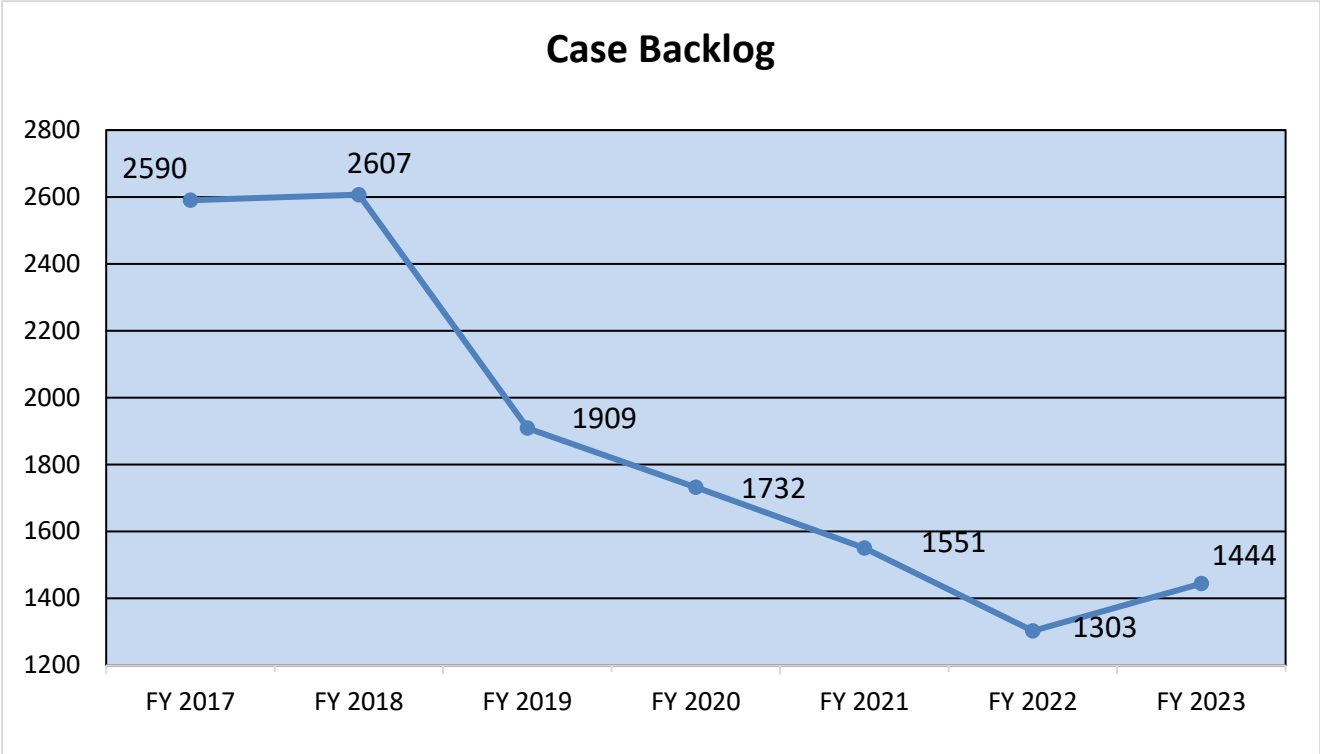
OSC is already fully utilizing available resources by working harder, smarter, and more effectively than at any other time in its history. As OSC has received increased funding levels, the agency has expanded upon its already efficient case processing protocols and reached record levels in terms of favorable 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 2023, OSC obtained 418 favorable actions in PPP cases, the second highest in agency history, and an increase of nearly 13 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, 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 COVID-19 pandemic affecting federal government operations, 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 chart below), must be closed further for OSC to successfully fulfill its mission.



The FY 2025 approved budget request of **\$33,759,000** includes funding for the salaries and benefits of **nearly 135 FTEs**, an increase from OSC’s FY 2024 projected staffing level, given the annualization of backfilled positions in FY 2024.

Funding OSC at the proposed authorized level is paramount to ensure the agency can fulfill its 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, \$33,759,000.

Note. -- A full-year 2024 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, 2024 and Other Extensions Act (Division A of Public Law 118-15, as amended). The amounts included for 2024 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.

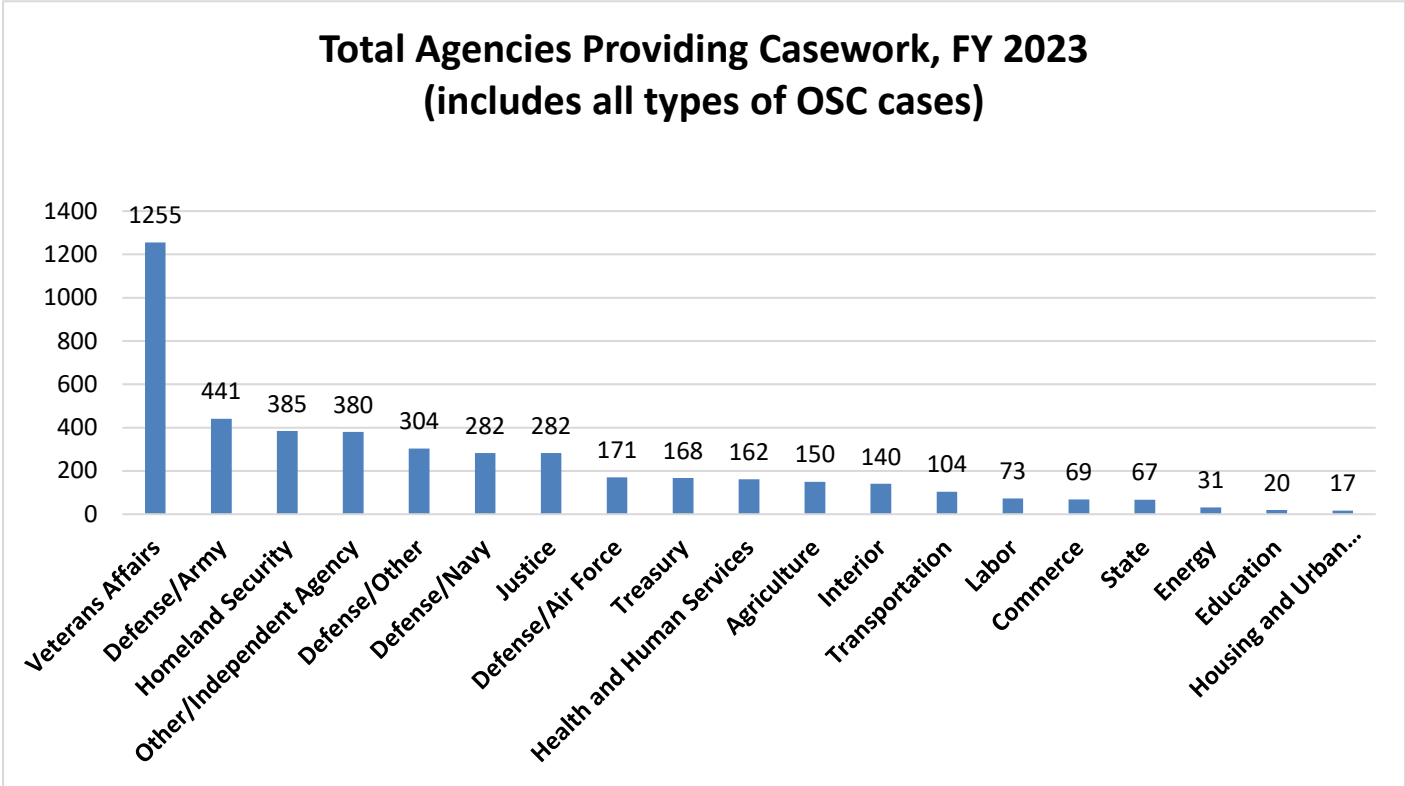
When a whistleblower identifies waste, fraud, abuse, or other wrongdoing at a federal agency, OSC makes sure the whistleblower's concerns are heard and, when warranted, investigated fully, and addressed. OSC also protects federal employees from prohibited personnel practices, such as retaliation for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



# 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. In FY 2023, over 27 percent of new cases received were from VA employees.



## Prohibited Personnel Practices

In FY 2023, OSC received 3,101 new PPP complaints. This figure is 36 percent higher than FY 2022 alone. 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, dangers, or other wrongdoing at federal agencies. Whistleblower disclosures are a significant portion of OSC’s caseload, now comprising approximately 27 percent of the agency’s new matters. OSC received 1,237 new disclosures in FY 2023. This figure is approximately 33 percent higher than just FY 2022, and approximately 4 percent higher than the average from FY 2018 through FY 2022.

## 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. In FY 2023, the Hatch Act Unit received 263 new complaints, which represents a 3 percent increase over the average of the prior two fiscal years. Further, in FY 2023, OSC resolved 277 Hatch Act cases, which is a 19 percent decrease from the average of the prior two fiscal years.

OSC issued 614 advisory opinions in FY 2023, both formal and informal. The agency also issued 41 warning letters, and 19 corrective actions were taken. OSC obtained 3 disciplinary actions in Hatch Act cases (by negotiation or ordered by MSPB) in FY 2023.

#### **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 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 10 USERRA referrals in FY 2023, and closed 14 cases. Of the 14 USERRA cases closed in FY 2023, OSC obtained corrective action in one of those.

# 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 A*) and are further detailed in the Goal Table section for each budget program.

## OSC’s FY 2025 Strategic Goals and Costs per Goal\*

- 1. Protect and promote the integrity and fairness of the federal workplace. \$23,232
- 2. Ensure government accountability. \$5,427
- 3. Achieve organizational excellence. \$5,101

\*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.<sup>1</sup>

The agency includes several program and support units described below:

### **Immediate Office of Special Counsel (IOSC)**

The Special Counsel and immediate staff are responsible for policymaking 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 on a variety of issues, including management and administrative matters, ethics, appropriations, fiscal law, privacy, disclosure of information, employment, equal opportunity, proposed legislation, and other matters. OGC provides legal review of agency policy statements and directives, Interagency Memoranda of Understanding, and revisions to regulations. OGC also handles defense of OSC interests in litigation filed against the agency.

### **Case Review Division (CRD)/Clerk's Office**

This division serves as the initial intake point for all PPP and disclosure cases. 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. Additionally, the prior Clerk's Office functional areas are now within CRD, including Freedom of Information Act (FOIA), Privacy Act, Controlled Unclassified Information, and records management.

### **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

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<sup>1</sup> 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 transitioned back to an in-office presence as of March 1, 2022.

agency report of investigation to determine its sufficiency and reasonableness. The Special Counsel then sends the report, along with any comments by the whistleblower, to the President and appropriate congressional oversight committees. OSC also posts the report and whistleblower comments in its public file.

#### **Retaliation and Disclosure Unit (RDU)**

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

#### **Hatch Act Unit (HAU)**

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

#### **USERRA Unit**

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

#### **Alternative Dispute Resolution Unit (ADR)**

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

#### **Diversity, Outreach and Training**

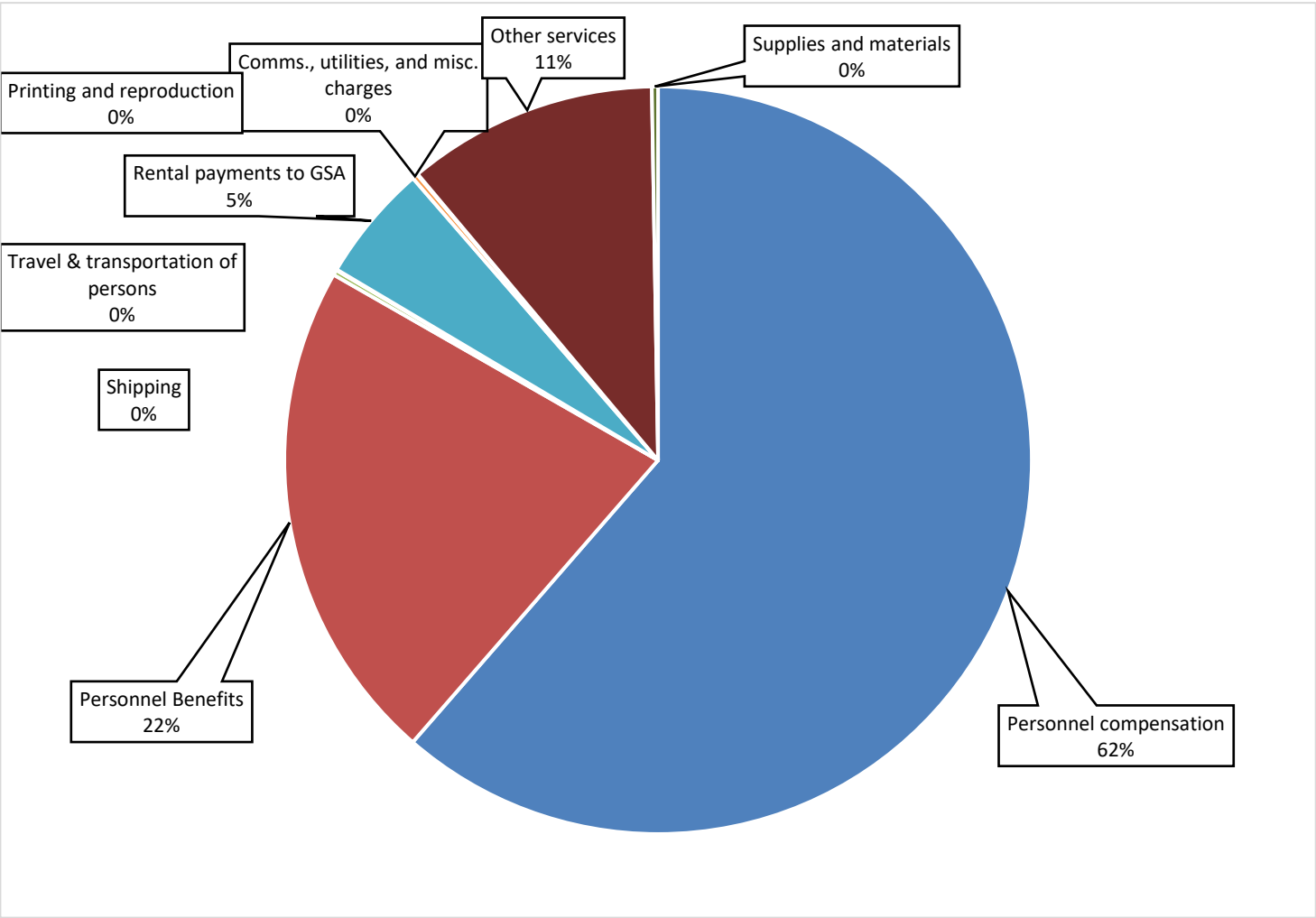
This unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c). This provision requires that federal agencies inform their workforces, in consultation with OSC, about the rights and remedies available to them under the whistleblower protection and PPP provisions of the Whistleblower Protection Act. OSC designed and implemented a five-step voluntary 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, 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, and Information Technology Office. Procurement operations as well as travel are included under the Budget and Finance Office.

# Components of OSC's Budget Request

The following chart estimates how the FY 2025 request will be distributed on a percentage basis.



## Budget by Program

The following table provides an estimate of the FTE and budgetary resources for each program of the agency, during fiscal years 2024 and 2025.

Budget by Program – Agency Request						
	FY 2024 Estimate		FY 2025 Estimate		Increase/Decrease	
Program	Amount (in actual dollars)	FTE	Amount (in actual dollars)	FTE	Amount (in actual dollars)	FTE
Case Review Division/Office of the Clerk <sup>2</sup>	\$2,918,024	12	\$3,060,334	12	\$142,310	0.0
Investigation and Prosecution of Prohibited Personnel Practices	\$15,271,685	64	\$16,029,128	64	\$757,443	0.3
Retaliation Disclosure Unit	\$1,416,633	6	\$1,505,082	6	\$88,450	0.1
Hatch Act Unit	\$1,919,487	8	\$2,006,777	8	\$87,290	0.0
Whistleblower Disclosure Unit	\$2,351,371	10	\$2,458,301	10	\$106,930	0.0
USERRA Unit	\$239,936	1	\$250,847	1	\$10,911	0.0
Alternative Dispute Resolution	\$959,743	4	\$1,003,388	4	\$43,645	0.0
Immediate Office of the Special Counsel	\$1,084,767	5	\$1,254,235	5	\$169,468	0.5
Office of the General Counsel	\$1,199,679	5	\$1,254,235	5	\$54,556	0.0
Diversity, Outreach and Training	\$643,028	3	\$672,270	3	\$29,242	0.0
Operations Division	\$3,899,647	16	\$4,264,400	17	\$364,754	0.7
<b>Totals</b>	<b>\$31,904,000</b>	<b>133</b>	<b>\$33,759,000</b>	<b>135</b>	<b>\$1,855,000</b>	<b>1.6</b>

<sup>2</sup> The Office of the Clerk transitioned from the Operations Division to the Case Review Division in FY 2023, following a successful pilot initiative.

**PART 2 – FY 2025 BUDGET REQUEST – ADDITIONAL INFORMATION**

OSC’s approved request is **\$33,759,000** to fund approximately 135 FTEs and related non-personnel costs for FY 2025. This number of FTEs is nearly two above the estimated FY 2024 FTE level because of the annualization of backfilled positions.

As a result, OSC believes that providing funding to support approximately 135 FTEs is the minimal level necessary to keep pace with the current caseload levels and allow the agency to effectively execute critical IT projects in FY 2025, which would enhance the operations and security posture of the agency.

**Primary Drivers of the FY 2025 increase:**

**Costs for Current Salaries and Benefits**

Given that OSC’s FY 2025 Budget projects to support nearly two more FTE than FY 2024, and includes a 2 percent pay raise, and step increases, OSC’s salaries and benefits represent over 83 percent of OSC’s total costs in FY 2025. In essence, OSC’s average cost per FTE in FY 2025 is increasing roughly 4 percent over FY 2024 levels.

**HQ Rent Costs**

OSC’s rent is projected to be more than \$1.71M in FY 2025, an increase of over \$10,000 from FY 2024.

**Other Services**

In FY 2025, OSC also plans to continue its investments in shared services, and invest in vital IT security and operations contracts, as well as an eDiscovery tool to help OSC program staff identify, collect, and produce electronic information for use in their casework and litigation matters. These initiatives help OSC better identify and protect sensitive case-related data, and allow the agency to focus more intently 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 \$3.66M on other services in FY 2025.

**FY 2025 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 2025, along with the actuals for FY 2023 and the projection for the current year, FY 2024.

Budget Table 1 – Budget Object Classification of Obligations: FY 2023–2025 (in thousands of dollars)			
Budget Object Classification of Obligations	FY 2023 (Actuals)	FY 2024 (Projected)	FY 2025 (Projected)
11.0 Personnel compensation	18,621	19,897	20,727
12.0 Civilian Personnel Benefits	6,635	7,011	7,383
13.0 Benefits for Former Personnel	8	0	0
21.0 Travel and transportation of persons	180	65	75
22.0 Transportation of things	0	13	13
23.1 Rental payments to GSA	1,688	1,705	1,716



<b>23.3 Communications, utilities, and misc. charges</b>	67	82	82
<b>24.0 Printing and reproduction</b>	3	10	10
<b>25.0 Other services</b>	3,929	3,013	3,663
<b>26.0 Supplies and materials</b>	47	108	90
<b>31.0 Equipment</b>	676	0	0
<b>32.0 Leasehold improvements</b>	0	0	0
<b>Total</b>	<b>31,853<sup>3</sup></b>	<b>31,904</b>	<b>33,759</b>

## Notes Concerning the Above BOC Line Items:

### ***Object Class 11.0 Personnel Compensation Costs:***

Overall personnel compensation will increase in FY 2025, as compared to FY 2024, primarily because of the 2 percent raise, which will make it more expensive to support existing 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 2025 are expected to increase on a per FTE basis primarily due to the 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 minimal costs for this in FY 2023 and does not expect to have any costs for this in FY 2024 and/or FY 2025.

### ***Object Class 21.0 Travel and Transportation of People:***

During FY 2025, OSC expects the same level of travel as FY 2024.

### ***Object Class 23.1 Rental Payments to GSA<sup>4</sup>:***

This category reflects the lease costs of the agency's headquarters facility, along with rent and tax escalations. OSC estimates that total agency rent will be just over \$1.71 million for FY 2025, as compared to \$1.705 million for FY 2024.

### ***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 2025 for the headquarters facility.

<sup>3</sup> Includes the funds associated with a reimbursable employee from OSC to CIGIE.

<sup>4</sup> OSC also maintains a small satellite office for Field Office Leadership in Oakland, CA, which is rented through the Merit Systems Protection Board (MSPB). These costs are paid to MSPB, and not directly to GSA, so they are captured under BOC 25.0, Other Services.

**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. When new IT leadership came onboard in FY 2022, OSC undertook various efforts to modernize its IT security posture, and that spending remains a significant priority in both FY 2024 and FY 2025.

This includes, but is not limited to, continued improvements to OSC’s electronic case management system (eCMS), as well as conducting penetration testing for OSC’s IT network, and the utilization of an eDiscovery tool that will allow OSC program staff to identify, collect, and produce data from emails, documents, and other digital products for use in their investigations or litigation.

**Object Class 31.0 Equipment:**

OSC purchased new laptops for agency staff in FY 2023, in alignment with the agency’s IT refresh schedule. Equipment costs are eliminated in FY 2024 and FY 2025, in order to retain the necessary level of staff.

**Analysis of Resources – Fiscal Years 2023-2025**

For a high-level summary of resources during fiscal years 2023-2025, see Budget Table 2 below.

Budget Table 2 – Analysis of Resources				
FY 2023-2025				
(in thousands of dollars)				
Description		FY 2023 (Actual)	FY 2024 (Projected)	FY 2025 (Projected)
Budget authority	Direct	31,904	31,904	33,759
	Reimbursable	228	0	0
Total		32,132	31,904	33,759
Outlays <sup>5</sup>		31,864	31,612	33,451
Employment	Direct-full time equivalent	128	133	135
	Reimbursable-full time equivalent	1	0	0
Total		129	133	135

<sup>5</sup> Represents outlays both from new authority, and from balances.

## **PART 3 – BUDGET PROGRAMS AND PERFORMANCE PLAN**

### **FY 2023 Case Activity and Results – All Programs**

Word of OSC's effectiveness in achieving positive results for the federal community has spread over the years. In FY 2023, for example, while receiving 4,611 cases and resolving 4,455 cases, OSC achieved 418 favorable actions, the second highest level in agency history, and approximately 13 percent above the prior five-year average.

During FY 2023, OSC received 4,611 new matters across its program areas. **Table 1** below summarizes overall OSC case intake and dispositions in FY 2023, with comparative data for the previous five fiscal years. More detailed data can be found in **Tables 2-7** in the sections below relating to the four specific components of OSC's mission—PPP cases, Hatch Act matters, whistleblower disclosures, and USERRA cases.

In FY 2023, cases involving the Department of Veterans Affairs (VA) comprised approximately 27 percent of OSC's cases – roughly the same percentage as FY 2022. 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 the VA to address chronic threats to patient care.

Agencies' participation in OSC's Section 2302(c) Certification Program is an excellent opportunity to conduct training for a growing number of federal employees, especially supervisors, and promote adherence to whistleblower protection laws. Thirteen (13) agencies were certified and/or recertified in FY 2022, and an additional twenty-three (23) agencies were certified and/or recertified in FY 2023. Based on the three-year cycle of the certification program, 119 agencies have certified and/or registered for certification through the end of FY 2023.

Additionally, OSC conducted 123 outreach events in FY 2022, and nearly tripled that with 335 in FY 2023. The primary focus of these efforts is prevention of Hatch Act and PPP violations. These trainings also inform the federal workforce about OSC's authority to provide a secure channel for employees to disclose government wrongdoing.

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. OSC experienced a 21 percent increase in cases received in FY 2023, compared to the average number of cases received during the pandemic years (FY 2020 – FY 2022). OSC expects this trend of higher caseloads to continue through FY 2024 and 2025, which may impact OSC's ability to keep up with new case filings and continue its recent success in reducing the backlog.

TABLE 1 - Summary of All OSC Case Activity						
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Matters <sup>6</sup> pending at start of fiscal year	2,592	2,616	1,888	1,736	1,526	1,292
New matters received	6,015	5,486	4,453	3,518	3,458	4,611
Matters closed	6,005	6,193	4,615	3,711	3,677	4,455
Matters pending at end of fiscal year	2,607	1,909	1,732	1,551	1,303	1,444
Hatch Act advisory opinions issued	1,386	1,111	1,461	1,043	757	614

## Investigation and Prosecution of Prohibited Personnel Practices

- OSC experienced approximately a 36 percent increase in new PPP matters received when comparing FY 2023 to FY 2022. Despite this large increase year-over-year, the amount of PPP cases received in FY 2023 is still approximately 22 percent below the five-year (FY 2015 – FY 2019) average of cases received prior to the pandemic. Therefore, OSC expects this upward trend to continue in FY 2024, and beyond.
- 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 making protected disclosures of government wrongdoing.

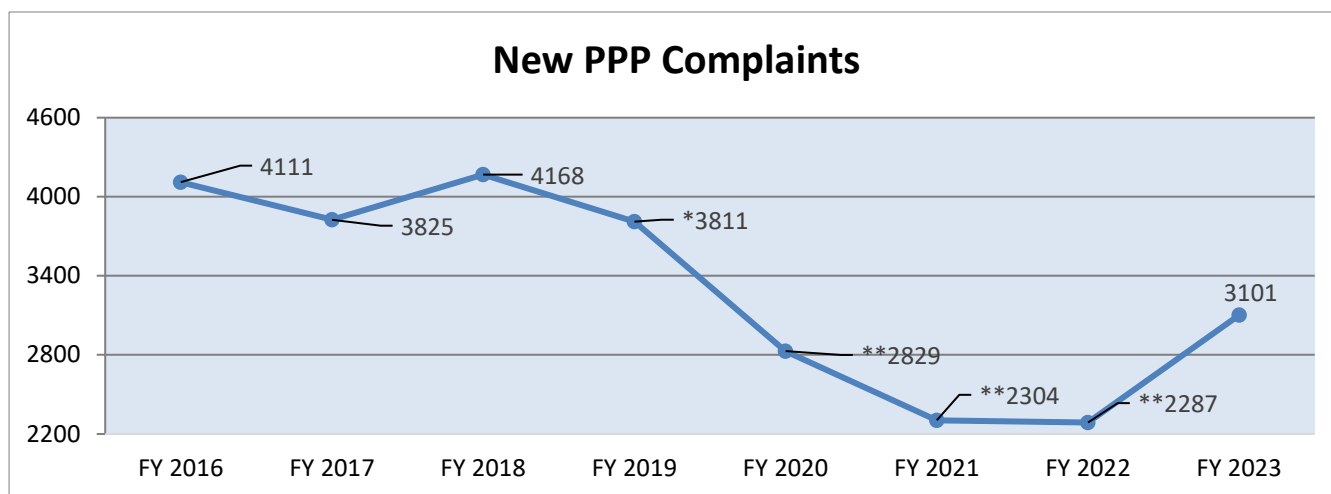


Figure 1:

\*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 during the COVID-19 pandemic.

- Significant, increased demand for OSC's services in FY 2025 could negatively impact the agency's ability to meet statutory deadlines in resolving cases. The percentage of PPP complaints processed within 240 days in

<sup>6</sup> "Matters" in this table includes prohibited personnel practice cases, whistleblower disclosures, USERRA cases, and Hatch Act cases.

FY 2023 was approximately 85 percent. This figure is approximately 7 percent higher than the previous five-year average, and just below the average rate from FY 2011 – FY 2016 (86 percent).

### Resource Estimates

During FY 2025, OSC’s Case Review Division/Office of the Clerk will use approximately 12 FTE at a cost of \$3,060,334. During FY 2024, we estimate the program will require 12 FTE at a cost of \$2,918,024.

During FY 2025, OSC’s Investigation and Prosecution Division will use approximately 64 FTE at a cost of \$16,029,128. During FY 2024, we estimate the program will require 64 FTE at a cost of \$15,271,685.

During FY 2025, OSC’s Retaliation and Disclosure Unit will use approximately 6 FTE at a cost of \$1,505,082. During FY 2024, we estimate the program will require 6 FTE at a cost of \$1,416,633.

TABLE 2 - Summary of All Prohibited Personnel Practice Complaints Activity – Receipts and Processing <sup>7</sup>						
		FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Pending complaints carried over from prior fiscal year		2,057	1,409	1,147	1,046	940
New complaints received <sup>8</sup>		3,811	2,829	2,304	2,287	3,101
<i>Total complaints</i>		5,868	4,238	3,451	3,333	4,041
Total complaints processed and closed		4,447	3,096	2,390	2,382	2,879
Complaint processing times	Within 240 days	3,659	2,476	1,883	1,870	2,446
	Over 240 days	788	621	499	522	433
Percentage processed within 240 days		82%	80%	79%	79%	85%

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

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

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

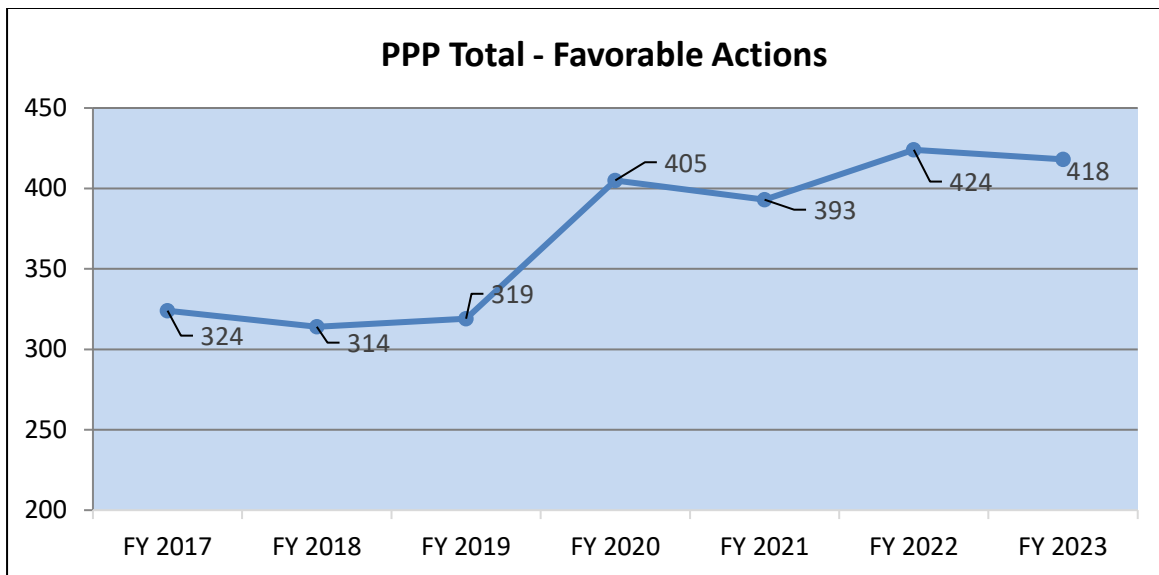
<b>TABLE 3 - Summary of All Favorable Actions – Prohibited Personnel Practice Complaints</b>						
		<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total favorable actions negotiated with agencies (all PPPs)</b>	<b>No. of actions<sup>9</sup></b>	319	405	393	424	418
	<b>No. of matters</b>	259	323	295	310	289
<b>Total favorable actions negotiated with agencies (reprisal for whistleblowing)</b>	<b>No. of actions</b>	234	317	304	324	312
	<b>No. of matters</b>	192	265	223	261	234
<b>Disciplinary actions negotiated with agencies</b>		27	13	33	37	35
<b>Stays negotiated with agencies</b>		31	54	38	44	45
<b>Stays obtained from MSPB</b>		1	0	0	2	1
<b>Stay extensions obtained from MSPB</b>		1	0	0	2	9
<b>Corrective action petitions filed with the MSPB</b>		0	0	0	0	0
<b>Disciplinary action complaints filed with the MSPB</b>		0	0	0	0	0

## Goals and Results – Prohibited Personnel Practices

OSC received 3,101 new PPP complaints in FY 2023. This figure is approximately equal to the prior five-year average (FY 2018 – FY 2022) and represents a 36 percent increase over FY 2022. OSC expects to continue receiving increased numbers of PPP cases in future years, as the five-year average of PPP cases received prior to the pandemic was over 3,900.

OSC achieved 418 favorable actions in FY 2023, the second highest in agency history, and 13 percent above the average from FY 2018 through FY 2022.

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



In accordance with OMB guidance, OSC revised and finalized a new Strategic Plan in FY 2022 (*See Appendix A for the 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 B of this document.

### Notable FY 2023 Case Summaries

- Complainant, a language instructor, alleged retaliation for having filed earlier OSC whistleblower retaliation complaints and successful appeals to the MSPB. He alleged that the agency non-selected him in retaliation for his whistleblowing activity. MSPB referred this case to OSC following a full hearing, in which the AJ found that complainant had suffered a retaliatory non-selection. OSC facilitated intensive settlement negotiations that resulted in the complainant retiring in exchange for over \$500,000 in damages and \$60,000 in attorney's fees. The agency also agreed to PPP training for its employees and a reprimand for the official who retaliated against the whistleblower.
- Complainant, a Safety Manager, was placed under the wrong retirement code. The agency had placed him under FERS, contributing 0.8% of his salary to the pension system, when they should have placed him under FERS-FRAE, contributing 4.4% of his salary to the pension system. The agency recently discovered the retirement code error and reported it to the National Finance Center. The agency billed complainant almost \$24,000 because he underpaid into the pension system due to this error. After OSC completed an investigation, the agency agreed to waive complainant's \$24,000 bill. OSC's investigation revealed that this was a systemic problem throughout the agency, as over 700 employees had been placed under the wrong retirement code and were over- or under-billed for several years. The agency agreed to increase the frequency of auditing and improve the auditing process for retirement errors. This included writing a new



Job Aid for auditors. The agency also agreed to conduct an internal retirement coding training for human resources employees.

- Complainant, an Environmental Protection Specialist, alleged that the agency violated due process by proposing his removal for being AWOL even though his absence from the workplace was caused by the agency's debarment order. That order was based on a criminal conviction that had been overturned and expunged from complainant's record. The agency therefore based its proposed removal on the debarment order rather than the alleged criminal conduct for which he had been found legally innocent. OSC determined that complainant had been denied notice and an opportunity to challenge the merits underlying his proposed removal. OSC facilitated a settlement in which the agency agreed to pay complainant \$50,000, restore 200 hours of leave, rescind the debarment order, and give complainant a clean record. Additionally, complainant voluntarily transferred to a different agency.
- Complainant, a Management Analyst for the Department of the Army's European Command (EUCOM), alleged obstruction of competition, unauthorized preference, discrimination, and other prohibited practices based on his non-selection for two positions he applied for at Department of Army's Africa Command (AFRICOM) in summer 2021. Both hiring actions had the same deciding official, a Director of an AFRICOM directorate. After investigation and with OSC's assistance, the parties executed a settlement agreement, whereby AFRICOM agreed to pay complainant a lump sum of \$45,000, including back pay, consequential damages, and nonpecuniary compensatory damages. AFRICOM also offered complainant a position to remedy his non-selection, but complainant declined.

#### ***Notable FY 2023 Amicus Curiae Briefs***

- OSC filed an amicus brief in *Jindal v. Merit Systems Protection Board* (MSPB), a whistleblower retaliation appeal in the U.S. Court of Appeals for the Federal Circuit. Jindal alleged that the Department of Defense took several personnel actions in retaliation for his protected disclosures. The MSPB found, at the jurisdictional stage, that Jindal could not establish that his disclosures were a contributing factor in the agency's actions because he had withdrawn them as part of a Last Chance Agreement before the personnel actions occurred. OSC argued in its brief that a withdrawn protected disclosure can still be a contributing factor in subsequent personnel actions, and that the MSPB's contrary conclusion is inconsistent with the plain text of the statute, precedent, and congressional intent. OSC further argued that the MSPB's finding, if allowed to stand, would create an unwarranted gap in whistleblower protections, discourage whistleblowing, hinder legitimate oversight efforts, and disincentivize whistleblowers from engaging in settlement.

## **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). Most recently, OSC has provided USERRA training to the Navy, National Security Agency, Immigration & Customs Enforcement, Army Intelligence & Security Command, and Air Force. 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 2025, the USERRA program will have 1 FTE at a cost of approximately \$250,847. During FY 2024, we expect the USERRA program will have 1 FTE at a cost of \$239,936.

## Goals and Results – USERRA Unit

<b>TABLE 4 - Summary of USERRA Referral and Litigation Activity<sup>10</sup></b>					
	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Pending referrals carried over from prior fiscal year</b>	6	5	3	5	9
<b>New referrals received from VETS during fiscal year</b>	21	24	19	19	10
<b>Referrals closed</b>	22	26	17	15	14
<b>Referrals closed with corrective action</b>	2	3	0	3	1
<b>Referrals closed with no corrective action</b>	20	23	17	12	13
<b>Referrals pending at end of fiscal year</b>	5	3	5	9	5
<b>Litigation cases carried over from prior fiscal year</b>	1	1	1	1	1
<b>Litigation cases closed</b>	0	0	0	0	0
<b>Litigation closed with corrective action</b>	0	0	0	0	0

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

<b>Litigation closed with no corrective action</b>	0	0	0	0	0
<b>Litigation pending at end of fiscal year</b>	1	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 A for the Strategic Plan (FY 2022 – FY 2026)).

Goal tables were developed to track agency performance against the Strategic Plan and can be found in Appendix B 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, as illustrated in the case examples below.

- A Letter Carrier for the U.S. Postal Service (USPS) in Auburn, Maine, was called to active duty with the Maine Air National Guard following the September 11, 2001, terrorist attacks. Until his honorable discharge in December 2015, he served almost continuously in direct support of the Global War on Terrorism. During that time, he regularly provided copies of his orders to USPS, maintained his employment benefits (including making retirement contributions and paying his union dues), and repeatedly expressed his desire to return to his postal job once his service ended. USPS gave him no indication that it would not reemploy him and even sent him letters thanking him for his service and a debit card to purchase his postal uniform. However, when he notified USPS that he wished to return to his Letter Carrier position, USPS told him it would not reinstate him because he had "abandoned" his civilian employment, despite his USERRA reemployment rights. OSC represented him before the MSPB, and after a five-year legal battle, won him reinstatement at USPS, with full back pay and benefits, retroactive to January 2016.
- An Air Traffic Controller (ATC) with the Federal Aviation Administration (FAA) left his position for active duty in the U.S. Navy. As his Navy service was ending, he notified his former manager that he wished to return to the FAA to resume his civilian career. After the manager refused to assist him, he contacted the FAA's Human Resources, which incorrectly advised him he would have to apply for open positions like any new hire, despite the FAA's obligation to promptly reinstate him under USERRA. He subsequently sent several applications to various FAA regions but was not offered a position for over a year. While he was onboarding to his new position, the FAA medically disqualified him, forcing him to work in much lower-paying jobs for three years while he appealed his disqualification. OSC received his USERRA complaint and immediately contacted the FAA, which granted his medical appeal and reinstated him, but at a significantly lower salary level than he would have attained had he been properly reinstated four years earlier. He also lost out on substantial pay, benefits, and seniority due to the delay, setting his career back and costing him and his

family significant income. OSC negotiated with the FAA on his behalf, and it agreed to compensate him four years' worth of lost wages, fully restore his seniority and retirement credit, and raise his pay to reflect reinstatement at the time of his honorable discharge from the Navy.

- A Registered Nurse at the Department of Veterans Affairs (VA) failed to receive a performance bonus due to her absence for service in the U.S. Army Reserve. OSC intervened on her behalf and the VA agreed to retroactively award her the bonus.
- A Foreign Affairs Officer with the State Department alleged that his performance rating was downgraded following his absence for active duty in the U.S. Navy Reserve. OSC contacted the agency and it agreed to upgrade his rating for the period in question.

## **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 73 percent rate of successful settlement during the past 6 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 2023, 60 cases were offered for mediation by OSC after referral to the ADR Unit. OSC completed 26 mediations, of which 21 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 5*).

**Table 5 - ADR Program Activity – Mediation of Prohibited Personnel Practice Complaints**

	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Cases Reviewed for Mediation</b>	174	70	60	39	65	73
<b>Mediations Offered</b>	86	58	57	39	45	60
<b>Mediations Conducted</b>	39	39	40	31	38	34
<b>Cases Withdrawn Before Mediation Completed</b>	11	2	10	3	6	8
<b>Completed Mediations</b>	28	37	30	28	32	26
<b>Completed Mediations Resulting in Settlement</b>	21	24	23	16	27	21
<b>Percentage of Completed Mediations Resulting in Settlement</b>	75%	65%	77%	57%	84%	81%
<b>Cases Resolved Without Need for Mediation</b>	1	0	2	1	0	1
<b>Carryover to Next FY – Mediations in Process</b>	19	18	22	17	13	15
<b>Carryover to Next FY – Cases in Review</b>	2	4	1	2	3	0

## Resource Estimates

During FY 2025, the ADR program will have 4 FTEs at a cost of approximately \$1,003,388. During FY 2024, we expect the ADR program will have 4 FTEs at a cost of \$959,743.

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 A for the Strategic Plan (FY 2022 – FY 2026)).

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

## Notable FY 2023 Case Summaries

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

- Complainant alleged that after making disclosures regarding a senior leader, he was subjected to a hostile work environment, denied overtime and leave, and he was not selected for a promotion. During the mediation session, the agency representatives voiced their appreciation for the complainant's whistleblowing and other protected activities, acknowledged the difficulties the complainant had experienced, and expressed their interest in supporting the complainant's future career within the agency. The parties reached an agreement in which the agency agreed to provide Complainant with a promotion, backpay, moving expenses, correct Complainant's time and attendance records, modify Complainant's performance appraisal, and enroll him in a specialized training program.
- Complainant alleged whistleblower retaliation including being denied training and being subjected to a hostile work environment after making disclosures regarding public health and safety. During the

mediation session, Complainant and agency representatives engaged in extensive discussions, which allowed the parties to rebuild trust and mutual respect. The parties discussed options to meet Complainant's interest in gaining expertise in emerging areas under the agency's purview, and the agency's ideas interest in supporting Complainant's career advancement. Through mediation, the parties developed an innovative and customized program of trainings and site visits to build Complainant's knowledge and expertise in emerging areas. The agency also agreed to send Complainant to the Federal Executive Institute to attend a leadership training program, and to restore annual leave.

- Complainant alleged that he received a proposed suspension and formal counseling and was subjected to a hostile work environment in retaliation for reporting violations of safety regulations to his supervisors, the OIG, and Congress. The mediation provided a forum for the complainant to speak directly with agency representatives and share the mental and physical toll that the hostile work environment and other retaliatory personnel actions had taken on him and his family. This led to increased understanding and a rebuilding of trust between the parties. The agency agreed to make a payment to the Complainant for compensatory damages; restore sick leave taken due to the retaliation; rescind the suspension; provide a clean record; and, to the extent allowable, assist him in the disability retirement application process.

## **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 evidence 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.)

One important aspect of OSC's work with whistleblowers is to identify significant mismanagement or wasteful spending at agencies. For instance, one case alone found overspending of taxpayer funds amounting to \$20 million over a five-year period related to the misclassification of positions and the improper provision of law enforcement benefits.

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.

OSC is working diligently to meet statutory deadlines for making a substantial likelihood determination in its whistleblower disclosure cases, or, in other words, whether OSC will close a matter or refer the matter for investigation. 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 99.8 percent of the cases in FY 2023, a near perfect result.

## **Resource Estimates**

During FY 2025, OSC's whistleblower disclosure program will use approximately 10 FTEs at a cost of \$2,458,301. During FY 2024, we estimate the program will require 10 FTEs at a cost of \$2,351,371.

## **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 fluctuated in recent years because of several factors, but appear to be increasing with the most recent FY 2023 totals. For instance, from FY 2015 to FY 2018 the unit received an average of 1,756 disclosures per year. Then, with the partial government shutdown in FY 2019, and the COVID-19 pandemic impacting government operations from FY 2020-FY2022, OSC only averaged 1,092 new disclosures per year. However, in FY 2023, OSC received 1,237 new disclosures, which is approximately a 13 percent increase over the average from FY 2019 to FY 2022.

OSC's Disclosure Unit participated in the COVID-19 Task Force that OSC established in the spring of 2020 and disbanded in February 2023. 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 reviewed a total of 400 matters as part of the COVID-19 Task Force, ultimately referring 70 matters to the appropriate agency for investigation.

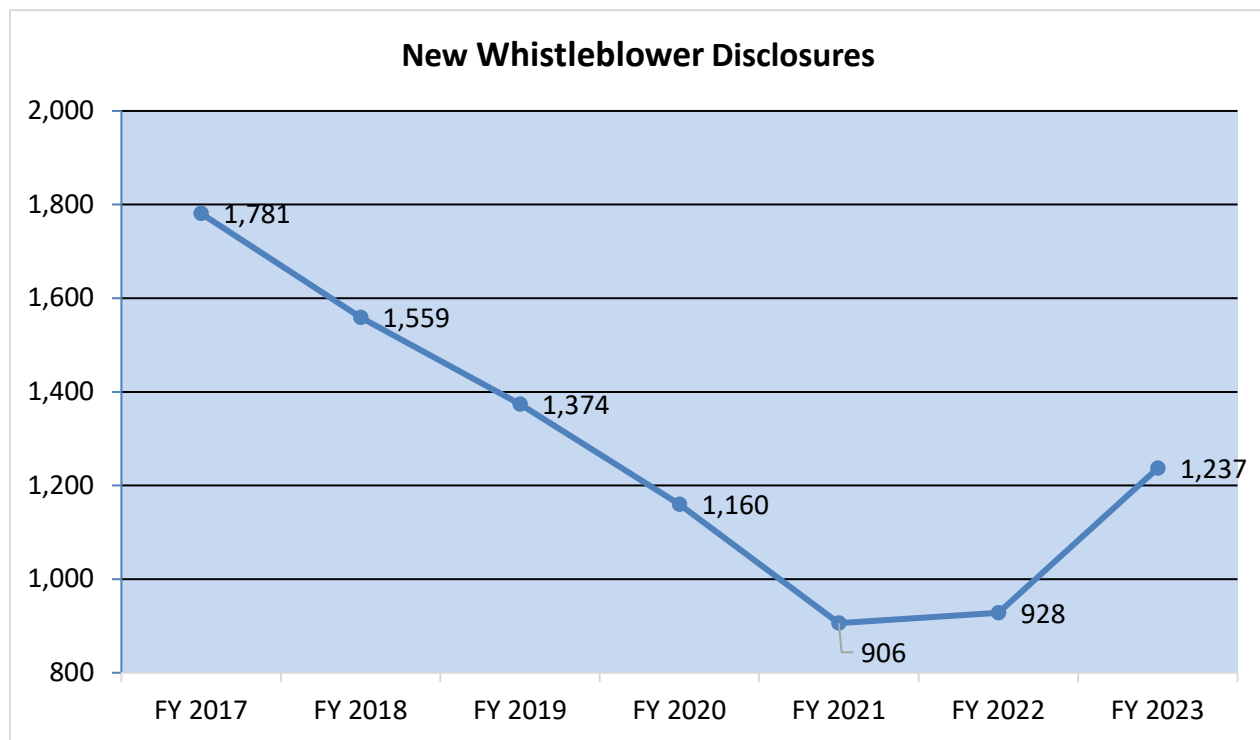


TABLE 6 - Summary of Whistleblower Disclosure Activity – Receipts and Dispositions <sup>11</sup>					
		FY 2020	FY 2021	FY 2022	FY 2023
Pending disclosures carried over from prior fiscal year		317	264	241	199
New disclosures received		1,160	906	928	1,237
<i>Total disclosures</i>		1,477	1,170	1,169	1,436
Disclosures referred to agency heads for investigation and report		81	65	27	19
Referrals to agency IGs		0	0	0	0
Agency head reports sent to President and Congress		89	76	74	70
Results of agency investigations and reports	Disclosures substantiated in whole or in part	62	53	45	44
	Disclosures unsubstantiated	27	23	29	26
Disclosure processing times	Within 45 days <sup>12</sup>	1,144	897	911	1,216
	Over 45 days	65	22	6	3
Substantial likelihood <sup>13</sup> determinations made		94.6%	97.6%	99.3%	99.8%
Disclosures processed and closed		1,213	929	967	1,285

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> A Substantial Likelihood Determination is the point at which OSC determines whether to close a disclosure file or to refer a disclosure to an agency for investigation. Pursuant to statute, 5 USC § 1213(b), OSC must make a Substantial Likelihood Determination within 45 days.



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 A for the Strategic Plan (FY 2022 – FY 2026)).

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

### Notable FY 2023 Case Summaries

OSC is authorized to refer to the head of an agency for investigation whistleblower disclosures of wrongdoing in six areas: (1) violations of a law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; (5) substantial and specific danger to public health or safety; and (6) censorship related to research, analysis, or technical information. In FY 2023, examples of OSC successes involving whistleblower disclosures include the following:

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

***Contamination in Sterile Processing Service at VA Facility.*** OSC referred to the Secretary of Veterans Affairs allegations of wrongdoing at the Veterans Healthcare System of the Ozarks (VHSO), Gene Taylor Community Based Outpatient Clinic (CBOC), Springfield, Missouri. The whistleblowers, employees in the CBOC's Sterile Processing Service (SPS), disclosed that VHSO and CBOC management violated Occupational Safety and Health Administration regulations and Veterans Health Administration directives on environmental controls, risk assessments, and safety thereby placing SPS patients and staff at risk. They alleged the following: the SPS decontamination and reprocessing rooms did not consistently meet temperature, humidity, and air turnover

requirements; the SPS did not have an anteroom where staff could put on and remove personal protective equipment (PPE), which created a contamination risk; improper risk assessments eliminated the need for an emergency shower in the SPS; and the SPS reprocessing room was improperly labeled as a decontamination room, requiring SPS staff to wear PPE in that room.

The agency substantiated that the SPS decontamination and reprocessing rooms did not consistently meet temperature, humidity, and air turnover requirements. The investigation substantiated that the SPS area did not have an anteroom, but concluded an anteroom was not required. The investigation also concluded that the SPS workflow in the decontamination and reprocessing rooms presented a high-risk of cross-contamination due to room configuration, equipment location, and the non-linear workflow of employee movement.

Consequently, the reports recommended several corrective actions, which the CBOC is implementing. The CBOC also suspended endoscopy procedures and SPS operations while these areas undergo a redesign and renovation to address the above cross-contamination risks. Further, VHSO quality management clinically reviewed all endoscopy procedures performed while the suite was operational and followed all patients for 30-days post-procedure. None of the procedures resulted in any complications, infections, or other negative impacts to patients. The Special Counsel determined the agency findings appeared reasonable.

- **Violations of law, rule, or regulation; a gross waste of funds; and gross mismanagement**

***Widespread Misclassification of Positions and Improper Payment of Law Enforcement Benefits.*** OSC referred to the Attorney General allegations of wrongdoing at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in Washington, D.C. The whistleblowers, employees in ATF's Office of Human Resources and Professional Development, alleged violations of laws, rules, and regulations; a gross waste of funds; and gross mismanagement arising from ATF's long-standing practice and policy of systematically and intentionally misclassifying upper-level non-law-enforcement jobs as law-enforcement positions and recruiting and filling these coveted, primarily supervisory jobs with only special agents or Industry Operations Investigators (IOIs) in furtherance of its Career Plans for Special Agents and IOIs. The whistleblowers further alleged that despite not performing law enforcement functions, the individuals selected for these positions retained the benefits specific to law enforcement personnel, including enhanced retirement benefits and Law Enforcement Availability Pay (LEAP). In paying LEAP to persons not actively occupying primary or secondary law enforcement roles, the whistleblowers alleged that the agency failed to comply with the annual certification and legal and policy requirements for payment of LEAP.

The agency substantiated the allegations, finding long-standing misclassification of upper-level jobs, which resulted in ATF overpaying agents by up to \$20 million over a five-year period. That cost could be much higher given that the unlawful job classifications had been common practice at ATF far longer than the five-year timeframe reviewed by investigators. In response to these findings, OPM suspended ATF's authority to classify federal law enforcement positions. ATF has also begun the process of updating position descriptions to accurately reflect job duties. As of March 2023, 36 of the employees who held misclassified positions had been reassigned and another 14 had retired. ATF's Internal Affairs Division is currently investigating the circumstances surrounding the implementation of the illegal policies and practices. The Special Counsel determined that the agency report appears reasonable.

- **Violation of law, rule, or regulation; gross mismanagement, abuse of authority, substantial and specific danger to public safety**

***Failure to Provide Oversight of Helicopter and Aircraft Operators.*** OSC referred to the Secretary of Transportation allegations of wrongdoing at the Federal Aviation Administration (FAA) Flight Standards District Office (FSDO), Honolulu, Hawaii. The whistleblower, a principal operations inspector at the Honolulu FSDO, alleged that FSDO management failed to provide proper safety oversight of helicopter and aircraft operators as required by Federal Aviation Regulations (FAR) 14 C.F.R. parts 91 and 135. The agency partially substantiated the allegations finding that in 2018, FSDO management improperly removed operational restrictions on Novictor Aviation, LLC, improperly granted check airman authority to its owner/operator, and improperly approved Aviation Concepts Inc.'s training program. The investigation also found that maintenance inspections were contributing factors in two aircraft accidents.

The agency corrective actions taken and underway included updating guidance in FAA Order 8900.1, Vol. 2, Ch. 2, Sec. 3 – *Evaluate Part 121/135 Management Personnel*, which should be completed in September 2023. The Special Counsel determined that the report meets all statutory requirements, and the findings appear reasonable.

- **Substantial and specific danger to public health or safety**

***Operating Room Closure Adversely Effects Patient Care.*** OSC referred to the Secretary of Veterans Affairs (VA) allegations of wrongdoing at the Phoenix VA Health Care System (Phoenix VAHCS), Phoenix, Arizona. The whistleblower alleged a substantial and specific danger to public health due to the closure of the operating room (OR) at the Phoenix VAHCS since July 2021. The agency substantiated the allegations and confirmed that on July 23, 2021, the agency halted SPS and OR operations pending a full review of instruments, infrastructure, and processes in response to persistent oily residue and black particles appearing on operating instruments returned by the SPS. In the interim, Phoenix VAHCS transferred all patients needing surgery to nearby hospitals. After extensive troubleshooting, the agency determined that the persistence of black particles on instruments suggested that the problem may be due to the water hardness in the region. The agency then began a process to “passivate,” or make less reactive, the stainless-steel surgical instruments. On October 14, 2021, the OR began performing emergency surgeries. By November 15, 2021, the agency determined that there was a sufficient supply of appropriately sterilized equipment to begin performing elective surgeries. The investigation further found that limited bed capacity, the COVID-19 pandemic, and high transmission of the West Nile virus in Maricopa County resulted in longer than usual times to transfer patients to local hospitals. The investigation identified three cases where there were significant delays, one of which likely contributed to the patient’s clinical deterioration.

The agency conducted an external clinical review of the care those three patients received and addressed regional transfer concerns with local public health organizations. The investigation also found that MSAs played an important role in tracking and coordinating the transfers to area hospitals by arranging calls, transport ambulances, and transportation consultants. However, in at least one case, the MSA did not document efforts to transfer the patient. In addition, the investigation identified concerns about leadership’s communication with staff about why the OR closed and any reopening plans. In response to the investigation, the agency aligned the Chief of the Emergency Department (ED) under the facility’s Chief of Staff, in compliance with VHA Directive 1101.05(2), *Emergency Medicine*. Further, the agency initiated a review process for metrics related to

the ED transfer process and consulted with the Emergency Medicine Program Office regarding ED flow, quality metrics, transfer policies, and operations. The Special Counsel determined that the report appears reasonable and meets all statutory requirements.

## **Hatch Act Unit**

The Hatch Act of 1939 aims to insulate the merit system from improper partisan political influence. In FY 2022, OSC received 224 complaints, and in FY 2023, OSC received 263 complaints. However, as OSC witnessed during prior Presidential election cycles, the agency expects much higher caseload levels during FY 2024.

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 277 Hatch Act complaints in FY 2023 (*See Table 7*).

## **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 2023, OSC issued 614 total advisory opinions, including 17 formal written advisory opinions.

## **Resource Estimates**

During FY 2025, the Hatch Act program will use approximately 8 FTEs at a cost of approximately \$2,006,777. During FY 2024, we estimate the cost of this program to be \$1,919,487 with 8 FTEs.

## **Outreach and Training**

To further its advisory role, OSC is very active in training and outreach efforts.

For instance, the Hatch Act Unit filmed a series of training videos about the Hatch Act that are now posted on OSC’s website. The videos cover a range of Hatch Act topics, including the rules applicable to both federal and state or local government employees.

Additionally, OSC prepared for the launch of a new regular webinar series for federal executive branch ethics officials. There are two different webinar offerings. One is a semiannual webinar intended to teach new ethics officials what they need to know to advise employees at their agencies about the Hatch Act. The other is a quarterly series that offers experienced ethics officials a “deep dive” on discrete Hatch Act topics. The webinars will launch in October 2024.

## 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 7 - Summary of Hatch Act Complaint and Advisory Opinion Activity							
		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Formal written advisory opinion requests received		52	46	60	23	21	21
Formal written advisory opinions issued		46	52	56	28	22	17
Total advisory opinions issued <sup>14</sup>		1,155	1,111	1,461	1,043	757	614
New complaints received <sup>15</sup>		263	281	440	289	224	263
Complaints processed and closed		286	245	280	375	313	277
Warning letters issued		49	49	34	62	73	41
Corrective actions taken by cure letter recipients	Withdrawal from partisan races	5	4	2	4	7	3
	Resignation from covered employment	2	2	0	0	7	4
	Other	3	5	10	0	8	12
	Total	10	11	12	4	22	19
Disciplinary action complaints filed with MSPB		2	0	4	3	5	1
Disciplinary actions obtained (by negotiation or ordered by MSPB)		6	5	8	7	8	3
Complaints pending at end of fiscal year		133	168	323	236	145	131

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 A

<sup>14</sup> All oral, e-mail, and written advisory opinions issued by OSC.

<sup>15</sup> Includes cases that were reopened.

for the Strategic Plan (FY 2022 – FY 2026)).

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

## **Notable FY 2023 Case Summaries**

### MSPB Litigation

- OSC prevailed in a case that had been pending before the MSPB since 2017. The case involved a U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) employee who ran for the U.S. House of Representatives 8th Congressional District in Washington State numerous times. In January 2017, an MSPB administrative law judge (ALJ) concluded that the employee violated the Hatch Act and should be removed from his federal employment as a penalty for his violations. The employee appealed, and because of a lack of quorum at the MSPB, the employee maintained his employment with NOAA and continued to run for the same partisan political office every two years. In January 2023, the MSPB affirmed the ALJ's decision and ordered the employee removed.
- OSC filed complaints against two U.S. Department of Veterans Affairs employees, a husband and wife who share and operate a joint Facebook account. The complaints alleged that the employees solicited political contributions and engaged in political activity while on duty using their Facebook account. In April 2023, OSC settled the case against the wife, who agreed to accept a three-day unpaid suspension as a penalty for violating the Hatch Act. The case against the husband is scheduled for a hearing in December 2023.
- In September 2023, OSC filed a complaint against a Pentagon Force Protection Agency employee alleging that the employee violated the Hatch Act by running for partisan political office, knowingly soliciting, accepting, or receiving political contributions, and engaging in political activity while wearing a uniform or official insignia identifying his employing agency. OSC expects the case will go to a hearing in 2024.

### Cases Involving High-Level Presidential Appointees

- In May 2023, OSC sent a report to President Biden detailing how Rachael Rollins, former U.S. Attorney for the District of Massachusetts, willfully violated the Hatch Act on multiple occasions. Ms. Rollins's first violation arose in July 2022 when, in disregard of legal advice from her own agency, and in violation of the Hatch Act, she attended a political party fundraiser in her official capacity. Her second violation occurred throughout August and September 2022, when she repeatedly attempted to sabotage the campaign of a political candidate by leaking non-public U.S. Department of Justice (DOJ) information to the media to plant a story that the candidate she opposed was facing a DOJ investigation. OSC's report concluded that Ms. Rollins's intentional violations of the Hatch Act warranted disciplinary action. Ms. Rollins resigned from her position as U.S. Attorney.

### Disciplinary Action Obtained through Settlement Negotiations



- OSC settled a case against a Department of Labor political appointee who, while on duty and acting in her official capacity during a teleconference with employees from a private organization, asked one of the employees which candidate they were supporting in the upcoming gubernatorial election in that employee's home state. She then expressed her support for one of the candidates. In response to OSC's charges of Hatch Act violations, the appointee agreed to serve a 10-day unpaid suspension.

### Corrective Actions

- In cases involving employees currently running for partisan political office in violation of the Hatch Act, OSC typically issues employees a "cure letter" allowing them an opportunity to come into compliance with the law by either withdrawing from the election or resigning their government employment. In Fiscal Year 2023, OSC achieved seven favorable corrective actions in response to cure letters. Four employees chose to resign from their government employment, while three others chose to withdraw their candidacies for partisan political office.

## **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.

In FY 2002, OSC developed a five-step voluntary educational program, the 2302(c) Certification Program (Certification Program). 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 supervisory training to meet the 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 2023, 119 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 123 trainings in FY 2022, and 335 trainings in FY 2023.<sup>16</sup> 291 of these FY 2023 trainings focused on prohibited personnel practices, and whistleblower disclosures.

In response to the COVID 19 pandemic and the resulting government-wide movement toward telework, OSC's ongoing training functions underwent a significant transformation to meet the needs of this virtual environment and the individualized needs of our customer agencies. OSC has maintained a rigorous training schedule because of the switch to virtual trainings.

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<sup>16</sup> Please note that separate outreach presentations may include more than one training, such as, PPP training, Whistleblower Disclosure training and/or Annual Supervisory training.

In FY 2023, there was a dramatic increase in the number of trainings conducted and while most are conducted virtually, there has also been a slight increase in the number of in-person trainings.

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 A for the Strategic Plan (FY 2022 – FY 2026)).

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

## **Resource Estimates**

During FY 2025, we estimate the Outreach and Education program will use nearly 3 FTE at a cost of \$672,270. During FY 2024, we estimate the program will use 3 FTE at a cost of \$643,028.

## **PART 4 – ENHANCEMENT OF OPERATIONS**

### **Strategic Management of Human Capital**

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

The agency is currently addressing gaps not only in its Human Capital Office, but also in its program areas, through a variety of methods.

#### ***Implementing Personnel Vetting Reforms.***

OSC is compliant with the personnel vetting reforms and is enrolled in Trusted Workforce (TW) 1.25 which covers National Security designated positions. In alignment with the Performance Accountability Council (PAC) TW 2.0 Implementation Strategy, OSC is projected to transition to TW 2.0 in FY2025. The implementation of TW 2.0 will include continuous vetting for positions designated as public trust and low risk. As of August 2022, OSC has deployed the National Background Investigations Services (NBIS), and the personnel vetting program is executed in accordance with established government-wide standards. In November 2023, OSC appointed an Operations Support Specialist who will serve as the dedicated program coordinator to enhance the success of our personnel security program.

## ***Federal Hiring: Strengthening Our Talent Pipeline, Retaining Talented Civil Servants, and Closing Skills Gaps***

Developing our talent pipeline is a critical component of our talent acquisition strategy, requiring resources and tools for an agile recruitment system. A targeted recruitment campaign was designed in FY 2023 to expand our candidate pool utilizing communities of practice, college recruitment offices, professional networks, and social media. The cultivation of this recruitment campaign has been successful in which OSC prioritized our workforce requirements and filled several mission essential positions. These recruitment efforts were initiated in alignment with OPM's 80-Day Hiring Model.

In accordance with Executive Order 13932, OSC has implemented alternate assessment tools for candidate screening, to include USAHire for competitive service positions. The sustainability and growth of our recruitment program is dependent on our ability to leverage technology and digital services for recruitment efforts, access to an applicant management system, and identifying tools to measure the effectiveness of our hiring program. OSC has recently modified our talent acquisition strategy to insource our hiring program through the implementation of OPM's USA Staffing System and plans to apply this in FY 2024 and beyond. OSC is considered a small agency with a population of 130-140 employees. It is imperative to procure the necessary resources to backfill vital positions with an unhindered recruitment process. By insourcing the hiring program, OSC will efficiently attain our strategic goals, promptly respond to hiring demands, and remain a competitive agency within the federal government. In September 2023, OSC appointed a senior human resources specialist with significant expertise in the USA Staffing program to execute the talent acquisition operational activities.

Investing in our workforce is a large part of our talent management and employee engagement strategy. Recognition and incentive programs along with allocated professional development dollars will continue to optimize our organizational performance, engage our employees, and preserve institutional knowledge. OSC's law school summer intern program has established an additional talent pipeline. The creation of paid internships and attorney honors programs are key initiatives for the agency to attract the next generation of government employees. Dedicated resources are necessary to expand our program offering paid intern positions under the Pathways authority and in adherence to E.O. 14035.

## **Improved Financial Performance**

OSC received unqualified opinions for all audits from the inception of a formal financial statement audit requirement by the Accountability for Tax Dollars Act (ATDA) of 2002 through FY 2017. After receiving a qualified audit opinion in FY 2018 caused by a one-time technical issue in financial reporting, OSC took immediate steps to resolve the issue, and made various process and control improvements. As a result of these changes, OSC received an unqualified opinion once again on its audits each year from FY 2019 through FY 2023. An independent accounting firm evaluated OSC's financial statements. Prior to the pandemic, the auditor spent time at OSC headquarters, and in Denver with personnel from the Department of Interior's Interior Business Center (IBC), which has performed the accounting, payments, travel system operations, and financial system operations and maintenance functions for OSC. The FY 2024 audit will begin shortly.

As mentioned above, OSC contracts out certain finance-related work under an interagency agreement with IBC, which allows OSC to obtain specialized expertise at a lower cost than it could internally. OSC was involved in the

effort to design the processes used for its accounting system and to design specific customized reports that reflect exactly the information most helpful to OSC funds management. IBC routinely provides financial reports to OSC and a detailed financial review every quarter. IBC also provides current financial information on day-to-day operations for payroll, procurement, and travel as needed.

As a small agency, OSC relies on audits and other reviews of IBC operations by IBC's OIG and the Office of the Chief Financial Officer, as well as information we receive directly from IBC, for information about any significant issues relating to the services provided to OSC. IBC has a formal management and control and compliance program, including OMB Circular A-123 audits, A-123 Accounting Transactions testing, SAS70 Type II audits, and financial statements audits. Furthermore, it conducts IT audits, including Federal Information Security Management Act (FISMA) and internal controls reviews.

During FY 2017, OSC implemented within its financial system the capabilities and reporting required by the Digital Accountability and Transparency Act of 2014. OSC met the requirements of the DATA Act, working in cooperation with IBC and other participants. OSC has continued to perform quarterly DATA Act reporting on a timely basis. In FY 2021, OSC and IBC replaced the reporting module of OSC's Oracle Federal Financials system with a more modernized solution.

## **Competitive Sourcing**

OSC is a small agency with a highly specialized, inherently government-focused mission.

Approximately 92 percent of its FTEs perform inherently governmental work. Approximately 8 percent of its FTEs are considered commercial in nature, spread across multiple activities. According to OMB Circular A-76 and supplemental guidance issued by OMB, government performance of commercial functions is permitted when, as is the case at OSC, it totals 10 FTEs or fewer positions in one activity.

## **Maximizing Efficiencies through Use of Shared Service Providers**

As a smaller federal agency with limited resources, OSC is strategic about maximizing its operational efficiency while limiting the size and cost of its administrative personnel. A key piece of OSC's strategy is the use of third-party shared service providers to perform highly technical operational procedures in areas such as accounting and contracting, which would require the hiring of significant staff at higher GS levels if OSC were to perform them internally. This strategy is in line with recent government trends in which the White House has encouraged agencies to maximize their use of shared service providers to achieve operational efficiency while limiting costs.

OSC currently has interagency agreements with the U.S. Department of Agriculture's National Finance Center to conduct payroll and personnel processing and with the IBC to perform budget accounting, budget execution, accounting, travel management, procurement, and procurement system hosting services for OSC. Additionally, OSC also currently utilizes GSA for procurement services and the Program Support Center at the Department of Health and Human Services for transit services. OSC will continue to look for areas in which the value equation makes sense to move functions to Shared Services.

To promote best in-class purchasing for micro purchases, OSC pursued a three-pronged strategy of 1) limiting the number of authorized purchase cardholders 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 good(s) or service(s) required. Part of the market research process includes exploring all procurement sources, both governmental and non-governmental, for obtaining the good(s) or service(s) required. If the good(s) or service(s) can be obtained from another federal agency at a reduced cost, OSC enters an interagency agreement with the government supplier. On the other hand, if the private sector can provide more competitive pricing, OSC works with its contracting team to create a Request for Proposal (RFP) and encourage multiple vendors to bid, thereby ensuring the agency receives the most competitive price. OSC achieves significant cost savings through this approach. OSC will continue to evaluate where shared service providers may be able to save additional costs. The analysis will include all areas of administrative support and human resources operations, as well as other operations that may be appropriate. OSC also entered an interagency agreement again with the Department of Interior to perform our FISMA audit. In addition, OSC will continue to consult with its contracting shared service providers to discuss planning and procurement methods that will best leverage existing government vehicles and contracts to achieve greater savings and efficiencies.

## **IT Modernization Initiatives**

OSC is committed to leveraging technology to streamline operations and increase the effectiveness of its IT programs and the service that we provide to the public. The agency has made significant progress in the past several years in modernizing and securing its technological systems, and it will continue to fund those efforts and make new investments to optimize processes for case management, electronic filing, records management, cybersecurity, end-user support 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 is built utilizing 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 are stored in electronic format, the need for extra storage continues to grow. The eCMS system has moved OSC into the future with an online, cloud-based system that allowed the agency to go paperless and provided an updated and improved system for government employees to file complaints, OSC employees to process those complaints, and OSC to fulfill our records management responsibilities, once a case is complete.
- *Electronic Filing of Complaints.* OSC released an electronic web-based filing portal and digitized the OSC Complaint and Disclosure Form streamlining the gathering of information for complaints. The portal was launched on March 6, 2023, and has processed over 1,000 submissions to date.

- Login.gov was deployed successfully for OSC’s electronic web-based filing portal. Login.gov is a single sign-on solution for US government websites. It enables users to log in to services from numerous government agencies using the same username and password or PIV card. This capability allows complainants to submit and manage their cases through our public website.
- *OSC.gov migration to a better and more secure environment.* OSC has successfully planned and started the OSC.gov site migration to a new shared service platform hosted by Microsoft Commercial cloud offering. The new FedRAMP approved cloud service provider will improve security and compliance with governmental mandates and deliver enhanced public services.

***Prioritizing IT Modernization, Cybersecurity, and IT Workforce.***

- *Cybersecurity.* OSC has implemented many features to enhance the monitoring and detection of cybersecurity incidents. This year, OSC conducted multiple phishing campaigns, and overall, the agency performed well. Users who incorrectly selected the simulated malicious links or files were redirected to take additional training. OSC is currently evaluating the capabilities available through existing OSC licenses to perform an analysis for additional resources required to meet security operations center needs.
- *OSC continues to mature priority capabilities within the network.* This year OSC deployed Endpoint Detection tools, enhanced IT logging, and implemented encryption across all devices (servers, laptops, and mobile devices). In implementing a new cloud-based VPN solution, OSC gained additional security enhancements. This includes meeting a majority of the TIC 3.0 requirements and puts OSC on the path to deploying Zero-Trust Architecture. OSC continues to fine tune current security policies to provide greater visibility into the sharing activities of users.
- *Continuous Diagnostics and Migration (CDM)* In FY 2021, OSC worked with the Department of Homeland Security to transition from the CDM SSP 1.0 platform to SSP 2.0 as part of the Defend Program. CDM SSP 2.0 grants OSC enhanced insights into vulnerabilities and configuration compliance within its network. OSC completed integration of Microsoft Defender for Endpoint and CDM to improve security posture and visibility across the federal government. As DHS continues to add capabilities to the Defend program in FY 2023, OSC plans to leverage the platform to improve security for Identity and Access Management in the cloud, and data protection, and enhance Network Security Management.
- *Complete the migration of all remaining on-premises network services to the FedRAMP approved cloud services.* This will help OSC reduce operating costs, simplify IT services, and improve the performance and availability of OSC services.
- *OSC modernized its remaining on-premises network equipment* to improve the security of its physical network.
- OSC is engaged in an agency wide data labeling and governance campaign to meet the requirements of M-22-09 and the Federal Data Strategy.



- *Deployed Box.com as a FedRAMP approved cloud solution to facilitate large file exchanges securely between internal and external stakeholders.* Box.com offers multiple features that benefit OSC. Box offers file transfer and sharing, custom branding, FedRAMP compliance, document watermarking, user activity tracking, file request, and active directory integration.
- *Established an IAA with the Federal Aviation Administration (FAA) to conduct penetration testing to evaluate the security of OSC systems and our public facing website ([www.osc.gov](http://www.osc.gov)).* A penetration test, or pen test, is an attempt to evaluate the security of an agency's IT systems by safely trying to exploit vulnerabilities. These vulnerabilities may exist in operating systems, services, websites, and application flaws, improper configurations, or risky end-user behavior.
- *eDiscovery solution.* OSC has executed an acquisition to implement an eDiscovery solution. This solution will enhance OSC's ability to quickly search for and identify critical information received from outside agencies and complainants in electronic format and store the results in our electronic case management system (eCMS). Additionally, this effort will allow accredited OSC users to process, review, analyze and produce Electronically Stored Information (ESI) in compliance with legal obligations in an efficient and streamlined manner.
- OSC is required to comply with Memorandum 21-07 which requires all agencies to start transitioning to IPv6. The demand for IP addresses has grown exponentially with the increasing number of users and devices connecting to the Internet, resulting in the exhaustion of available IPv4 addresses. The support for many of our network devices will end in two years or less. As a result, OSC purchased new network devices at the end of FY23 and they will be implemented by Q2 FY24.
- OSC is required to comply with Memorandum 22-09, which requires all agencies to meet specific cybersecurity standards and objectives by the end of Fiscal Year (FY) 2024. To act in accordance with Memorandum 22-09 and Zero Trust Architecture, agencies must resolve DNS queries using encrypted DNS, wherever it is technically supported (Internal and external traffic).
- OSC completed a reorganization of its IT Office (ITO) with the hiring of several key positions, including, but not limited to a Chief Information Security Officer (CISO), eCMS Administrator, and Network Engineer.
- IT Service Request System: ITO deployed a new automated service request system to manage OSC user requests for IT support. This system allows ITO to track incoming IT Helpdesk service requests and ensure timely responses while identifying trends and pinpointing common issues to enable more proactive solutions.
- Deployed advanced internal wireless networks: ITO successfully deployed new and more secure wireless access points, providing a secure staff network for access to agency assets and a guest network for visitors without agency credentials at the OSC headquarters office.
- Ensured 100% compliance with Annual Cybersecurity awareness training for OSC users.

- Training for Employees: Conducted Microsoft TEAMS training for OSC staff to develop and improve technical skills and knowledge to do job in a more efficient, successful, or safer manner.
- Remediated 37/38 of CISA security findings which were pending for the last two years.
- Enabled email encryption capability on Microsoft Outlook.
- Deployed a redundant internet connection to reduce costly downtime and improve Business Continuity when the primary connection goes down. This has improved the customer experience with continuity of operations for various business units and has allowed for better management of bandwidth demands and network performance.

## **IT Goals for FY 2024 – 2025:**

Provide consistent, high-quality IT services that leverage innovative technology of OSC. New and enhanced 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 cloud-based 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 and ITO's customer experience.

1. Continue to enhance and modernize OSC's IT mission by adopting cloud-based services to provide the agency with tools for managing cases effectively in support of paper reduction and IT modernization.
2. In FY24, OSC expects to begin a laptop refresh for all OSC employees and contractors.
3. Migration of OSC's public-facing site to the cloud. OSC would like to further reduce its server footprint and is currently looking at shared services and web content management systems to further modernize OSC's public-facing presence.
4. Continue to enhance protection against ransomware attacks. Ransomware is a type of malware designed to extort money from its victims, who are blocked or prevented from accessing data on their systems.
5. Reduce the impact of cybersecurity risks by safeguarding IT systems, conducting penetration testing, and protecting sensitive data and networks by implementing cutting edge cybersecurity capabilities, and implementing Security Operations Center as a Service.
6. Deployment of IPV6 solution for OSC IT systems. In accordance with OMB Memorandum 21-07, OSC is working to fully transition to IPV6 by the end of ~FY24.
7. Continue working with DHS to implement additional features of the Defend program to include Identity and Access Management, Data Protection, and Network Security Management.
8. Enhance IT capabilities for field office and/or remote employees that lack physical location. Explore and



leverage modernized equipment and infrastructure for such staff, who have a large presence in the Midwest, Oakland, and Dallas areas.

9. Developing the IT workforce of the 21<sup>st</sup> century. Train and retain IT workforce that can effectively carry out ITO's mission. Promote training opportunities to develop and expand skillsets for IT resources and create a superior workforce.
10. Implement eDiscovery solution. This solution will enhance OSC's ability to quickly search for and identify critical information received from outside agencies and complainants in electronic format and store the results in our electronic case management system (eCMS). Additionally, this effort will allow accredited OSC users to process, review, analyze and produce Electronically Stored Information (ESI) in compliance with legal obligations in an efficient and streamlined manner.

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

## **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 must safeguard vital records and data, and validate capability through tests, training, and exercises. OSC will continue to evaluate alternate methodologies to connect OSC's headquarters and OSC personnel in the field. Following the government-wide direction, OSC moved to a cloud-computing approach. For example, in FY 2019, OSC's case management system moved to the cloud, along with our SharePoint environment. OSC's cloud approach will provide additional safety and faster recovery time in the event of a debilitating event; agency functions and vital records will be further safeguarded. The new enterprise architecture provides redundancy, along with automatic failover and enhancements in performance. OSC's ability to seamlessly continue to operate in the face of unanticipated disruption was demonstrated during the COVID-19 pandemic when the agency moved to 100% precautionary mandatory telework.

Since that time, OSC has put additional improvements and redundancies in place, that ensure our employees can continue to perform their mission during a wide range of emergencies. We now routinely work in a hybrid work environment, which supports both remote and on-site employees. We can quickly and seamless transition to fully remote work as the situation dictates. Our IT and HR policies have also been adjusted to accommodate this new paradigm, and ultimately gives the agency the ability to be much nimbler and more flexible.

## **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 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.

In another example, 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. Accordingly, 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 have worked virtually since FY 2021. Additionally, the savings resulting from the discontinued leases have been reallocated to personnel expenses, thereby furthering OSC's ability to achieve its mission effectively.

This senior leadership group that makes up the ERM council will continue to identify and mitigate risk in the years ahead. New risk items that affect the enterprise will be added and continuously evaluated, such as the risks and opportunities posed by Artificial Intelligence.

**APPENDIX A – STRATEGIC PLAN, FY 2022-2026**

**STRATEGIC PLAN  
(FY 2022-2026)**



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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.

### **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 C of this document.

### **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."

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#### **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 B: Goal Tables, Strategic Plan**

### **Strategic Goal 1, Tables 1-5 – Protect and promote the integrity and fairness of the federal workplace.**

Strategic Goal 1 has six objectives:

- Objective 1: Fairly and promptly investigate and prosecute cases.
- Objective 2: Obtain timely and effective relief in cases.
- Objective 3: Enhance strategic use of enforcement authority.
- Objective 4: Provide timely and high-quality Hatch Act advisory opinions and guidance.
- Objective 5: Expand training and outreach efforts nationwide.
- Objective 6: Effectively and innovatively communicate with stakeholders and the public.

**Goal Tables 1A, 1B, and 1C** relate to the first two objectives regarding OSC’s investigations of alleged PPPs, Hatch Act violations, and USERRA complaints, respectively.

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

<b>Goal Table 1A: Goals 1-10</b>									
<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	85%	Baseline/ datapoint		Baseline/ datapoint			
2	Number of complaints mediated.	30	26	30		30			
3	Number of complaints mediated resulting in settlement.	20	21	20		20			
4	Number of formal stays obtained.	0	10	5		5			

5	Number of informal stays obtained.	25	45	30		30			
6	Number of individual corrective actions obtained.	220	237	225		225			
7	Number of systemic corrective actions obtained.	50	91	55		60			
8	Number of disciplinary actions obtained.	15	35	20		20			
9	Number of cases filed with MSPB	1	0	1		1			
10	Number of total favorable actions obtained (i.e., formal stay, informal stay, individual corrective action, systemic corrective action, and disciplinary action).	Baseline	418	300		305			

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

<b>Goal Table 1B: Goals 11-17</b>									
<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>									
<b>Target #</b>	<b>Description</b>	<b>FY 2023 Target</b>	<b>FY 2023 Result</b>	<b>FY 2024 Target</b>	<b>FY 2024 Result</b>	<b>FY 2025 Target</b>	<b>FY 2025 Result</b>	<b>FY 2026 Target</b>	<b>FY 2026 Result</b>
11	Percent of cases closed within 240 days.	65%	77%	65%		70%			
12	Number of cases filed with MSPB.	2	1 <sup>12</sup>	3		3			
13	Percent of successful prosecutions before MSPB	100%	100%	100%		100%			
14	Number of warning letters issued.	30	41	50		50			
15	Number of corrective actions obtained.	10	19	15		20			
16	Number of disciplinary actions obtained.	5	3	5		5			
17	Number of total favorable actions obtained (i.e., corrective action and disciplinary action).	15	22	20		25			

**GOAL Table 1B explanatory notes:**

<sup>12</sup>: The Hatch Act Unit sent two reports to the President concerning Hatch Act violations by presidential appointees with Senate (PAS) confirmation. For PAS, pursuant to 5 U.S.C. 1215(b), the Hatch Act Unit’s only mechanism for pursuing disciplinary action against PAS is to send such a report. The MSPB does not have jurisdiction over them, thus explaining why this result fell slightly short of the target.

- **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%	78.57%	80%		80%			
19	Number of corrective actions obtained (formally and informally).	3	1	3		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	0	2		2			
21	Number of amicus curiae briefs and interventions filed.	2	1	2		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 22-24									
<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
22	Percent of informal telephonic advisory opinions issued within 3 days of inquiry.	98%	97%	98%		98%			
23	Percent of informal email advisory opinions issued within 5 days of inquiry.	95%	99%	95%		95%			
24	Percent of formal written advisory opinions issued within 60 days of inquiry.	75%	82%	75%		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 25-26									
<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
25	Number of agencies/components certified and recertified for the 2302(c) Certification Program.	10	23	12		15			
26	Number of trainings conducted. <sup>26</sup>	140	335	125		200			

**Goal Table 4 explanatory notes:**

<sup>26</sup>: 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." In addition, certain presentations include more than one training, such as, PPP training and Annual Supervisory training.



- **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 27-29									
<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
27	Number of press releases issued.	25	12	25		20			
28	Types and frequency of digital platforms used to share information.	275	448	275		275			
29	Types and frequency of website views and activity on digital platforms.	Baseline	140,029 (1,571 twitter engagements and 138,458 unique website views)	Baseline		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 30-31

*Goal 2: Ensure government accountability*

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

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
30	Number of referrals of whistleblower disclosures to agencies for investigation.	70	19	60		25			
31	Percent of referrals of whistleblower disclosures to agencies for investigation made within 45 days.	90%	99.8%	90%		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 32-33

*Goal 2: Ensure government accountability*

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

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
32	Number of favorable outcomes—both corrective and disciplinary actions—achieved through referrals of whistleblower disclosures.	70 corrective actions & 10 disciplinary actions	117 corrective actions & 3 disciplinary actions	50 corrective actions & 5 disciplinary actions		50 corrective actions & 5 disciplinary actions			
33	Number of days between the date a case can be closed, and the date of transmission to the President and Congress. <sup>33</sup>	120 days	134 days	120 days		120 days			

<sup>33</sup> The description of this goal has been updated. Data points used to determine when a case can be closed include receipt of whistleblower comments; whistleblower consent or declination to include comments on the agency report and or any supplemental report in OSC’s public file; receipt of redacted agency reports; and receipt of agency updates.

**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 34-36									
Goal 3: Achieve Organizational Excellence									
Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce.									
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
34	Develop and maintain up-to-date Human Capital Plan and reassess regularly.	Met	Met	Met		Met			

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

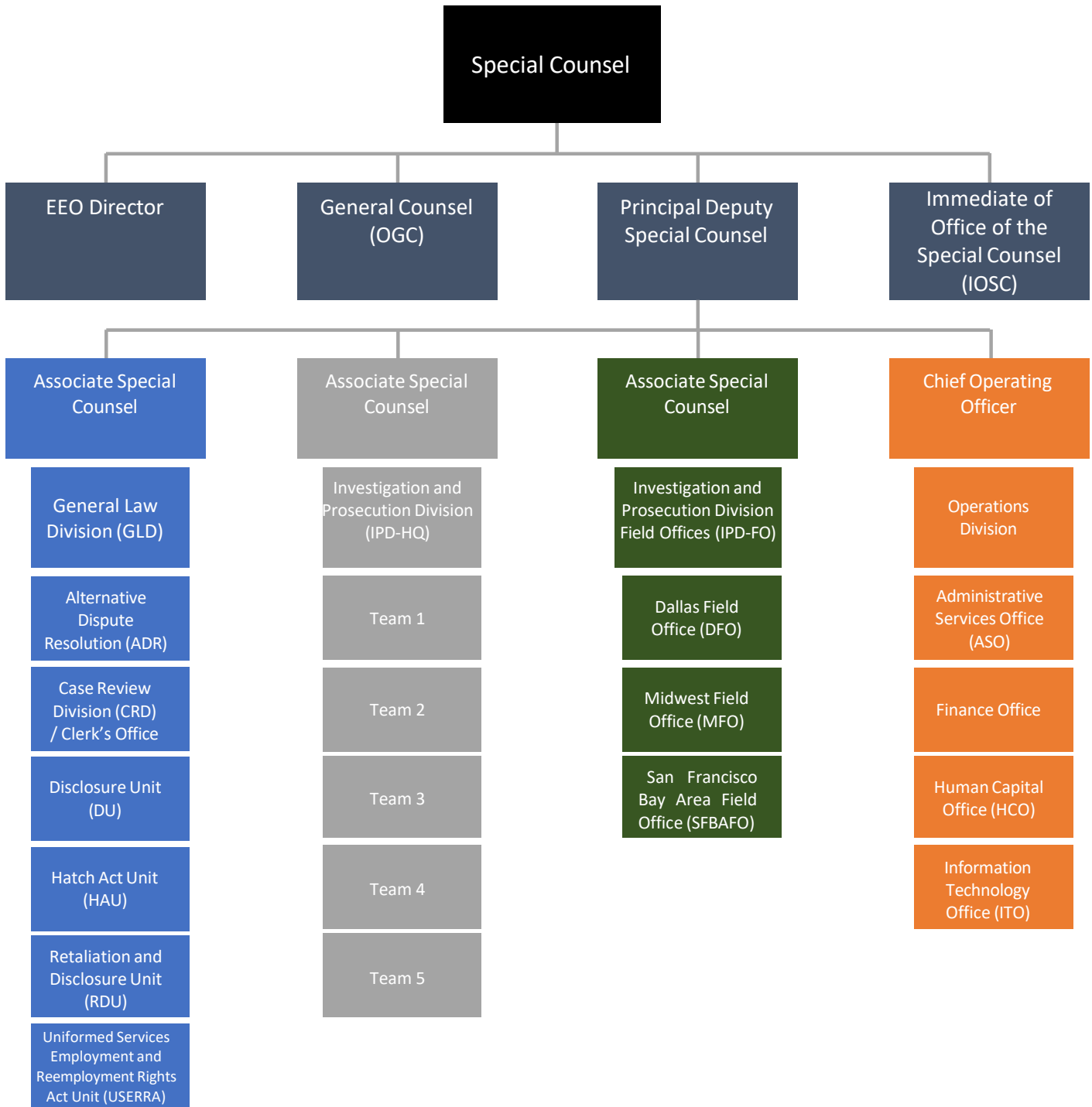
Goal Table 9: Goals 37-41									
<i>Goal 3: Achieve organizational excellence</i>									
<i>Objective 2: Improve the use of existing technology and deploy new Information Technology (IT) systems to enhance organizational operations.</i>									
Target #	Description	FY 2023 Target	FY 2023 Result	FY 2024 Target	FY 2024 Result	FY 2025 Target	FY 2025 Result	FY 2026 Target	FY 2026 Result
37	Periodic assessment and reassessment of agency	Met	Met	Met		Met			

	technology requirements.								
38	Deploy enhancements and reporting capabilities of the current electronic case management system, annually.	Met	Met	Met		Met			
39	Develop and deploy phased approach for adopting zero-trust network security framework.	Met	Met	Met		Met			
40	Develop and implement plan to reduce uncategorized data and labeling.	Met	Unmet	Met		Met			
41	Ensure that IT staffing remains at 5% of the agency's workforce.	Met	Met	Met		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 42-43									
Goal 3: Achieve organizational excellence									
Objective 3: Monitor, evaluate, and improve the efficiency and effectiveness of programs and processes.									
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
42	Hold monthly or regular meetings to evaluate programs and processes and implement any learned best practices.	Met	Met	Met		Met			
43	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	Met	Met		Met			

## Appendix C: OSC Organizational Chart





## **U.S. Office of Special Counsel**

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

**Agency Web Site:**

**[www.osc.gov](http://www.osc.gov)**