

PERFORMANCE
—*and*—
ACCOUNTABILITY REPORT
—*for*—
FISCAL YEAR 2019



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TABLE OF CONTENTS

A Message from the Special Counsel	4
Part 1: Management Discussion and Analysis Section	6
I. About OSC	6
II. Statutory Background	6
III. Organizational Structure	8
IV. Performance Highlights	10
V. OSC's Notable Successes	11
VI. Systems, Controls, and Legal Compliance	22
VII. Management Assurances	23
VIII. Management Challenges	24
IX. Comments on Final FY 2019 Financial Statements	26
Part 2: Performance Section	29
FY 2017-2022 Strategic Plan and Corresponding Goals	29
Goal 1, Tables 1-5 – Protect and Promote Integrity and Fairness of the Federal Workplace	30
Goal 2, Tables 6-8 – Ensure Government Accountability	38
Goal 3, Tables 9-11 – Achieve Organizational Excellence	42
Part 3: Financial Section	48
CFO Letter	48
Independent Auditor's Report	50
FY 2019 Financial Statements	54
Notes to Principal Financial Statements	59
Appendices	71
Appendix I: Strategic Plan	71
Appendix II: OSC Organizational Chart	92
Appendix III: OSC Strategic Planning Team	93

A MESSAGE FROM SPECIAL COUNSEL HENRY KERNER

It is my pleasure to present the Office of Special Counsel's (OSC) Performance and Accountability Report for fiscal year (FY) 2019. This report marks the start of the third year of my leadership tenure at OSC, the agency whose noble mission it is to protect federal workers while holding government accountable. FY 2019 represented a banner year for OSC, with the agency exceeding many of its goals and achieving greater successes on behalf of whistleblowers.

OSC provides a safe channel for federal employees to report fraud, waste, mismanagement, and abuse, and dangers to public health and safety. The agency also safeguards and protects the rights of federal employees and returning members of the uniformed services. In doing so, OSC protects the public, stands up for taxpayers, and increases the confidence of the public and the federal community in their government. Ensuring accountability is a job I do not take lightly, and I will continue working diligently within OSC and with the federal community, Congress, and stakeholders towards that goal.

OSC has continued to provide outsized returns for the federal government and has achieved unparalleled success for complainants. In FY 2019, OSC achieved nearly 330 favorable outcomes for federal employees subjected to retaliation and other prohibited personnel practices (PPP), roughly 48 percent higher than its success rate in recent years. At the same time, OSC has focused its efforts on addressing whistleblower disclosures in a timely fashion and ensuring that waste, fraud, abuse, and violations of law are identified and remedied quickly. For FY 2019, OSC's whistleblower disclosure work resulted in 43 substantiated instances of wrongdoing and the identification of millions of dollars of wasteful government spending across multiple agencies, including 1.34 million dollars in recoverable assets for the Army.

OSC has also continued to achieve impressive results in its handling of Hatch Act and Uniformed Service Employment and Reemployment Rights Act Enforcement (USERRA) cases. OSC's Hatch Act unit issued more than 1,100 advisory opinions and obtained five disciplinary actions for violations of the Hatch Act. The USERRA unit received more than 20 cases, achieving positive outcomes for the complainants in three cases in FY 2019.

All of these successes have created an increased awareness of OSC among federal employees. As employees see the positive results achieved by OSC for their colleagues, it encourages more individuals to avail themselves of OSC as a route to remedy wrongdoing. The result has been record numbers of new filings, currently averaging around 6,000 new cases each year. OSC resources have not increased sufficiently to keep up with the increase in filings, however, resulting in a significant backlog that reached roughly 2,600 cases at the start of FY 2019. Recognizing the need to address these backlogged cases, I doubled down on enhancing the efficiency and effectiveness of how the agency uses its resources. These efforts taken together have resulted in a reduction of the backlog by about 25 percent, to just under 2,000 cases at the end of FY 2019. Despite this success in FY 2019, there remains work to be done, and OSC will require additional resources in future fiscal years to sustain and build upon our current successes.

FY 2019 marked the fifteenth year OSC has conducted a financial audit. I am confident that the financial and performance data presented in this report are complete, reliable, and accurate.

Achieving solid financial footing is foundational to the agency's success. This report also addresses the program outcomes and achievements during the pursuit of our mission. As I enter my third year at the helm of this vital agency, I am proud of the successes we have achieved so far, and excited to build upon those successes in FY 2020 and beyond.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry J. Kerner".

Henry J. Kerner
November 19, 2019

PART 1: MANAGEMENT DISCUSSION AND ANALYSIS

I. About the Office of Special Counsel

OSC's core mission is to protect federal whistleblowers by providing a safe and secure channel for whistleblowers to identify waste, fraud, abuse, violations of law, or threats to public health and safety. OSC also acts as a crucial backstop to ensure that whistleblowers are safe from retaliation when they disclose these problems. By doing so, OSC helps to create and promote a more efficient, accountable, and responsible federal government.

When Federal Aviation Administration (FAA) officials raise concerns about aircraft certifications, when Department of Veterans Affairs (VA) professionals observe unsafe practices in hospitals and clinics, or when Pentagon procurement officers find significant irregularities in government contracts, OSC acts to ensure that each whistleblower disclosure is heard and, when warranted, acted upon. OSC also protects federal employees from prohibited personnel practices (PPPs), such as retaliation for revealing wrongdoing.

Through its enforcement of the Hatch Act, OSC preserves the integrity of the civil service system, ensuring that federal employees do not engage in partisan politics while on duty and are not coerced by their superiors into partisan political activity. OSC also enforces the Uniformed Services Employment and Reemployment Rights Act (USERRA) to protect returning service members and reservists against employment discrimination and retaliation in their federal jobs.

OSC's status as an avenue for federal employees to report waste, fraud, and abuse ensures that when federal agencies are not handling tax dollars properly, it is quickly identified and corrected. By doing so, OSC creates a real return for taxpayers from every dollar invested in the agency. Indeed, by providing a safe channel for whistleblowers and their disclosures, OSC can prevent wasteful practices and disasters from ever occurring.

II. Statutory Background

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

A decade later, Congress enacted the Whistleblower Protection Act of 1989 (WPA). Under the WPA, OSC became an independent agency within the executive branch, with continued

responsibility for the functions described above. The WPA also enhanced protections for employees who allege reprisal for whistleblowing and strengthened OSC's ability to enforce those protections.

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

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

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

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

That same year, Congress passed the Hatch Act Modernization Act of 2012 (HAMA). HAMA modified the penalty provision of the Hatch Act to provide a range of possible disciplinary actions for federal employees. It also permitted state or local government employees to run for partisan political office unless the employee's salary was entirely funded by the federal government. Lastly, it changed the status of District of Columbia government employees by including them in the prohibitions on state and local employees rather than treating them as federal employees.

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

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

III. Organizational Structure

OSC is headquartered in Washington, D.C. and has three additional field offices in Dallas, Detroit, and Oakland. The agency includes several program and support units described below:

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

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

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

Investigation and Prosecution Division (IPD). The Investigation and Prosecution Division (IPD) is comprised of attorneys and investigators at OSC's headquarters and three field offices. IPD receives PPP allegations from CRD, and opens a case to determine whether the evidence is sufficient to establish that a violation has occurred. If it is not, the matter is closed.

However, 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 (ADR) Unit in appropriate cases. If a meritorious case cannot be resolved through negotiation with the agency involved, IPD may bring an enforcement action before the MSPB.

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

Retaliation and Disclosure Unit (RDU). This unit reviews related PPP complaints and disclosures submitted by the same complainant. The assigned RDU attorney serves as the single OSC point of contact for both filings, performing a similar function to the IPD and DU attorneys. Where appropriate, RDU attorneys investigate PPP complaints, obtain corrective or disciplinary actions, and refer disclosures for investigation. RDU attorneys also refer cases to Alternative Dispute Resolution (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 HAU is responsible for providing legal advice on the Hatch Act to federal, state, and local employees, as well as to the public at large.

USERRA Unit. OSC enforces 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 (ADR) Unit. This unit supports OSC's operational program units, mediating appropriate matters where both the affected employee and agency consent to ADR. The ADR unit 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 (DOT) Unit. 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 the OSC, about the rights and remedies available to them under the whistleblower protection and PPP provisions of the WPA. OSC designed and implements a five-step educational program, the Section 2302(c) Certification Program. Unit staff also provide related training government-wide. OSC provides formal and informal outreach, including making materials available on the agency website. This unit also helps develop and implement training programs for OSC's internal staff in order to meet compliance requirements.

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

IV. Performance Highlights

In FY 2019, for the fifth year in a row, OSC received at least 5,500 new matters. While the 5,500 new matters received in 2019 is less than the number of new cases received in fiscal years 2015 to 2018, OSC considers this an anomaly attributable to the unprecedented partial government shutdown that occurred in FY 2019. Absent another lapse in funding, and resulting government shutdown, OSC expects to again receive caseloads above 6,000 in future fiscal years. In FY 2019, while operating at the same funding level as in FY 2018, OSC continued to enhance its efforts to bring accountability, integrity, and fairness to the federal workplace.

As recognition of, and confidence in, OSC's ability to achieve desirable outcomes for whistleblowers continues to increase in the federal community, more individuals seek out OSC's assistance. The agency's success in handling high-profile cases and achieving outsized corrective actions and outcomes for complainants also generates significant media attention. OSC proactively utilizes press releases and social media to promote its success stories. In addition, OSC is increasingly gaining the attention of the federal community due to the substantial training OSC conducts under the Section 2302(c) Certification Program. All of these actions drive a greater awareness of OSC, which, in turn, leads to an increase in the number of cases filed.

OSC managed to increase productivity across its multiple program units to address rising caseloads, despite resources remaining flat from FY 2018 to FY 2019. For example, despite the partial government shutdown in FY 2019, OSC resolved more than 6,100 cases, approximately 59% above recent historical averages. OSC also surpassed its high-water marks in terms of favorable actions obtained in PPP cases, setting an agency record with 329 favorable actions in FY 2019. That said, future increases in resources will be necessary to build upon OSC's established pattern of success.

OSC has also experienced increased success in handling its Hatch Act and USERRA cases. On the Hatch Act front, OSC issued 49 warning letters and successfully obtained five disciplinary actions against agency officials who committed the violations. OSC also helped 22 service members with their employment and reemployment rights in USERRA cases.

Whistleblower disclosures of wrongdoing have led to immense success in ensuring identified problems are addressed and corrected. Specifically, in FY 2019, OSC worked with whistleblowers to identify millions of dollars in wasteful spending and prevent further waste. For example, a whistleblower within the U.S. Army Material Command reported to OSC that the Army lost possession of six government-purchased fuel trucks worth \$1.34 million, primarily because of improper contracting procedures. The issue was referred to the Army for investigation, and the Army investigation confirmed that a contracting officer's inaction contributed to the agency's inability to quickly uncover and correct the error. The Army is now taking steps to reacquire the government-owned trucks from a private company.

A core tenet of my leadership at OSC is ensuring that agencies receive robust training to prevent PPPs and Hatch Act violations before they can occur. OSC continued with its robust training program in FY 2019, and conducted 188 outreach events during the fiscal year. Further, OSC certified an additional 24 agencies under its Section 2302(c) Certification Program, which requires agencies to take specific steps to inform their managers and employees about whistleblower protections and PPPs.

Overall, OSC is performing at unprecedented levels in carrying out its role as an independent investigative and enforcement agency, bringing greater integrity and efficiency to the federal government. OSC is also working harder and smarter, and with better results than at any time in its history.

V. OSC's Notable Successes

OSC has four primary statutory enforcement programs: (1) investigating, prosecuting, and resolving PPPs, including whistleblower retaliation; (2) serving as a safe and secure channel for whistleblower disclosures; (3) advising, investigating, litigating, and resolving improper political activity violations of the Hatch Act; and (4) litigating and resolving matters under USERRA.

A. PPPs

I. *Program Overview*

The volume of PPP complaints received by OSC continues to be significant. OSC received 3,824 new complaints in FY 2019. While this figure is lower than the number of new PPP complaints received in FY 2018, OSC attributes this reduction primarily to the unprecedented partial government shutdown that occurred in FY 2019. Given the average of over 4,000 new PPP

complaints received each year from FY 2015 to FY 2018, OSC anticipates receiving similarly high levels of PPP complaints in future fiscal years.

Where appropriate, OSC seeks corrective action, disciplinary action, and systemic relief through informal resolutions or litigation before the MSPB and is currently achieving an unprecedented number of favorable actions. For some cases, mediation may offer the timeliest and most mutually beneficial outcome.

In FY 2019, OSC gained 329 favorable actions in its cases, the highest level in agency history, and approximately 48 percent over recent agency historical average (since 2011). This translates into improved accountability and fairness in government, as well as jobs saved, whistleblowers protected, and rights restored. Of the favorable actions achieved in FY 2019, OSC negotiated 29 (informal) stays with agencies to protect employees from premature or improper personnel actions. OSC also obtained two (formal) stays or stay extensions from the MSPB and achieved 27 disciplinary actions, upholding accountability and serving as a warning against unacceptable conduct.

2. *Notable Successes*

OSC protects federal employees and applicants for federal employment from PPPs. The following are examples of recent successes in resolving PPP complaints filed with OSC.

Whistleblower Retaliation

- Complainant, an HR director, alleged that Navy-OIG suspended and debarred him in retaliation for disclosures regarding gross mismanagement and abuse of authority. OSC reviewed a voluminous record and interviewed the Navy Inspector General, who was an Admiral, as well as the General Counsel and several other high-level officials. After multiple attempts to resolve the case, including a settlement conference involving the Navy Deputy General Counsel, the parties ultimately agreed to settle. The Navy agreed to pay \$200,000 for damages and fees, and to provide a clean record, in exchange for complainant's resignation from federal service.
- Complainant, an Assistant HR Chief, alleged that VA proposed her removal in retaliation for disclosing that the CFO and other high-level officials repeatedly pressured her to qualify the CFO's husband for a VA position (for which he was not qualified). OSC obtained an informal stay of the proposed removal and a new supervisor for complainant. After conducting an onsite investigation, we presented our findings to VA and the parties agreed to a settlement. VA agreed to pay \$55,000 in a lump sum and \$38,000 in attorney's fees, and to rescind the proposed removal (complainant has since moved to another job). VA also sought to remove the CFO for committing PPPs, but she resigned from federal service.

- MSPB referred its findings that USDA retaliated against a lead forestry technician after he made disclosures about mistreatment by his supervisor and violated his due process rights in removing him from federal service. After reviewing the record and discussing potential resolution with USDA, OSC sent an informal PPP report seeking disciplinary action. USDA issued proposed suspensions for both subject officials and a letter of reprimand for the consulting HR specialist. Both suspensions were mitigated to some extent based on the exemplary performance records of the subject officials, among other considerations.
- Complainant, a criminal investigator, alleged he was issued a letter of reprimand, suspended for one day, and geographically reassigned after he disclosed potentially fraudulent representations by his superiors concerning a failure to get firearms recertification, as well as retaliation for filing an agency grievance. With OSC's assistance, the parties executed a settlement agreement in which the agency agreed to expunge the letter of reprimand; expunge the suspension and provide the Complainant with back pay; reassign the Complainant to his original duty location with the option to telework; provide the Complainant a separate workspace or work area from his former second-level supervisor; provide compensatory damages and attorney's fees; and agreed that his former first and second-level supervisors will not serve in his supervisory chain of command. In exchange, the Complainant agreed to withdraw his OSC complaint.
- Complainant, a cybersecurity specialist, alleged the agency changed his duties and threatened to terminate him from employment in reprisal for disclosing contracting violations and mishandling of classified information. The Complainant left his employment voluntarily and the agency withdrew its proposed termination and agreed to pay him a lump sum. The agency also agreed to counsel the involved officials to prevent recurrence.
- Complainant, a security manager, alleged that the agency denied leave requests, suspended telework, suspended him for five days, and significantly changed his duties, responsibilities, and working conditions in reprisal for his protected disclosures and his refusal to obey an order that would violate a law. The agency and complainant executed a settlement agreement, whereby the agency agreed to pay appropriate damages and fees, to expunge disciplinary actions and related records, to restore certain leave, to reinstate Complainant's duties and responsibilities as specified in the position description, and to realign his chain of command.
- Complainant, a program manager, alleges that she was issued a lowered performance appraisal, denied a bonus, subjected to a change in duties, reprimanded, and proposed for removal from employment in reprisal for disclosing to the Office of Inspector General and others, violations of pay regulations and gross waste and mismanagement of disaster relief funds. Complainant also alleged that her supervisor accessed her medical records in furtherance of her proposed removal. Additionally, a charge in the Complainant's proposed removal specifically referenced her threats to take legal action against her supervisor, including a grievance, complaint, and civil action. In settlement, the agency agreed to

rescind the proposed removal and expunge other materials. The agency also agreed to take systemic corrective actions to include removing language from its Table of Penalties that are inconsistent with merit system principles, and to receive PPP training.

- Complainant, a human resources manager, alleged that the agency denied him awards and bonuses and twice investigated him, resulting in a recommendation to terminate his employment, in reprisal for disclosing hiring and other irregularities. In settlement, the agency agreed to expunge retaliatory personnel actions and related documents, to pay appropriate damages and fees, to restore certain leave, and to take other corrective actions consistent with the WPA.
- Complainant, a law enforcement officer, alleged that the agency failed to give her in-band pay increases, awards, and recognize her as a senior officer after she disclosed to the Office of Inspector General and others, instances of gross mismanagement, and violations of laws and regulations. In settlement, the agency agreed to provide recompense for pay increased and awards, and to appropriately recognize the officer's senior status.
- In a referral from the MSPB, OSC established that a managing and a supervising physician retaliated against an employee who credibly alleged public corruption and threats to patient health and safety. Upon the presentation of OSC's findings to the agency, the agency agreed to propose the removals of the offending physicians.
- Complainant, a safety specialist, alleged that he was fired during the probationary period in retaliation for disclosing fall hazards and failure to follow OSHA reporting requirements. After OSC provided a report of its findings, the agency provided complainant with \$150,000 in backpay, compensatory damages and other monetary considerations.
- A Council of the Inspectors General on Integrity and Efficiency (CIGIE) referral to OSC contained allegations that an Inspector General directed staff to place the Complainant, a special agent, on administrative leave after she reported the IG's alleged political bias to OSC and CIGIE, and later to propose her removal. The agency rescinded the proposed removal, and agreed to pay appropriate damages and fees.
- Complainant, a contract specialist, was terminated from his VRA appointment in the excepted service as a probationary employee without the protections of 5 U.S.C § 7511(a)(1)(B). Complainant alleged that the agency should have him treated as an "employee" under section 7511(a)(1)(B) entitled to the Section's procedural safeguards, such as a written explanation of the reasons for the termination and the right to respond. OSC concurred and the agency agreed to pay back pay from the time of the termination to the date the Complainant acquired new employment and to change his termination to a resignation.

Improper Selection Practices and Other Violations

- Complainant, an ethics official, alleged that a supervisor submitted a subordinate's performance appraisal that he knew had been ghost written by the subordinate's spouse, who also was a supervisor at the agency. With OSC's permission, the agency suspended the supervisor who permitted the ghost-written appraisal for seven days.
- A referral from an Office of Inspector General contained allegations that that an agency official allowed a job applicant to edit the position description for a position to which he applied. The agency agreed to remove the responsible official from federal employment.
- A stakeholder group complaint alleged that an agency displayed certain anti-leak posters that violated section 2302(b)(13). The posters, which were part of the agency's Insider Threat Program, featured the slogan "Every Leak Makes Us Weak," but did not contain any mention of whistleblower protections. The agency agreed to remove the posters and to not use them in any of their publications. An unrelated agency that created the poster and distributed it government-wide also agreed to remove the poster from its website and added language asking all organizations to discontinue its use. That agency also agreed to receive PPP training. Lastly, OSC updated its public guidance on non-disclosure agreements.
- A referral from OPM to OSC contained allegations that an agency gave a Schedule C political appointee an unlawful preference when it selected him for a competitive service position. OSC's investigation found that the agency created a public affairs specialist competitive service position for the political appointee. At his supervisor's request, the political appointee modified the position description to add many of his then-duties to the competitive service position. Thereafter, the agency issued a vacancy announcement and selected the political appointee for the competitive service position. The employee primarily responsible for the violation is no longer in federal service and other involved employees are no longer with the agency. The agency agreed to receive prohibited personnel practice training.

Stays of Personnel Actions

- Complainant, a secretary, alleged that she received a proposed termination because she disclosed that the agency improperly responded to sexual assault allegations, falsified an employment survey, and conducted illegal hiring and because she filed an IG complaint. At OSC's request, the agency agreed to stay the removal while OSC investigated.

B. Whistleblower Disclosures

I. Program Overview

OSC provides a safe and secure channel for whistleblowers, who are often in the best position to detect wrongdoing on the job and disclose waste, fraud, abuse, illegality, and dangers to public

health and safety. Through this process, OSC contributes to improving the efficiency and accountability of government.

Over the last few years, the agency has handled near-record numbers of disclosures from federal whistleblowers. OSC received over 4,700 whistleblower disclosures from FY 2017 through FY 2019 combined. Additionally, in FY 2019 specifically, OSC sent 64 whistleblower disclosure reports to the President and Congress, an increase of over 50 percent from FY 2018.

Substantiated disclosures can often result in direct financial returns to the government. However, the real measure of OSC's financial contribution is preventive; by providing a safe channel for whistleblower disclosures, OSC helps address threats to public health and safety that pose the very real risk of catastrophic harm to the public and huge remedial and liability costs for the government. For example, in FY 2019, OSC played a central role in highlighting the gross mismanagement of home healthcare consults at the Indianapolis VA, which resulted in several significant operational changes to help improve upon veteran care. In past years, OSC has also substantiated allegations that Department of Defense (DoD) Commissary workers improperly inspected meat and poultry, posing a danger to public health and safety. OSC has handled previously dozens of disclosures from courageous FAA employees who blew the whistle on systemic failures in air traffic control and the oversight of airline safety.

2. *Notable Successes*

OSC is authorized to refer whistleblower disclosures of wrongdoing in five areas: (1) violations of a law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; and (5) substantial and specific dangers to public health or safety. In FY 2019, examples of OSC successes involving whistleblower disclosures include the following:

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

- **Mismanagement of Navy Software Program Leading to Vulnerabilities.** On December 19, 2018, the Special Counsel transmitted to the President and Congress a Department of the Navy (Navy) report based on disclosures of wrongdoing at the Naval Air Warfare Center Weapons Division (NAWCWD), China Lake, California. The whistleblower disclosed that software known as KILSWITCH/APASS, developed and widely distributed by the Navy's Digital Precision Strike Suite had significant security vulnerabilities that could render it vulnerable to unauthorized intrusion.

The investigation substantiated the allegations, finding that the software had significant cybersecurity vulnerabilities making it susceptible to hacking. The investigation further found that starting in 2012, the software was impermissibly distributed to a wide variety of special operations units across multiple branches of the U.S. military and potentially to U.S. allies, who used it in operational and combat settings. In response to these findings, the Navy

directed the Chief of Naval Operations and the Commandant of the Marine Corps to ensure the software is only used with appropriate security measures in place. Additional inquiries by OSC prompted the distribution of notice across the U.S. Special Operations Command, which required commanders to notify any foreign non-U.S. military personnel to mitigate potential cybersecurity vulnerabilities. Despite these corrective actions, significant concerns remain relating to the extensive and apparently unregulated distribution of the software, and the circulation of notice concerning its shortcomings.

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

- **Improper Backlog of Patients for Follow-Up Endoscopy Procedures.** On March 28, 2019 the Special Counsel transmitted to the President and Congress, a matter involving the Department of Veterans Affairs (VA) Eastern Kansas Health Care System. The whistleblower disclosed that the Dwight D. Eisenhower and Colmery-O'Neil VA Medical Centers (Eisenhower and O'Neil VAMCs, respectively) had a combined improper backlog of approximately 7,000 patients who did not receive a timely follow-up endoscopy procedure.

The agency substantiated that between the two VAMCs 1,107 patients had not received timely follow-up endoscopies. The VA found that while the Eisenhower VAMC had availability for new clinic appointments, the O'Neil VAMC did not. The agency also found that the GI clinics did not notify patients of their endoscopy results timely, per VA policy, consistently remind patients to schedule follow-up appointments, or monitor the quality of colonoscopies as mandated by VHA Directive-1-O-15. Thus, the VA is implementing several recommendations including that these VAMC's GI clinics receive a consultative site visit from the National GI Program Office, continue to refer new consults to Community Care while decreasing the backlog and wait times, audit staff training files and retrain as needed, monitor the quality of colonoscopies per VA policy, update and reissue relevant local policies, and appropriately staff the GI clinics. The Special Counsel determined that the agency report met the statutory requirements and the findings appear reasonable.

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

- **Fraudulently Obtaining Travel Reimbursements.** A whistleblower alleged that a FEMA logistics manager based in the New York metropolitan area falsified documents to fraudulently obtain significant government travel reimbursements and that FEMA managers were aware of this fraud. The agency fully substantiated the allegations and determined that officials generated false documents to ensure travel reimbursement for an employee during FEMA's disaster response to Hurricane Irene. The falsified documents created the appearance that the employee met agency reimbursement eligibility requirements. As a result of this deception, the employee received approximately \$31,500 in reimbursed temporary duty location expenses. The agency investigation concluded that the repayment was

improper.

In response, the agency carried out a variety of disciplinary and corrective actions, including the issuance of notices of termination for several employees. This matter was also presented to the Department of Justice for criminal prosecution, but prosecution was declined. FEMA indicated that it will pursue civil action with the Department of the Treasury to recoup the improper payments. FEMA is also in the process of updating its travel manual to include specific reimbursement compliance requirements.

Gross Mismanagement

- **Gross Mismanagement Leads to Amputation.** An investigation substantiated gross mismanagement of home healthcare consults at the Indianapolis VA, which resulted in significant delays in veteran care. One veteran required a below-the-knee leg amputation as a result of the delay. The Medical Center updated and implemented the home health care consult standard operating procedures, including processes for monitoring consults and post-discharge follow-ups. In addition, the Medical Center made personnel changes to the Social Work Service leadership team.
- **Improper Storage of Medications.** An investigation substantiated that VA facilities failed to ensure medications for home-based patients were stored at appropriate temperatures during transit. The VA developed new guidelines and training, and purchased new transport coolers and thermometers.

C. **Hatch Act**

1. Program Overview

OSC aims to reduce prohibited political activities by: (1) educating and warning employees about unlawful partisan political activity, and (2) bringing disciplinary actions against federal employees who violate the Hatch Act. To achieve these goals, in FY 2019, OSC responded to 1,111 requests for advice, issued 49 warning letters, and obtained 11 corrective actions and five disciplinary actions, either by negotiation or through MSPB orders.

2. Notable Successes

OSC protects federal employees from political coercion in the workplace, safeguards against improper political activity by agency officials, and ensures that federal programs are administered in a nonpartisan fashion. Examples of recent OSC successes under the Hatch Act include the following:

Litigation

- OSC litigated a case against a U.S. Department of Justice (DOJ) immigration judge who violated the Hatch Act by promoting then-presidential candidate Hillary Clinton's plan for immigration reform during a deportation hearing over which she presided in March 2016. The administrative law judge found that the employee's actions merited "a considerable sanction given the public nature of her position" and, because the employee retired before the decision was issued, imposed a fine of \$1,000, the maximum possible civil penalty, along with a 30-month debarment from federal service. The administrative law judge also concluded, however, that the employee's violation warranted a 120-day suspension, which would have been the ordered penalty had she not already retired.
- OSC litigated a case against a U.S. Postal Service (USPS) employee who twice ran as a candidate for partisan political office despite receiving guidance and warnings from OSC about her Hatch Act violation. OSC filed a motion for default judgment after the employee failed to file an answer to the complaint or respond to the Merit Systems Protection Board judge's order. The judge concluded that the employee violated the Hatch Act and ordered her removal from her USPS employment.

Disciplinary Action Obtained through Settlement Negotiations

- OSC entered into a settlement agreement with a DLA employee who violated the Hatch Act on numerous occasions by sending partisan political emails and making political Facebook posts while at work. The employee also used Facebook to solicit political contributions nearly two dozen times in violation of the Hatch Act. During OSC's investigation, the employee admitted he was aware of the Hatch Act and that his supervisor had counseled him about the Act prior to engaging in the prohibited activity. In a settlement agreement, the employee agreed to a 90-day suspension without pay.
- OSC settled a case involving another DLA employee who violated the Hatch Act by displaying the words "Vote Republican" on a PowerPoint presentation that he gave while on duty and in the federal workplace. The employee had received extensive Hatch Act training and was explicitly told prior to giving the presentation that certain images he planned to use, including the "Vote Republican" image, would be problematic. In a settlement agreement, the employee agreed to a 30-day suspension without pay for his violation.
- OSC engaged in settlement discussions with a Department of Veterans Affairs (VA) employee who sent multiple emails to VA colleagues, while on duty and in the federal workplace, soliciting volunteers for partisan political efforts. The employee admitted that she knew about the Hatch Act prior to sending the emails. OSC, VA, and the employee agreed to settle the case for a 14-day unpaid suspension, but the employee ultimately resigned before serving the suspension.

- OSC entered into a settlement agreement with a USPS employee who violated the Hatch Act by being a candidate in the 2018 partisan election for the U.S. House of Representatives. There was evidence that the employee knew about the Hatch Act's prohibitions before becoming a candidate. As disciplinary action for his violation, the employee agreed to accept a letter of reprimand.
- OSC investigated and substantiated allegations that a U.S. Army Corps of Engineers (USACE) employee, while at work, solicited coworkers to sign a candidacy petition in support of her friend's campaign for mayor. After the investigation, OSC engaged in settlement negotiations with the employee and USACE to reach an agreement in which the employee would receive significant disciplinary action for her Hatch Act violations. In the middle of those discussions, the employee opted to retire from her USACE employment.

Investigations Involving High-Level Officials

- In June 2019, OSC sent an investigative report to President Donald J. Trump finding that Counselor to the President, Kellyanne Conway, violated the Hatch Act during ten television interviews in which she appeared in her official capacity and by engaging in political activity on her Twitter account, which she also uses for official purposes. In the media interviews, Conway advocated against the Democratic Party's presidential candidates and for President Trump's reelection. Conway engaged in prohibited political activity, despite receiving significant Hatch Act training and being subject to a similar disciplinary action recommendation in March 2018. OSC sent a report to the President, because some presidentially appointed White House employees, such as Conway, fall under the President's authority to discipline for Hatch Act violations.
- OSC investigated numerous allegations that White House employees violated the Hatch Act by engaging in political activity on their official social media accounts. While OSC found in several cases that the evidence did not support a conclusion that the employees violated the Hatch Act, OSC also found that at least seven employees had violated the Hatch Act and issued those employees warning letters.
- OSC investigated allegations that a high-level presidential appointee violated the Hatch Act when he wore socks depicting President Donald Trump and the campaign slogan "Make America Great Again!" to an official event. The appointee later posted a picture of his socks to an official Twitter account. Although the tweet was removed, OSC concluded that the appointee violated the Hatch Act and issued him a warning letter.
- OSC investigated several additional allegations of prohibited political activity by cabinet and other high-level officials. The allegations involved, for example, use of official travel for political purposes and use of official position to support a candidate. After investigating those allegations, OSC determined that the evidence did not support a conclusion that the appointees violated the Hatch Act, and OSC closed the cases.

D. USERRA Enforcement Program

1. Program Overview

OSC continues to assist reservists and National Guard members who face obstacles in their federal civilian jobs due to their military service. OSC receives referrals of USERRA cases for prosecution from the Department of Labor, which investigates these cases. OSC received 21 new cases in FY 2019, and negotiated corrective actions for three complainants.

Notable Successes

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

- In April 2019, OSC won a favorable decision from the MSPB in a USERRA appeal it filed on behalf of a USPS letter carrier and Lieutenant Colonel (Ret.) in the Maine Air National Guard (MANG). After the September 11, 2001, terror attacks, the Lieutenant Colonel served continuously with the MANG for approximately 14 years in support of the Global War of Terror. During his absence, the Lieutenant Colonel regularly provided copies of his military orders to USPS, maintained his employee benefits, and told USPS officials and co-workers that he intended to return to work there once his service ended. However, after he was released from duty and requested reemployment, USPS refused to reemploy the Lieutenant Colonel, asserting that he “abandoned” his civilian job in favor of a military career. OSC believed that because he satisfied all statutory requirements, the Lieutenant Colonel was entitled to reemployment under USERRA, and represented him before the MSPB. In its ruling, the MSPB found that USPS violated the Lieutenant Colonel’s USERRA rights, and ordered it to reinstate him with back pay. USPS has since appealed that ruling.
- A disabled U.S. Navy veteran working for the Department of Veterans Affairs in Durham, North Carolina, applied for a promotion in July 2017 and, following interviews, was ranked second among the eight finalists referred to the selecting official. Nevertheless, the selecting official twice bypassed the veteran to select lower-ranked candidates because she believed the veteran had “skipped the line” based on her disabled veteran status, despite her strong qualifications. After OSC found that the Department of Veterans Affairs’ actions likely violated USERRA, it sought relief on the veteran’s behalf. The Department of Veterans Affairs agreed to retroactively promote the veteran to the higher-graded position, effective July 2017, with all associated back pay, and to pay her an additional \$35,000 in damages to resolve her USERRA complaint.
- A U.S. Army Reservist working for the Department of Labor in Phoenix, Arizona, as a GS-11 investigator believed he was not promoted to the GS-12 level as quickly as his co-workers due to his Reserve duty. In January 2017, his first-level supervisor allegedly promised him a

GS-12 promotion in the coming months. However, at a meeting with his first- and second-level supervisors in June 2017, his second-level supervisor stated that his “military duty has impeded his progress” and that he would not be promoted. After an investigation corroborated the Reservist’s allegations, OSC requested relief on his behalf, and the agency agreed to retroactively promote him to the GS-12 level, as of April 2017, with corresponding back pay and pay raises.

VI. Systems, Controls, and Legal Compliance

Management control activities carried out by OSC include periodic reviews of agency administrative and program elements to ensure that: obligations and costs comply with applicable laws and funds; property and other assets are safeguarded; revenues and expenditures are properly recorded and accounted for; and programs are efficiently and effectively carried out in accordance with management policy. During FY 2019, reviews were completed on the following agency administrative operations:

Information Security Program. In FY 2019, OSC had a complete turnover in IT staff to include the CIO and CISO. IT currently is in the process of rebuilding the staff, as well as updating the Information Security Program. In FY 2019, OSC implemented the Department of Homeland Security’s Continuous Diagnostic & Mitigation (CDM) Phase 1 to enable continuous monitoring efforts. Additionally, OSC recently went through a Federal Information Security Modernization Act (FISMA) audit by an external auditor, as well as a review of the previous Authority to Operate (ATO). Lastly, OSC IT staff plans to implement consistent and thorough policies to improve on OSC’s Cybersecurity posture moving forward.

Financial Audit. OSC underwent its fifteenth annual financial audit in FY 2019. The FY 2019 audit addresses the financial statements and accounting processes, almost all of which were conducted by the Interior Business Center (IBC) at the Department of Interior under an interagency outsourcing agreement.

Risk Management Program. OSC established an agency risk management council in FY 2017, as well as developed a risk charter, profile and risk register. In FY 2019, OSC conducted quarterly council meetings to review the agency’s risks and take steps to mitigate those risks.

OSC has outsourced many of its financial management and administrative activities to the Interior Business Center, including financial accounting and reporting, invoice payment, contracting operations, financial and procurement systems software and hosting, and travel services. The Program Support Center (PSC) unit of the Department of Health and Human Services conducted the majority of OSC’s contracting operations in FY 2019. However, because of programmatic changes within PSC, OSC will switch to a new contracting service provider in FY 2020.

OSC personnel and payroll data entry transactions are processed by the Department of Agriculture's National Finance Center (NFC). All of these operations are administered under cross-servicing agreements with these certified shared services providers. For information on any significant management control issues related to services provided under these agreements, OSC relies on information received from IBC and NFC, and any audits or reviews issued by the Inspectors General and Chief Financial Officers of the Departments of Treasury and Agriculture, and the Government Accountability Office (GAO). IBC conducts multiple internal and external reviews on its operations, which are captured in the Annual Assurance statement on Internal Controls provided yearly to OSC.

The Oracle Federal Financials Major Application is reviewed on a continuous monitoring basis in conformance with NIST guidelines, and is authorized through September of 2023. The IBC certified the system in September of 2013, in accordance with OMB Circular A-130, Appendix III, and approved the system for continued operation. NFC's Payroll System was also certified in September 2013, and has operated with a continuous monitoring program since then. Also, an annual SSAE 18 evaluation was conducted this year on the Oracle Federal Financials Major Application, as well as on NFC's Payroll System and the PSC's Contracting System. OSC has updated Interconnect Security Agreements previously in place with IBC and NFC to cover the travel, financial and payroll systems.

VII. Management Assurances

Annual Assurance Statement on Risk Management, Internal Controls and Internal Control over Financial Reporting

OSC's management is responsible for managing risks, as well as establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). OSC conducted its assessment of internal controls over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular A-123, "Management's Responsibility for Enterprise Risk Management and Internal Control." Based on the results of this evaluation, OSC can provide reasonable assurance that, as of September 30, 2019, its internal controls over the effectiveness and efficiency of operations were compliant with applicable laws and regulations. Further, OSC certifies that the appropriate policies and controls are in place or corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices.

For its financial reporting needs, OSC works with the Interior Business Center (IBC). OSC obtains the SSAE 18 report from IBC, as well as the year-end roll forward assertion letter, and reviews them to assist in assessing internal controls over financial reporting. OSC has not identified any significant issues or deviations in its financial reporting during FY 2019 and thus concludes that the agency's internal controls over financial reporting are sufficiently strong.

OSC has no in-house financial system. OSC has chosen to use Oracle Federal Financials in an environment hosted by IBC, a shared service provider. Because of the rigorous testing that IBC undergoes, OSC considers its financial system to be reliable and effective.



Henry Kerner
Special Counsel
November 12, 2019

VIII. Management Challenges

OSC continues to experience increased demand for its services from federal employees. OSC received approximately 5,500 new matters in FY 2019. Although this is less than the number of new matters received each year from FY 2015 to FY 2018, the number of new matters OSC received in FY 2019 was also adversely impacted by the unprecedented government shutdown. OSC expects that, assuming normal operations through FY 2020, new cases received will again be over 6,000. This standard of receiving 6,000 new cases each year represents double the case levels from FY 2007. The increased interest in OSC, made clear by the dramatic rise in new cases, is a direct result of OSC's success in achieving favorable outcomes for individuals. In particular, OSC's success has continued to result in a large number of filings from VA employees.

At current funding levels, OSC is at the limit of its ability to process all new cases in the same year that they are received. While Congress did not increase OSC's appropriation from FY 2018 to FY 2019, the demand for OSC's services remained near a record-high. Receiving around 6,000 new cases per year has become the agency's new normal, and OSC is struggling to keep pace with demand. Prohibited Personnel Practices cases, which can take a significant amount of time to investigate and resolve, have increased significantly—up to 3,824 cases in FY 2019. This number represents an increase of over 13 percent in the number of PPP cases OSC received from just five years ago. It is likely that OSC would have received even more PPP cases if not for the partial government shutdown that occurred in FY 2019, and OSC expects to receive over 4,000 PPP cases in FY 2020.

In FY 2018, OSC's case backlog reached a new record level of over 2,600 cases. In FY 2019, however, OSC started to reduce the backlog, and is now carrying a backlog of around 2,000 cases. OSC is cognizant of the fact that whistleblowers and complainants become frustrated by the longer processing times driven, in part, by the backlog. This frustration can in turn lead whistleblowers and complainants to avoid filing with OSC. We strongly believe the taxpayer will

ultimately be harmed if government inefficiencies go unchecked because federal workers stop coming to OSC with their disclosures. Therefore, because of the likelihood of increased caseloads in future fiscal years, as well as rising operational costs, OSC will need additional resources to continue driving down the backlog.

OSC is constantly seeking new strategies and creative methods to improve our work processes and efficiency. Despite the resource challenges OSC faces, the agency is committed to maximizing the effectiveness of every dollar provided to OSC and exploiting every opportunity to increase OSC's efficiency in handling cases.

At the start of Special Counsel Henry J. Kerner's term, and at his direction, OSC initiated an internal review of its processing of complaints. In FY 2019, following the completion of that internal review, OSC combined two units with overlapping responsibilities for prohibited personnel practice (PPP) complaints into one, the Investigations and Prosecution Division (IPD). As a result, a single IPD attorney now handles each 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 internal review 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, swiftly refers complaints meriting further review to the appropriate investigative unit, and ensures that OSC's scarce resources are focused on cases that OSC can potentially resolve fully.

OSC continues to conduct periodic reviews of our case processing data in order to identify weaknesses, improve performance, and get results. OSC understands that data-driven, periodic reviews of our internal business processes and program performance is a necessary step toward improving our efficiency and saving taxpayer dollars, as is analyzing the results, asking tough questions, and proposing improvements.

Additionally, in FY 2019, OSC continued to leverage the assisted acquisition services from other Federal agencies to procure contracts. However, in June 2019, OSC was notified by its then-assisted acquisition provider, the Department of Health and Human Services' Program Support Center, that it would be terminating its acquisition services for all clients. Therefore, while analyzing available options for the outyears, OSC partnered with a sister agency, the U.S. Merit Systems Protection Board (MSPB), as a stopgap measure to bridge the procurement transition. After a careful evaluation of available options in FY 2020 and the outyears, OSC determined that moving to GSA's assisted acquisition services would be the most cost-effective and efficient solution.

Finally, OSC continues to invest in essential IT infrastructure, most notably with the deployment of the new electronic case management system (eCMS) in late FY 2019. The deployment and continued development of eCMS should make it easier for the public to submit cases to OSC and

allow our attorneys to share information and work together more efficiently. OSC's end goal is to automate as many work processes as possible to reduce overall case processing times. Moreover, as these IT projects move past development, and into the operations and maintenance phase, OSC will be able to strategically shift limited resources to other areas, which will likewise yield productivity gains.

The challenges faced by OSC extend beyond the internal borders of the agency. Much of OSC's authority is tied directly to the MSPB. OSC relies on the Board to adjudicate claims of violations of personnel practices, the Hatch Act, and USERRA. However, as it currently stands, the MSPB lacks a quorum necessary to issue final opinions and may soon be besieged by a backlog of its own. The absence of a quorum at the MSPB limits OSC's ability to proceed in cases and provide timely resolution for complainants. Furthermore, the absence of any Board members limits OSC's ability to seek formal stays in appropriate cases.

Regardless of the challenges that lie ahead, OSC remains committed to identifying opportunities to improve our work processes and operate more efficiently and effectively. We believe this will allow us to successfully fulfill our mission by better streamlining government, reducing waste, fraud, and abuse, promoting public health and safety, and saving valuable taxpayer dollars.

IX. Comments on Final FY 2019 Financial Statements

Financial Highlights

Consolidated Balance Sheet

The Consolidated Balance Sheet presents amounts that are owned or managed by OSC (assets); amounts owed (liabilities); and the net position (assets minus liabilities) of the agency divided between the cumulative results of operations and unexpended appropriations.

OSC's balance sheet shows total assets of \$4,472,000 at the end of FY 2019. This is a decrease of \$512,000 compared to OSC's total assets of \$4,984,000 as of FYE 2018. Fund Balance with Treasury comprises approximately 92 percent of OSC's assets.

Total Liabilities for OSC increased by \$32,000, or 1 percent, from \$2,804,000 at FYE 2018 to \$2,836,000 at FYE 2019. The three largest components of Total Liabilities are Unfunded Leave (\$1,295,000), Accrued Funded Payroll (\$681,000), and Accounts Payable (\$420,000).

US Office of Special Counsel Balance Sheet



The Net Position is the sum of Unexpended Appropriations and the Cumulative Results of Operations. OSC's Net Position was \$1,636,000 at FYE 2019, a decrease of \$544,000 from Net Position at FYE 2018 of \$2,180,000. This decrease is largely driven by the decrease in OSC's Unexpended Appropriations balance. While OSC's Net Position decreased over 2019, Net Position at FYE 2019 is still significantly higher than it was just two years prior at FYE 2017 (\$685,000).

Statements of Budgetary Resources

The Statement of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY 2019, OSC received a \$26,535,000 appropriation, which is the same appropriation amount OSC received in FY 2018. OSC ended FY 2019 with a 1 percent, or \$329,000, decrease in total budgetary resources compared to FY 2018.

Statement of Changes in Net Position

The 2019 Consolidated Statement of Changes in Net Position shows the change in the net position for both FY 2019 and FY 2018 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. This statement shows a decrease in Total Net Position from \$2,180,000 at FYE 2018 to \$1,636,000 at FYE 2019. As mentioned above, this decrease in Net Position is largely driven by the decrease in OSC's Unexpended Appropriations balance in FY 2019.

Other Financial Information

OSC's capitalization policy has a threshold of capitalizing individual assets greater than \$50,000. OSC's total Property, Plant and Equipment acquisition value stood at \$959,000, with accumulated depreciation of \$818,000 and a 2019 net book value of \$141,000. (Note 4 to Principal Financial Statements)

OSC's Total New Obligations and Upward Adjustments remained relatively consistent in FY 2019. New Obligations and Upward Adjustments totaled \$26,360,000 in FY 2019, down just \$81,000 from \$26,441,000 in FY 2018. (Note 9 to Principal Financial Statements)

OSC recognizes Imputed Financing sources and corresponding expense to represent its share of the cost to the federal government of providing accrued pension and post-retirement health and life insurance benefits. These benefit expenses for current employees increased by \$32,000, from \$1,117,000 in FY 2018 to \$1,149,000 in FY 2019. Assets and Liabilities relating to these benefits are the responsibility of the Office of Personnel Management.

- For consistency with the Financial Statements, the dollar amounts listed above are rounded to the nearest thousand.
- Percentages are rounded to the nearest whole percentage.

Limitations of the Financial Statements: The principal financial statements have been prepared to report the financial position and results of operations of OSC, pursuant to the requirements of 31 U.S.C. 3515 (b).

PART 2: PERFORMANCE SECTION¹

I. FY 2017-2022 Strategic Plan and Corresponding Goals

The Performance Section presents detailed information on the annual performance results of programs related to OSC's primary statutory enforcement responsibilities.

OSC developed a new Strategic Plan that became effective in FY 2017. According to the Strategic Plan, OSC's mission is to safeguard employee rights and hold government accountable. To do so, OSC identified three overarching strategic goals:

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

Each goal has three to six specific objectives aimed at implementing the larger strategic goals. Each objective, in turn, relates to one of OSC's enforcement authorities or programs or improving OSC as an organization. Specific performance metrics are provided to measure OSC's success in the identified areas. A complete copy of OSC's Strategic Plan for FY 2017 – FY 2022 can be found in Appendix I.

Below are OSC's performance results showing the agency's results against the targets in our Strategic Plan. In some cases—particularly for new or revised metrics—OSC needs to establish a baseline of data in order to set realistic targets for future years. Some items on the table are indicated as data points to assist in showing data trends as they impact performance outcomes. Data points are not performance metrics as OSC does not control the outcomes.

Below are Goal Tables listing each of OSC's Performance Measures for the FY 2019 goals. The metrics they contain correspond to the appropriate Budget-Related Goals. Several of the metrics have explanatory notes that follow the Goal Tables, and these notes are assigned the same number that correspond to its respective metric number listed in the table.

In FY 2019, OSC successfully met or partially met 49 out of 60 goals, or 81.7 percent of its goals this year. This is a successful performance for OSC in FY 2019, as the agency achieved these results amidst difficult circumstances. For instance, these results were achieved by OSC, despite the high levels of new cases received, coupled with the unprecedented partial government

¹ The statistical results cited for the FY 2019 Strategic Goals should be considered alongside two significant factors; First, the unprecedented partial government shutdown resulted in a halt to almost all agency operations. Thus, the FY 2019 results may appear lower than previous fiscal years in certain instances. Second, OSC deployed a new electronic case management system (eCMS) in the 4th quarter of FY 2019, and is working diligently to establish its full data reporting capability in the new environment. Thus, some FY 2019 case data is unable to be reported at this time, and other FY 2019 case data may differ slightly when eCMS reporting is fully established.

shutdown, and the flat appropriations level from FY 2018 to FY 2019, which required OSC to make difficult resource allocation decisions. Further, OSC achieved these results in FY 2019, despite the MSPB not having a quorum to render decisions on important cases, which impacted OSC's ability to fully meet some of its goal targets.

II. 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 time and 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.

- A. **Goal Table 1A** details the data points and performance metrics for OSC's work investigating, litigating, and resolving PPP complaints. In FY 2019, OSC met 7 out of 10 goals.

Generally, OSC's Strategic Plan contemplates a standing working group to improve efficiency of case handling in allegations of PPPs, Hatch Act cases, and USERRA complaints with a broad mandate to look at intake, workflow, investigative, prosecutive, and resolution processes. In its first year, the working group focused on prohibited personnel practices. The working group gathered data on OSC efficiency and effectiveness over the past several years and identified innovation that correlated with improved efficiencies. The working group also considered both internal and external catalysts, including OSC statistical data on workload and performance, organizational and operational changes, leadership, budget, public perception, and legislative changes. The working group is completing a report summarizing the information gathered and its conclusions.

Goal Table 1A: Goals 1-14

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

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
1	Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly	Met		Met							
2	Number of PPP complaints received	Data-point	3,784	Data-point	4,112	Data-point	3,824	Data-point		Data-point	
3	Number of whistleblower retaliation complaints received	Data-point	1,899	Data-point	1,861	Data-point	1,925	Data-point		Data-point	
4	Number of whistleblower retaliation complaints closed within 240 days	Baseline	1,305	Baseline	1,667	Baseline	1,917	Baseline		Baseline	
5	Average age of PPP complaints at closure	Baseline	131	Baseline	166	Baseline	142.97	Baseline		Baseline	
6	Number of PPP complaints filed with MSPB	1	0	1	1	1	0	1		1	
7	Number of successful PPP prosecutions before MSPB	1	0	1	0	1	0	1		1	
8	Number of PPP	30	37	33	29	33	37	33		33	

	complaints mediated										
9	Number of PPP complaints mediated resulting in settlement	18	32	20	22	20	24	20		20	
10	Number of informal stays obtained	25	34	25	47	25	29	25		25	
11	Number of formal stays and related extensions obtained	4	16	4	12	8	2	8		0	
12	Total favorable PPP actions ¹²	203	190	206	309	206	211	275		206	
13	Number of systemic corrective actions obtained	28	47	30	57	32	60	32		45	
14	Number of disciplinary actions obtained	15	16	15	19	15	27	15		15	

Goal Table 1A Explanatory Notes

¹²: This metric was revised in the new Strategic Plan to reflect individual corrective actions obtained, instead of total favorable PPP actions. This is reflected in the results for FY 2019, as well as the target for FY 2021.

B. **Goal Table 1B** details the data points and performance metrics for OSC's work investigating, litigating, and resolving Hatch Act complaints. OSC met three out of five goals in FY 2019. Metric 15 is a datapoint and the baseline is being established for metric 16.

Goal Table 1B: Goals 15-21

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

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
15	Number of Hatch Act complaints received	Data-point	253	Data-point	263	Data-point	281	Data-point		Data-point	
16	Percent of Hatch Act complaints closed within 240 days	Baseline	63%	Baseline	65%	Baseline	75%	60%		65%	
17	Number of Hatch Act complaints filed with MSPB	1	0	1	3	1	0	1		1	
18	Percent of successful Hatch Act prosecutions before MSPB	100%	N/A	100%	100%	100%	N/A	100%		100%	
19	Number of Hatch Act warning letters issued	25	37	20	49	22	49	25		25	
20	Number of corrective actions obtained	10	10	10	10	10	11	10		10	
21	Number of disciplinary actions obtained	5	4	5	6	5	5	5		5	

- C. **Goal Table 1C** details the data points and performance metrics for OSC's work investigating, litigating, and resolving USERRA complaints. During FY 2019, OSC met two out of three metrics. OSC completed 83% of USERRA legal reviews within 60 days and obtained 3 corrective actions.

Goal Table 1C: Goals 22-27

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

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
22	Number of USERRA referrals received	Data-point	17	Data-point	25	Data-point	21	Data-point		Data-point	
23	Number of USERRA merit referrals	Data-point	7	Data-point	4	Data-point	6	Data-point		Data-point	
24	Number of USERRA non-merit referrals	Data-point	10	Data-point	21	Data-point	15	Data-point		Data-point	
25	Percent of USERRA referrals closed within 60 days	80%	79%	80%	86%	75%	83%	80%		80%	
26	Number of USERRA offers of representation before MSPB	1	0	1	1	1	0	1		1	
27	Number of USERRA corrective actions obtained (formally and informally)	3	6	3	3	3	3	3		3	

- D. **Goal Table 2** details OSC's efforts to enhance its strategic enforcement authority, as it relates to the third objective under Strategic Goal 1. OSC met three out of three goals in FY 2019.

Goal Table 2

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

Objective 3: Enhance strategic use of enforcement authority

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
28	Number of PPP reports published on website	2	3	2	2	2	2	2		2	
29	Number of amicus curiae briefs and interventions filed*	2	3	2	5	2	2	2		2	
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4	10	4	10	4	15	4		8	

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

Goal Table 3

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

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

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
31	Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry	Baseline	100%	Baseline	100%	Baseline ³¹	97%	98%		98%	
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%	100%	95%	99.9%	95%	87%	98%		95%	
33	Number/percent of formal written	Baseline	75%	Baseline	89%	Baseline ³³	83%	75%		75%	

	advisory opinions issued within 60 days of inquiry										
34	Revised Hatch Act regulations by FY 2018	N/A	N/A	Met	Partially Met	Met	Partially Met	Met		Met	

Goal Table 3 Explanatory Notes

^{31, 33} For these metrics, the baseline is being established.

F. **Goal Table 4** details OSC's training and outreach efforts pursuant to OSC's fifth objective under Strategic Goal 1. OSC met five out of six goals in FY 2019.

Goal Table 4

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

Objective 5: Expand training and outreach efforts nationwide

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
35	Number of agencies/components contacted regarding the 2302(c) Certification Program	70	127	35	164	70	165	100		140	
36	Number of agencies/components registered for the 2302(c) Certification Program	Baseline	24	Baseline	21	20	33	15		15	
37	Number of agencies/components certified and recertified for the 2302(c) Certification Program	Baseline	43	Baseline	23	20	24 ³⁷	15		15	
38	Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program	9 months	8.35 months	6 months	10.17 months	9 months	9.55 months	8 months		9 months	
39	Number of training and outreach activities, broken down by program area and geographic location	Baseline	148	Baseline	198	150	188 ³⁹	165		165	
40	Methods to survey effectiveness of training and outreach activities by	Met	Met	Met	Met	Met	Met	Met		Met	

FY 2017, and reassess regularly										
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Goal Table 4 Explanatory Notes

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

³⁹: Number of trainings will increase and decrease in each fiscal year based on a number of factors, including, for instance, (1) the almost 75% increase in Hatch Act trainings we have observed during election years; and (2) an increase in Section 2302(c) trainings based on years in which a higher percentage of agencies are due for recertification at the end of the three-year cycle, creating a “lumpy forecast.” Despite the government shutdown, OSC exceeded its FY 2019 target and almost met its highest level of training and outreach conducted in FY 2018, which was based on a full twelve-month training cycle.

Program Area	Total	Outside Beltway*
PPP	118	26
HA	25	5
DU**	41	4
USERRA	1	0
ADR	3	1

*Trainings held outside the D.C. area include trainings held in Alabama, California, Colorado, Florida, Georgia, Kansas, Maryland, New York, Texas, and Virginia.

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

- G.** **Goal Table 5** details OSC’s communications with stakeholders and the public, consistent with the sixth objective under Strategic Goal 1. OSC met two out of four goals in FY 2019. OSC issued a total of 18 press releases in FY 2019.

Goal Table 5

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

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

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
41	Number of press releases issued	25	20	25	46	40	18	40		30	
42	Types and frequency of digital media used to share information	250	153	275	211	275	221	275		275	
43	Number of meetings with stakeholder groups	4	10	4	52	10	56 ⁴³	10		30	
44	Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly	Met	Partially Met	Met	Met	Met	Met	Met		Met	

Goal Table 5 Explanatory Notes

⁴³: In FY 2019, OSC had 56 meetings with stakeholder groups, including the following:

- 34 meetings with congressional representatives and staff
- 11 meetings with agency officials, including secretaries and general counsels
- 5 meetings with good government groups
- 4 meetings with inspector general offices
- 1 Whistleblower Summit on Capitol Hill
- 1 meeting with the European Ombudsman

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

Strategic Goal 2 has three objectives:

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

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

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

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

- A. **Goal Table 6** relates to the first objective under Strategic Goal 2 and details OSC's efforts to ensure government accountability by providing a safe, confidential and secure reporting channel for stakeholders and the public. In FY 2019, OSC received 1,374 new whistleblower disclosures. OSC met three out of three goals in FY 2019.

Goal Table 6										
Goal 2: Ensure government accountability										
Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing										
Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
45 New electronic form by FY 2017, and refine as appropriate	Met	Not Met	Met	Not Met	Met	Met ⁴⁵	Met		Met	
46 Number of whistleblower disclosures received	Data-point	1,777	Data-point	1,554	Data-point	1,374	Data-point		Data-point	
47 Number of whistleblower disclosures that also allege related retaliation	Data-point	81	Data-point	492	Data-point	N/A ⁴⁷	Data-point		Data-point	
48 Number of whistleblower disclosures referred to agencies for investigation	50	59 formal / 10 informal	50	139 formal / 22 informal	50	72 formal / 59 informal	75		70	
49 Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly	Met	Met	Met	Met	Met	Met	Met		Met	

Goal Table 6 Explanatory Notes

⁴⁵: New electronic form was implemented in FY 2019.

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

- B. Goal Table 7** relates to the second objective under Strategic Goal 2 and details OSC's efforts to ensure government accountability by providing timely and appropriate outcomes for referred whistleblower disclosures. For Goal Table 7, OSC met its one goal in FY 2019.

Goal Table 7

Goal 2: Ensure government accountability

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

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
50	Percentage of referred whistleblower disclosures that are substantiated by agencies	Data-point	59% formal / 50% informal	Data-point	76% formal / 46% informal	Data-point	N/A ⁵⁰	Data-point		Data-point	
51	Number of cases with favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures	Baseline	10 disciplinary / 58 corrective	Baseline	6 disciplinary / 47 corrective	Baseline	16 disciplinary / 72 corrective ⁵¹	Baseline		Baseline	
52	Timeliness of OSC's communication to the President	Baseline	148 days	Baseline	71 days	Baseline	116 days	Baseline		Baseline	

	and Congress after receiving an agency investigation report and whistleblower's comments									
53	Implementation of measurement to capture scope of benefits to government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security and/or tax dollars saved or recovered, by FY 2017, and reassess regularly	Met								

Goal Table 7 Explanatory Notes

⁵⁰: As noted at the beginning of the Performance Section, because of the implementation of OSC's new electronic case management system (eCMS) in the 4th quarter of FY 2019, some data cannot be reported on at this time. OSC is working diligently to solidify its eCMS reporting capability, and will report on this data at the next available opportunity.

⁵¹: FY 2019 Formal referrals with disciplinary action – 11
 FY 2019 Informal referrals with disciplinary action – 5
 FY 2019 Formal referrals with corrective action – 50
 FY 2019 Informal referrals with corrective action – 22

C. **Goal Table 8** related to the third objective under Strategic Goal 2 and details OSC's efforts to enhance awareness of outcomes of referred whistleblower disclosures. For Goal Table 8, OSC met four out of four goals in FY 2019.

Goal Table 8

Goal 2: Ensure government accountability

Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
54	Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly	Met	Not Met	Met	Not Met	Met	Met	Met		Met	
55	Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.	12	10	12	42	40	52	40		40	
56	Number of training and outreach events that address whistleblower disclosures	Baseline	86	Baseline	105	90	158	95		95	
57	Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly	Met		Met							

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

Strategic Goal 3 has three objectives:

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

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

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

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

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders

and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

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

- A. **Goal Table 9** tackles the first objective under Strategic Goal 3 and details OSC's efforts to achieve organizational excellence by recruiting, developing, and retaining a highly talented, engaged, and diverse workforce. For Goal Table 9, OSC met eight out of eight goals in FY 2019.

Goal Table 9

Goal 3: Achieve organizational excellence

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

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

	reassess regularly										
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- B. **Goal Table 10** relates to the second objective under Strategic Goal 3 and details OSC's efforts to improve the use of existing technology and deploy new IT systems to enhance organizational operations. For Goal Table 10, OSC met or partially met five out of six goals in FY 2019.

Goal Table 10 Goal 3: Achieve organizational excellence Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations											
	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
66	Transition to electronic case management system by FY 2017, and reassess regularly; Going live with the records in the eCMS by FY 2018; Incorporate business process by FY 2019	Met	Partially Met	Met	Not Met	Met	Met ⁶⁶	Met		Met	
67	100% deployment of mobile access to network program resources by FY 2017, and reassess regularly	Met	Partially Met	Met	Met	Met	Met ⁶⁷	Met		Met	
68	100% data encryption by FY 2017, and reassess regularly;	Met	A – Met B - Not Met	Met	A – Met B - Not Met	Met	Met ⁶⁸	Met ⁶⁸		Met	

	A – encryption of data at rest B – encryption of data in transit										
69	Ongoing semi-annual assessment of IT needs, and reassess regularly	Met	Met	Met	Met	Met	Met	Met	Met	Met	
70	Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly	Met	Met	Met	Met	Met	Met	Met	Met	Met	
71	Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly	Met	Met	Met	Not Met	Met	Not Met ⁷¹	Met	Met	Met	

Goal Table 10 Explanatory Notes

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

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

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

⁷¹: In FY 2019, OSC did not meet the goal of maintaining IT staff at 5% of agency workforce, as a result of OSC IT staff undergoing a complete turnover and operating with minimal resources. At the end of FY2019, IT staff consisted of 3 FTE. However, in FY 2020, OSC is on track to meet this goal.

- C. **Goal Table 11**, consistent with the third objective under Strategic Goal 3, details OSC's efforts to monitor, evaluate, and improve efficiency and effectiveness of programs and processes. For Goal Table 11, OSC met five out of five goals in FY 2019.

Goal Table 11

Goal 3: Achieve organizational excellence

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

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

Goal Table 11 Explanatory Notes

⁷⁵. The 2018 OSC reauthorization as found in section 1097 of the National Defense Authorization Act for Fiscal Year 2018 (NDAA) requires OSC to establish a survey pilot program to collect information and improve service at various stages of case review. OSC formed a working group to design and establish a survey, seek appropriate external approvals for the collection of information, and implement the survey in Fiscal Year 2019. As a result, an approved OMB collection on information was sent to approximately 4,400 complainants with open or closed cases. OSC received a total of 763 responses.

PART 3: FINANCIAL SECTION



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

CFO Letter

November 19, 2019

This letter usually addresses any recommendations for improvement made by the auditor concerning deficiencies in internal controls which may have an effect on the auditor's ability to express an opinion on the financial statements. I am pleased to report that there were no such matters noted by the auditor in FY 2019 that were considered significant.

The auditor did not note any noncompliance with laws or regulations which would have an effect on the financial statements.

We believe the findings pointed out during the FY 2018 audit have been fully addressed.

Thank you for the opportunity to comment on the audit report. The U.S. Office of Special Counsel is committed to continuous improvement of our internal controls, processes, and the quality of our financial reporting.

Sincerely,

A handwritten signature in black ink that reads "Karl P. Kammann".

Karl Kammann
Chief Financial Officer
U.S. Office of Special Counsel

**U.S. OFFICE OF SPECIAL COUNSEL
AUDIT REPORT
SEPTEMBER 30, 2019**



ALLMOND & COMPANY, LLC
Certified Public Accountants
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Independent Auditors' Report

Special Counsel
U.S. Office of Special Counsel:

Report on the Financial Statements

We have audited the accompanying financial statements of the Office of Special Counsel (OSC), which comprise the balance sheets as of September 30, 2019 and 2018, the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended, and the related notes to the financial statements (hereinafter referred to as the financial statements).

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the fiscal year 2019 and 2018 financial statements of OSC based on our audits. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-03 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Office of Special Counsel as of September 30, 2019 and 2018, and its net costs, changes in net position, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

U.S. generally accepted accounting principles require that the information in the *Message from the Special Counsel*, *Management Discussion and Analysis*, and *CFO Letter* sections of this report is presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of OSC's financial statements. However, we did not audit this information and, accordingly, we express no opinion on it.

Other Reporting Required by Government Auditing Standards

Internal Control over Financial Reporting

In planning and performing our audit of OSC's financial statements as of and for the year ended September 30, 2019, in accordance with generally accepted government auditing standards, we considered OSC's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion of the effectiveness of OSC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of OSC's internal control over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 19-03. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatement on a timely basis. A material weakness is a deficiency, or combination of deficiencies, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose as described in the first paragraph of this section, and was not designed to identify all deficiencies in internal control over

financial reporting that might be material weaknesses or significant deficiencies and therefore material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our fiscal year 2019 audit we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness, as defined above. However, material weaknesses may exist that have not been identified.

However, we noted two additional matters that we will report to OSC management in a separate letter.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether OSC's fiscal year 2019 financial statements are free of material misstatements, we performed tests of OSC's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in OSC's financial statements, and certain provisions of other laws specified in OMB Bulletin No. 19-03. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance as described in the preceding paragraph, disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-03.

Purpose of the Other Reporting Required by Government Auditing Standards

The purpose of the communication described in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provision of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of OSC's internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect on OSC's financial statements. Accordingly, this communication is not suitable for any other purpose.

Allmond & Company, LLC

Lanham, MD
November 12, 2019

The following table provides the fiscal year (FY) 2019 status of all recommendations included in the Independent Auditors' Report on the Office of Special Counsel's FY 2018 Financial Statements (November 13, 2018).

FY 2018 Finding	FY 2018 Recommendations	FY 2019 Status
Improvements Needed in Processing Personnel Actions and Maintaining Personnel Files (2018-01)	<ol style="list-style-type: none"> 1. In the event that the designated management officials (the CHCO and COO) are unavailable or one or both of the positions are vacant, OSC should consider developing a contingency policy which includes the delegation of this authority (in writing) to an experienced and appropriately trained individual. 2. Consider performing routine reviews at the end of each pay period to ensure that all personnel actions processed during the pay period were appropriately reviewed and approved, evidenced by the signature of the CHCO, COO, or other management official who has delegated authority in writing to approve personnel actions. This review should also verify that the appropriate documentation is maintained in the employees' files to support the actions taken, including management approval of the request and detailed information regarding the proposed change (e.g., change in Grade/Step, performance appraisals, approved hiring packages, etc.) 	Closed Closed
Improvements Needed over the Recording of Advances and Prepayments (2018-02)	<ol style="list-style-type: none"> 1. Develop a process to track the status of each open obligation for which an advance payment was made in order to determine what amount, if any, should have been recognized as an expense for each quarterly reporting period of the fiscal year and what amount should remain or be reclassified as an advance. 2. Amend the financial statement review checklist to include the following, at a minimum: <ol style="list-style-type: none"> a. Financial statement line items are properly classified and presented on the financial statements and notes and comply with all U.S. GAAP requirements. b. Financial Statement line items relating to advances agree with the subsidiary ledger (i.e., the amount of each advance payment that has not been completely liquidated through payments for goods and services or a refund to OSC for the unused balance). c. All OMB Circular A-136 financial reporting requirements have been met. 	Closed Closed

U.S. OFFICE OF SPECIAL COUNSEL

**Fiscal Year 2019
Financial Statements**



Office of Special Counsel
Balance Sheet
As of September 30, 2019 and 2018
(dollars in thousands)

	2019	2018
Assets		
Intragovernmental		
Fund Balance With Treasury (Note 2)	4,094	4,352
Advances and Prepayments (Note 12)	229	446
Total Intragovernmental	<hr/> \$ 4,323	<hr/> \$ 4,798
Assets With the Public		
Accounts Receivable, Net (Note 3)	8	1
General Property, Plant, and Equipment, Net (Note 4)	141	185
Total Assets	<hr/> \$ 4,472	<hr/> \$ 4,984
Liabilities		
Intragovernmental		
Employer Contributions and Payroll Taxes Payable	181	171
Unfunded FECA Liability (Note 5)	61	94
Total Intragovernmental	<hr/> 242	<hr/> 265
Liabilities With the Public		
Accounts Payable	239	209
Federal Employee and Veteran Benefits (Note 5)	337	505
Accrued Funded Payroll	681	605
Employer Contributions and Payroll Taxes Payable	32	28
Unfunded Leave (Note 5)	1,295	1,177
Contingent Liabilities (Note 5, 7)	10	15
Total Liabilities	<hr/> \$ 2,836	<hr/> \$ 2,804
Net Position		
Unexpended Appropriations - Other Funds	3,190	3,786
Cumulative Results of Operations - Other Funds	(1,554)	(1,606)
Total Net Position	<hr/> \$ 1,636	<hr/> \$ 2,180
Total Liabilities And Net Position	<hr/> \$ 4,472	<hr/> \$ 4,984

The accompanying notes are an integral part of these statements.

**Office of Special Counsel
Statement of Net Cost
For the Years Ended September 30, 2019 and 2018
(dollars in thousands)**

	2019	2018
Gross costs	\$ 27,649	\$ 26,069
Net Cost of Operations	\$ 27,649	\$ 26,069

The accompanying notes are an integral part of these statements.

**Office of Special Counsel
Statement of Changes in Net Position
For the Years Ended September 30, 2019 and 2018
(dollars in thousands)**

	2019	2018
Unexpended Appropriations:		
Beginning Balances	\$ 3,786	\$ 2,203
Beginning Balances, as Adjusted	3,786	2,203
Budgetary Financing Sources:		
Appropriations Received	26,535	26,535
Appropriations Used	(26,552)	(24,864)
Other Adjustments	(579)	(88)
Total Budgetary Financing Resources	<u>(596)</u>	<u>1,583</u>
Total Unexpended Appropriations	<u>\$ 3,190</u>	<u>\$ 3,786</u>
Cumulative Results of Operations:		
Beginning Balances	\$ (1,606)	(1,518)
Beginning Balances, as Adjusted	(1,606)	(1,518)
Budgetary Financing Sources:		
Appropriations Used	26,552	24,864
Imputed Financing (Note 8)	1,149	1,117
Total Financing Sources	<u>27,701</u>	<u>25,981</u>
Net Cost of Operations	<u>(27,649)</u>	<u>(26,069)</u>
Net Change	52	(88)
Cumulative Results of Operations	<u>\$ (1,554)</u>	<u>\$ (1,606)</u>
Net Position	<u>\$ 1,636</u>	<u>\$ 2,180</u>

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Statements of Budgetary Resources
For the Years Ended September 30, 2019 and 2018
(dollars in thousands)

	2019	2018
Budgetary resources:		
Unobligated balance from prior year budget authority, net	773	1,102
Appropriations (discretionary and mandatory)	26,535	26,535
Total budgetary resources	<u>\$ 27,308</u>	<u>\$ 27,637</u>
Status of budgetary resources:		
New obligations and upward adjustments (total) (Note 9):	\$ 26,360	\$ 26,441
Unobligated balance, end of year:		
Apportioned, unexpired accounts	463	279
Unexpired unobligated balance, end of year (Note 2)	463	279
Expired unobligated balance, end of year (Note 2)	485	917
Unobligated balance, end of year (total)	<u>948</u>	<u>1,196</u>
Total budgetary resources	<u>\$ 27,308</u>	<u>\$ 27,637</u>
Budget Authority and Outlays, Net		
Outlays, net (total) (discretionary and mandatory)	<u>26,214</u>	<u>24,608</u>
Agency outlays, net (discretionary and mandatory)	<u>\$ 26,214</u>	<u>\$ 24,608</u>

The accompanying notes are an integral part of these statements.

**OFFICE OF SPECIAL COUNSEL
Washington, D.C.**

**Notes to Principal Financial Statements
As of and for the Years Ended
September 30, 2019 and 2018**

**Office of Special Counsel
Notes to Principal Financial Statements
as of and for the Years Ended September 30, 2019 and 2018**

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. OSC's authority comes from four federal statutes, the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniform Services Employment and Reemployment Rights Act. OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices. OSC receives, investigates, and prosecutes allegations of prohibited personnel practices, with an emphasis on protecting federal government whistleblowers.

OSC is headed by the Special Counsel, who is appointed by the President, and confirmed by the Senate. At full strength, the agency employs approximately 143 employees to carry out its government-wide responsibilities in the headquarters office in Washington, D.C., and in the Dallas, San Francisco, and Detroit field offices.

OSC has rights and ownership of all assets reported in these financial statements. There are no non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, status and availability of budgetary resources of the OSC. The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, the Accountability of Tax Dollars Act of 2002 and the Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements. They have been prepared from, and are fully supported by, the books and records of OSC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, and OSC Accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control OSC's use of budgetary resources.

The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and the Statement of Budgetary Resources. In accordance with OMB Circular A-136, the financial statements and associated notes are presented on a comparative basis.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. These financial statements were prepared following accrual accounting. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control OSC's use of budgetary resources.

D. Taxes

OSC, as a Federal entity, is not subject to Federal, State, or local income taxes, and, accordingly, no provision for income taxes has been recorded in the accompanying financial statements.

E. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. OSC does not maintain cash in commercial bank accounts or foreign currency balances.

F. Accounts Receivable

Accounts receivable consists of amounts owed to OSC by other Federal agencies and the public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when either (1) based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent.

G. General Property, Plant and Equipment, Net

OSC's property and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. OSC's capitalization threshold is \$50,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, plant and equipment. The useful life classifications for capitalized assets are as follows:

<u>Description</u>	<u>Useful Life (years)</u>
Leasehold Improvements	10
Office Equipment	5
Hardware	5
Software	2

H. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

OSC currently uses the Department of Interior, Interior Business Center, Acquisitions Directorate as a Contracting Shared Services Provider. All payments provided to them are collected as advance payments, as provided for under their authority with their Interior Franchise Fund.

I. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against OSC by other Federal agencies. Additionally, the government, acting in its sovereign capacity, can abrogate liabilities.

Accrued liabilities for OSC are comprised of program expense accruals, payroll accruals, and annual leave earned by employees. Program expense accruals represent expenses that were incurred prior to year-end but were not paid. Similarly, payroll accruals represent payroll expenses that were incurred prior to year-end but were not paid.

J. Accounts Payable

Accounts payable consists of amounts owed to other Federal agencies and the public.

K. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Sick leave is generally non-vested. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Non-vested leave is expensed when used.

L. Accrued Workers' Compensation

A liability is recorded for actual and estimated future payments to be made for workers' compensation pursuant to the Federal Employees' Compensation Act (FECA). The actual costs incurred are reflected as a liability because OSC will reimburse the Department of Labor (DOL) two years after the actual payment of expenses. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

M. Retirement Plans

OSC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). The employees who participate in CSRS are beneficiaries of OSC's matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

FERS went into effect on January 1, 1987. FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1984 elected to join either FERS, Social Security, or remain in CSRS. FERS offers a savings plan to which OSC automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, OSC also contributes the employer's matching share of Social Security.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, OSC remits the employer's share of the required contribution.

OSC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. Office of Personnel Management (OPM) actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to OSC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. OSC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

OSC does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM.

N. Net Position

Net position is the residual difference between assets and liabilities and is comprised of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative result of operations is the net result of OSC's operations since inception.

O. Imputed Costs/Financing Sources

Federal government entities often receive goods and services from other Federal government entities without reimbursing the providing entity for all the related costs. In addition, Federal government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. OSC recognized imputed costs and financing sources in fiscal years 2019 and 2018 to the extent required by generally accepted accounting principles.

P. Revenues & Other Financing Resources

Congress enacts annual and multi-year appropriations to be used, within statutory limits, for operating and capital expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

Appropriations are recognized as a financing source when expended. Revenues from service fees associated with reimbursable agreements are recognized concurrently with the recognition of accrued expenditures for performing the services.

OSC recognizes as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on our behalf by OPM.

Q. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. OSC recognizes contingent liabilities, in the accompanying Balance Sheet when it is both probable and can be reasonably estimated. OSC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the

amounts appropriated to OSC for agency operations. Payments from the Judgment Fund are recorded as an “Other Financing Source” when made.

R. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

S. Use of Estimates

The preparation of financial statements in conformity with Generally Accepted Accounting Principles (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

T. Comparative Data

The financial statements and footnotes present comparative data for the prior fiscal year, in order to provide an understanding of changes in OSC’s financial position and operations.

U. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as September 30, 2019 and 2018 were:

(dollars in thousands)	2019	2018
Appropriated Funds (general)	\$ 4,094	\$ 4,352
Total Fund Balance with Treasury	\$ 4,094	\$ 4,352

Status of Fund Balance with Treasury

Unobligated Balance:			
Available	\$ 463	\$ 279	
Unavailable	485	917	
Obligated Balance Not Yet Disbursed	3,146	3,156	
Total	\$ 4,094	\$ 4,352	

Unobligated unavailable fund balance represents the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations

incurred only during the period for which the appropriation was available for obligation or paying claims attributable to the appropriations.

NOTE 3. ACCOUNTS RECEIVABLE

A summary of accounts receivable from the public as of September 30, 2019 and 2018 were as follows:

(dollars in thousands)	2019	2018
Accounts Receivable from the Public:		
Billed:		
Current	\$ 8	\$ 1
Total Accounts Receivable	8	1
Accounts Receivable from the Public, Net	\$ 8	\$ 1

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, Plant and Equipment account balances as of September 30, 2019 and 2018 were as follows:

(dollars in thousands)	Service Life	Acquisition Value	Accumulated Depreciation	2019 Net Book Value
Office Equipment	5 yrs	\$ 471	\$ (437)	\$ 34
Leasehold Improvements	10 yrs	488	(381)	107
Total		\$ 959	\$ (818)	\$ 141

(dollars in thousands)	Service Life	Acquisition Value	Accumulated Depreciation	2018 Net Book Value
Office Equipment	5 yrs	\$ 652	\$ (595)	\$ 57
Leasehold Improvements	10 yrs	488	(360)	128
Total		\$ 1,140	\$ (955)	\$ 185

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on OSC's Balance Sheet as of September 30, 2019 and 2018 include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

A. Intragovernmental and Public Liabilities

(dollars in thousands)	2019	2018
Intragovernmental:		
Unfunded FECA Liability	\$ 61	\$ 94
Total Intragovernmental	61	94
Public Liabilities:		
Federal Employee and Veteran Benefits	337	505
Unfunded Annual Leave	1,295	1,177
Contingent Liabilities	10	15
Total Liabilities Not Covered by Budgetary Resources	\$ 1,703	\$ 1,791
Total Liabilities Covered by Budgetary Resources	1,133	1,013
Total Liabilities	\$ 2,836	\$ 2,804

B. Other Information

Unfunded Payroll Liabilities consists of workers' compensation claims payable to the Department of Labor, which will be funded in a future period, and an unfunded estimated liability for future workers' compensation claims based on data provided from the DOL. Unfunded FECA liabilities for 2019 and 2018 were approximately \$61 thousand and \$94 thousand respectively. The actuarial calculation is based on benefit payments made over 12 quarters, and calculates the annual average of payments. The actuarial FECA liabilities for 2019 and 2018 were approximately \$337 thousand and \$505 thousand respectively. For medical expenses and compensation, this average is then multiplied by the liability-to-benefit paid ratio for the whole FECA program.

Unfunded Leave represents a liability for earned leave and is reduced when leave is taken. At year end, the balance in the accrued leave account is adjusted to reflect the liability at current pay rates and leave balances. Accrued leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

All other liabilities are considered to be covered by budgetary resources.

NOTE 6. OPERATING LEASES

OSC occupies office space under lease agreements in Washington DC, Dallas, Oakland, and Detroit that are accounted for as operating leases. The DC lease term was renewed starting on October 25, 2019 and expires on October 25, 2029. The Dallas lease term began on December 9, 2002 and expires on December 8, 2027; at lease renewal a 4% increase is estimated. The current Oakland lease was renewed in February 2011 for a period of 10 years through June 2021 and the Detroit lease is through November 2020. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Escalation cost estimates for Oakland and Dallas for market rate resets and lease renewals have been factored in. OSC has clauses in all its contracts whereby it can vacate space with 120 days written notice.

Below is a schedule of future payments for the terms of all the leases.

(dollars in thousands)

Fiscal Year	Total
2020	530
2021	1,920
2022	2,094
2023	2,121
2024	2,149
Total Future Lease Payments	\$ 8,814

NOTE 7. CONTINGENCIES

A contingency is an existing condition, situation or set of circumstances involving uncertainty as to possible payment by OSC. The uncertainty will ultimately be resolved when one of more future events occur or fail to occur. For pending, threatened or un-asserted litigation, a liability/cost is recognized when a past transaction or event has occurred, a future outflow or other sacrifice of resources is probable, and the related future outflow or sacrifice of resources can be reasonably estimated.

There are numerous legal actions pending against the United States in Federal courts in which claims have been asserted that may be based on action taken by OSC. Management intends to vigorously contest all such claims. Management believes, based on information provided by legal counsel, that losses, if any, for the majority of these cases would not have a material impact on the financial statements.

Probable Likelihood of an Adverse Outcome

As of September 30, 2019, OSC is subject to pending cases where an adverse outcome is probable; \$10 thousand is booked on the balance sheet for these contingent liabilities. As of September 30, 2018, OSC was subject to pending cases where an adverse outcome was probable; \$15 thousand was booked on the balance sheet for these contingent liabilities.

Reasonably Possible Likelihood of an Adverse Outcome

As of September 30, 2019 OSC is subject to pending cases where an adverse outcome is reasonably possible, and potential losses were assessed at \$501 thousand. As of September 30, 2018 OSC was subject to pending cases where an adverse outcome was reasonably possible, and potential losses were assessed at \$496 thousand.

NOTE 8. INTER-ENTITY COSTS

Goods and services are received from other federal entities at no cost or at a cost less than the full cost to the providing federal entity. Consistent with accounting standards, certain costs of the providing entity that are not fully reimbursed [by the component reporting entity] are recognized as imputed cost [in the Statement of Net Cost], and are offset by imputed revenue [in the Statement of Changes in Net Position]. Such imputed costs and revenues relate to business-type activities (if applicable), employee benefits, and

claims to be settled by the Treasury Judgement Fund. However, unreimbursed costs of goods and services other than those identified above are not included in our financial statements.

OSC recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management. For the fiscal years ended September 30, 2019 and 2018, respectively, imputed financing from OPM were approximately \$1,149 thousand and \$1,117 thousand.

NOTE 9. APPORTIONMENT CATEGORIES OF NEW OBLIGATIONS AND UPWARD ADJUSTMENTS

New obligations and upward adjustments reported on the Statement of Budgetary Resources for the years ended September 30, 2019 and 2018 consisted of the following:

(dollars in thousands)	2019	2018
Direct Obligations:		
Category B	\$ 26,360	\$ 26,441
Total New Obligations and Upward Adjustments	<u>\$ 26,360</u>	<u>\$ 26,441</u>

NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources (SBR) and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include FY19 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2020 and can be found at the OMB website: <http://www.whitehouse.gov/omb>. The 2019 Budget of the United States Government, with the actual column completed for 2018, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Beginning with FY06, the format of the Statement of Budgetary Resources has changed and the amount of undelivered orders at the end of period is no longer required to be reported on the face of the statement. Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the years ended September 30, 2019 and 2018, undelivered orders amounted to:

	2019	2018
Unpaid:		
Federal	\$ 700	\$ 1,264
Non-Federal	1,313	880
Paid:		
Non-Federal	229	446
Totals	\$ 2,242	\$ 2,590

NOTE 12. ADVANCES AND PREPAYMENTS

The Advances and Prepayments for OSC is \$229 thousand as of September 30, 2019. The Advances and Prepayments for OSC were \$446 thousand as of September 30, 2018.

NOTE 13. RECONCILIATION OF NET COST TO NET OUTLAYS

The new reconciliation, referred to as the Budget and Accrual Reconciliation (BAR), requires a reconciliation of the net outlays on a budgetary basis and the net cost of operations during the period.

Reconciliation of Net Cost to Net Outlays				
As of September 30, 2019				
(dollars in thousands)				
	Intragovernmental	With the public	Total FY 2019	
Net Operating Cost (SNC)	\$ 9,771	\$ 17,878	\$ 27,649	
Net Cost				
Outlays:				
Property, plant, and equipment depreciation	-	(44)	(44)	
Increase/(decrease) in assets:				
Accounts receivable	-	7	7	
Advances and prepayments	(217)	-	(217)	
Increase/(decrease) in liabilities:				
Accounts payable	-	(31)	(31)	
Salaries and benefits	(10)	(80)	(90)	
Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA)	33	56	89	
Other financing sources:				
Federal employee retirement benefit costs paid by OPM and imputed to the agency	(1,149)	-	(1,149)	
Net Outlays	\$ 8,428	\$ 17,786	\$ 26,214	

NOTE 14. NET ADJUSTMENTS TO UNOBLIGATED BALANCE, BROUGHT FORWARD, OCTOBER 1

The Unobligated balance from prior year budget authority, net is \$773 thousand as of September 30, 2019. The Unobligated balance, end of year (total) was \$1,196 thousand as of September 30, 2018. The \$423 thousand variance is due to the pre-closing transactions of the cancelling fund.

APPENDIX I: OSC Strategic Plan FY 2017-2022

STRATEGIC PLAN*
(FY 2017-2022)



**U.S. Office of Special Counsel
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Washington, DC.20036-4505**

*Note- this document was developed at a given point in time, and will be updated as needed. As such information contained in the plan may be outdated or superseded.

Table of Contents

Introduction.....	73
About OSC.....	74
<i>Background</i>	
<i>Mission and Responsibilities</i>	
<i>Organizational Structure</i>	
Strategic Planning Process.....	77
Mission, Vision, Strategic Goals, and Core Values.....	80
Strategic Goals, Objectives, Strategies, Data Points, and Metrics.....	81
1. <i>Protect and promote the integrity and fairness of the federal workplace.</i>	
2. <i>Ensure government accountability.</i>	
3. <i>Achieve organizational excellence.</i>	
Factors Affecting Achievement of Strategic Plan.....	90
Appendices.....	92
<i>Appendix II – OSC Organizational Chart</i>	
<i>Appendix III – OSC Strategic Planning Team</i>	

Appendix I: Strategic Plan

Introduction

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

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

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

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

the status of D.C. government employees from federal employees to state and local government employees.

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

About OSC

Background

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

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

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

Mission and Responsibilities

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

CSRA – Prohibited Personnel Practices

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

CSRA – Whistleblower Disclosures

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

Hatch Act

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

USERRA

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

Organizational Structure

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

- *Immediate Office of Special Counsel (IOSC)*. The Special Counsel and IOSC are responsible for policy-making and overall management of OSC. This responsibility encompasses supervision of the agency's congressional liaison and public affairs activities.
- *Complaints Examining Unit (CEU)*. This unit receives complaints alleging PPPs. CEU reviews and examines each PPP complaint to determine if it is within OSC's

jurisdiction and, if so, whether the matter can be resolved at that stage or should be referred for mediation, further investigation, or prosecution.

- ***Investigation and Prosecution Division (IPD)***. This division is comprised of the headquarters office and three field offices, and is primarily responsible for investigating and prosecuting PPPs. IPD determines whether the evidence is sufficient to establish that a violation has occurred and, if so, whether the matter warrants corrective action, disciplinary action, or both. If a meritorious case cannot be resolved informally, IPD may bring an enforcement action before the MSPB.
- ***Hatch Act Unit (HAU)***. This unit investigates and resolves complaints of unlawful political activity under the Hatch Act, and may seek corrective and disciplinary action informally as well as before the MSPB. HAU also provides advisory opinions under the Hatch Act.
- ***USERRA Unit***. This unit reviews and resolves USERRA complaints by federal employees referred by the Department of Labor. The unit also may represent service members in USERRA appeals before the MSPB.
- ***Alternative Dispute Resolution (ADR) Unit***. This unit supports OSC's other program units by providing mediation and other forms of ADR services to resolve appropriate cases. Where the parties agree to mediation, the unit conducts mediation sessions seeking creative and effective resolutions.
- ***Disclosure Unit (DU)***. This unit reviews whistleblower disclosures of government wrongdoing. DU may refer a whistleblower disclosure to the agency to investigate and report its findings to OSC. For referred whistleblower disclosures, DU reviews each agency report for sufficiency and reasonableness, and then OSC sends the determination, the agency report, and any comments by the whistleblower to the President and responsible congressional oversight committees.
- ***Retaliation and Disclosure Unit (RDU)***. This unit handles hybrid cases in which a single complainant alleges both whistleblower disclosures and retaliation. OSC created RDU to streamline its processes and provide a single point of contact for complainants with multiple claims. RDU performs the full range of action in these cases, including the referral of whistleblower disclosures to agencies and the investigation and prosecution of related retaliation claims, where appropriate.
- ***Diversity, Outreach, and Training Unit***. This unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c), which requires that agencies inform their workforces about whistleblower rights and remedies. The unit also provides external education and outreach sessions for the laws that OSC enforces, as well as develops and implements internal Equal Employment Opportunity and other skill-based training programs for OSC's staff.
- ***Office of General Counsel***. This office provides legal advice regarding management, policy, and administrative matters, including FOIA, the Privacy Act, and the ethics

programs. The office also defends OSC's interests in litigation filed against the agency.

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

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

Strategic Planning Process

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

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

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

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

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

OSC received several comments regarding its investigation and prosecution functions. Some comments lauded OSC's efforts to apply consistent standards of review and investigative

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

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

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

OSC also received several comments regarding its role of providing a safe channel to report government wrongdoing, primarily with respect to the timeliness of the process. OSC is striving to reduce the amount of time it takes between referral of whistleblower disclosures to an agency for investigation and the publication of the results of that investigation. Timeliness is difficult to assess in a standardized way because it depends on a variety of factors. For example, many whistleblower disclosures are complex and technical in nature and, by statute, whistleblowers may review and comment on the agency's report. Throughout the process, OSC communicates with the whistleblower and the agency and thoroughly analyzes the agency's report and the whistleblower's comments to ensure the agency's findings are reasonable and

contain all of the required information. OSC will seek to continue to streamline the process without sacrificing quality and complete reports on referred whistleblower disclosures.

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

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

Mission, Vision, Strategic Goals, and Core Values

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

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

Strategic Goals:

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

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

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

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

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

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

Strategic Goals, Objectives, Strategies, and Metrics

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

Objective 1: Fairly and promptly investigate and prosecute cases.

Objective 2: Obtain timely and effective relief in cases.

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

Strategies:

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

Data Points and Metrics:

General

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

PPP Enforcement

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

Hatch Act Enforcement

- Number of complaints received.
- Number/percent of complaints closed within 240 days.

- Number of complaints filed with MSPB.
- Number of successful prosecutions before MSPB.
- Number of warning letters issued.
- Number of corrective actions obtained.
- Number of disciplinary actions obtained.

USERRA Enforcement

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

Objective 3: Enhance strategic use of enforcement authority.

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

Strategies:

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

Data Points and Metrics:

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

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

OSC is in a unique position to provide Hatch Act advice to federal, D.C., state, and local employees and officials, as well as the general public. It is important for OSC to provide consistent, well-reasoned opinions in a timely fashion so that individuals can make appropriate decisions about their political activities. OSC recognizes the importance of revising and updating the Hatch Act regulations and will continue to pursue its efforts to

partner with OPM, the agency responsible for promulgating the regulations, to achieve this goal.

Strategies:

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

Data Points and Metrics:

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

Objective 5: Expand training and outreach efforts nationwide.

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

Strategies:

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

Data Points and Metrics:

- Number of agencies/components contacted regarding the 2302(c) Certification Program.

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

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

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

Strategies:

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

Data Points and Metrics:

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

Strategic Goal 2 – Ensure government accountability.

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

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

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

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

Data Points and Metrics:

- Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly.

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

Strategic Goal 3 – Achieve organizational excellence.

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

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

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

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

Data Points and Metrics:

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

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

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

Strategies:

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

Data Points and Metrics:

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

Factors Affecting Achievement of Strategic Plan

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

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

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

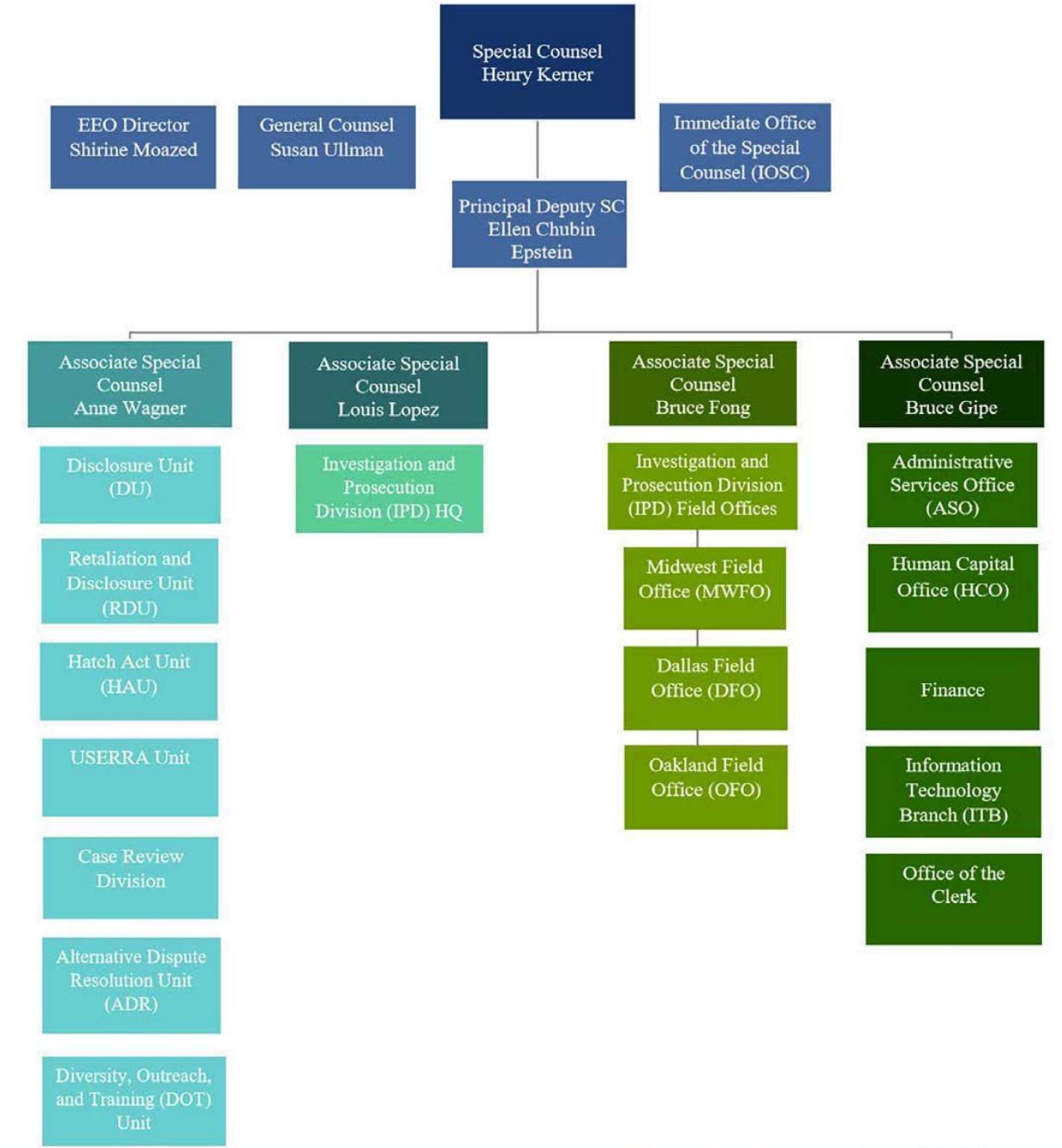
Additionally, OSC has had limited ability to invest in, but increased need for, long-term improvements in technology. OSC will be called upon to ensure that the technological environment in which it conducts its work is modern and secure. By proactively assessing the information security needs and the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

While OSC's establishment as an independent government oversight agency insulates it from political influences on its work, transitions in administration and leadership throughout the federal government will necessarily impact OSC's ability to safeguard employee rights and hold the government accountable. Specifically, staffing changes at all levels in the agencies over which OSC has jurisdiction will require that OSC remain agile and focused on honoring the merit system fairly and without bias. These challenges will require that OSC continue to

prioritize education and outreach, and to highlight cases with significant educational value or that promote accountability. Through these efforts, OSC can improve the culture within the federal government and remain a steady accountability and transparency presence that can withstand administration and leadership changes.

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

Appendix II: OSC Organizational Chart



Appendix III: OSC Strategic Planning Team

Chair

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

Members

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

Patrick Boulay, *Chief, USERRA Unit*

Ginny Castle, *Program Assistant, Oakland Field Office*

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

Greg Giaccio, *Senior Examiner, Complaints Examining Unit*

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

Sheryl Golkow, *Attorney, Dallas Field Office*

Karen Gorman, *Chief, Retaliation and Disclosure Unit*

Jane Juliano, *Chief, Alternative Dispute Resolution Unit*

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

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

Catherine McMullen, *Chief, Disclosure Unit*

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

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

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