FY2010 Performance and Accountability Report

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A Message from the Associate Special Counsel

It is my pleasure to present the Office of Special Counsel's Performance and Accountability Report for Fiscal Year 2010. This agency has a proud history of serving the federal workforce and the public through its tenacious defense of the merit system principles that continue to safeguard the integrity of the executive branch agencies of the United States. Fiscal Year 2010 marks the seventh year the U.S. Office of Special Counsel was required to have a financial audit. I am pleased to report once again the agency's strong results, which include no reportable conditions and no material weaknesses. I am reasonably assured that the financial and performance data presented in this report are complete, reliable and accurate.

To all of those who rely on our counsel, our service, and our protection, be assured that we will continue striving for excellence. Thank you for your continued trust and confidence.

Sincerely,

William E. Reukauf
Associate Special Counsel

Part 1: Management Discussion and Analysis

I. Agency at a Glance

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its primary mission is to safeguard the merit system in federal employment, by protecting employees and applicants from prohibited personnel practices (PPPs), especially reprisal for whistleblowing. In addition, the agency operates a secure channel for federal whistleblower disclosures of violations of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; and substantial and specific danger to public health and safety. OSC also has jurisdiction under the Hatch Act to enforce restrictions on political activity by government employees. Finally, OSC enforces federal employment rights secured by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

II. Statutory Background

Statutory Background

OSC was established on January 1, 1979. From then until 1989, the office operated as the independent investigative and prosecutorial arm of the Merit Systems Protection Board (MSPB, or "the Board"). By law, OSC: a). received and investigated complaints from current and former federal employees, and applicants for federal employment, alleging prohibited personnel practices by federal agencies; b). enforced the Hatch Act, including by giving advice on restrictions imposed by the act on political activity by covered federal, state, and local government employees; and c). received disclosures from federal whistleblowers (current and former employees, and applicants for federal employment) about wrongdoing in government agencies. The office enforced restrictions against prohibited personnel practices and political activity by filing, where appropriate, petitions for corrective and/or disciplinary action with the Board.

In 1989, Congress enacted the Whistleblower Protection Act (WPA). The statute made OSC an independent agency within the executive branch of the federal government, with continued responsibility for the functions described above. It also strengthened protections against reprisal for employees who disclose wrongdoing in the government, and enhanced OSC's ability to enforce those protections.

Congress enacted legislation in 1993 that significantly amended Hatch Act provisions applicable to federal and District of Columbia (D.C.) government employees, and enforced by OSC.[1] (Provisions of the act enforced by OSC with respect to certain state and local government employees were unaffected by the 1993 amendments.)

In 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA) became law. It defined employment-related rights of persons in connection with military service, prohibited discrimination against them because of that service, and gave OSC new authority to pursue remedies for violations by federal agencies.[2]

Also in 1994, OSC's reauthorization act expanded protections for federal employees, and defined new responsibilities for OSC and other federal agencies. It provided, for example, that within 240 days after receiving a prohibited personnel practice complaint, OSC should determine whether there are reasonable grounds to believe that such a violation occurred, exists, or is to be taken. The act extended the protections of certain legal provisions enforced by OSC to approximately 60,000 employees of what is now the Department of Veterans Affairs (DVA), and to employees of certain government corporations. It also broadened the scope of personnel actions covered under those provisions. Finally, the act made federal agencies responsible for informing their employees of available rights and remedies under the WPA, and directed agencies to consult with OSC in that process.[3]

In November of 2001, Congress enacted the Aviation and Transportation Security Act,[4] creating the Transportation Security Administration (TSA). Under the act, non-security screener employees of TSA can file allegations of reprisal for whistleblowing with OSC and the MSPB.

Approximately 45,000 security screeners in TSA, however, could not pursue such complaints at OSC or the Board. OSC efforts led to the signing of a memorandum of understanding (MOU) with TSA in May 2002, under which OSC would review whistleblower retaliation complaints from security screeners, and recommend corrective or disciplinary action to TSA, when warranted.

III. The Mission of the U.S. Office of Special Counsel

The U.S. Office of Special Counsel's primary mission is to safeguard the merit system in federal employment by protecting employees and applicants from prohibited personnel practices (PPPs), especially reprisal for whistleblowing. In addition, the agency operates a secure channel for federal whistleblower disclosures of violations of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; and substantial and specific danger to public health and safety. OSC also has jurisdiction under the Hatch Act to enforce restrictions on political activity by government employees. Finally, OSC enforces the civilian employment and reemployment rights of military service members under the USERRA.

IV. Organizational Structure of OSC

OSC maintains its headquarters office in Washington, D.C. Four field offices are located in Dallas, Oakland, Detroit, and Washington, D.C.

Agency components during FY2010 include the Immediate Office of the Special Counsel (IOSC), five operating units/divisions and several supporting offices explained in detail below.

Immediate Office of the Special Counsel (IOSC). The Special Counsel and the IOSC staff are responsible for policy-making and overall management of OSC. This encompasses management of the agency's congressional liaison and public affairs activities, and coordination of its outreach program. The latter includes promotion of compliance by other federal agencies with the employee information requirement at 5 U.S.C. § 2302(c). The IOSC is currently vacant while we await appointment of a Special Counsel. In the interim the responsibilities are performed by the agency's career employees.

Program Units

Complaints Examining Unit (CEU). This unit is the intake point for all complaints alleging prohibited personnel practices and other violations of civil service law, rule, or regulation within OSC's jurisdiction. CEU screens approximately 2,400 such complaints each year. Attorneys and personnel management specialists conduct an initial review of complaints to determine if they are within OSC's jurisdiction, and if so, whether further investigation is warranted. The unit refers all matters stating a potentially valid claim to the Investigation and Prosecution Division for further investigation or possible mediation.

Investigation and Prosecution Division (IPD). IPD is comprised of the four field offices, and is generally responsible for conducting field investigations of matters referred after preliminary inquiry by CEU. In selected cases referred by CEU for further investigation, IPD coordinates mediation of complaints in which the complainant and the agency involved have agreed to participate in OSC's voluntary Alternative Dispute Resolution (ADR) Program. In other cases, after field investigation of matters referred by CEU, legal analyses are done by IPD attorneys to determine whether the evidence is sufficient to establish that a prohibited personnel practice (or other violation within OSC's jurisdiction) has occurred. IPD investigators work with the attorneys in deciding whether a matter warrants corrective action, disciplinary action, or both. If meritorious cases cannot be resolved through negotiation with the agency involved, the attorneys represent the Special Counsel in litigation before the MSPB. They also represent the Special Counsel when OSC intervenes, or otherwise participates, in other proceedings before the Board. Finally, IPD investigators and attorneys assist the Hatch Act Unit and the USERRA Unit, as needed, with cases handled by those components.

Disclosure Unit (DU). This component receives and reviews disclosures from federal whistleblowers. DU recommends the appropriate disposition of disclosures, which may include referral to the head of the agency involved for investigation and a report to the Special Counsel;

informal referral to the Inspector General (IG) of the agency involved; or closure without further action. Unit attorneys review each agency report of investigation to determine its sufficiency and reasonableness before the Special Counsel sends the report to the President and responsible congressional oversight committees, along with any comments by the whistleblower and the Special Counsel.

Hatch Act Unit (HAU). This unit enforces and investigates complaints of Hatch Act violations, and represents OSC in litigation before the MSPB seeking disciplinary action. In addition, the HAU is responsible for providing legal advice on the Hatch Act to federal, D.C., state and local employees, as well as the public at large.

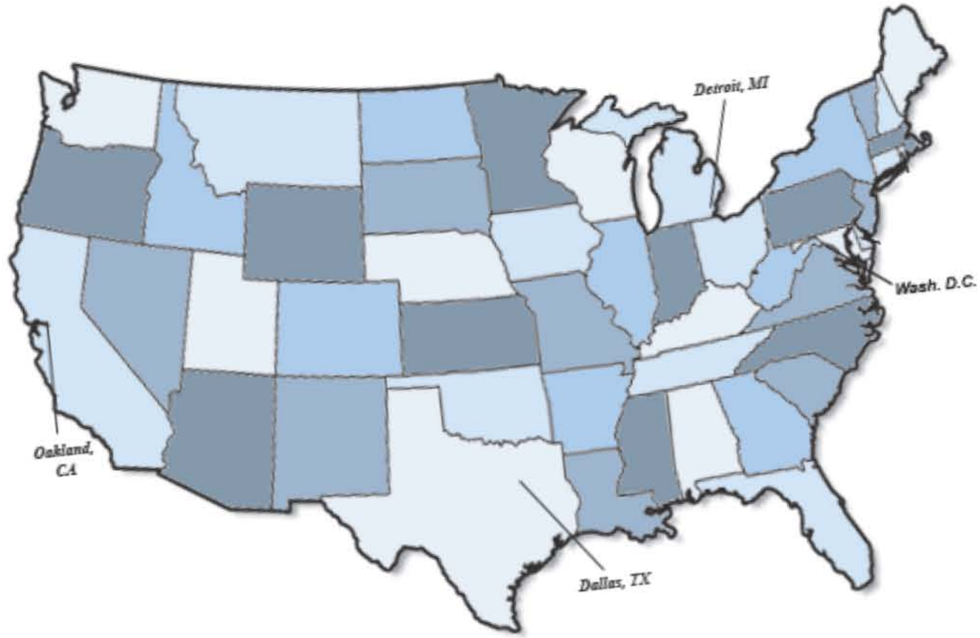
USERRA Unit. This component reviews USERRA cases referred by the Department of Labor (DOL) to OSC for legal representation of the claimant before the MSPB, if warranted.

Support Units

Legal Counsel and Policy Division. This division serves as OSC's office of general counsel, and provides policy advice and support to the agency. The division's responsibilities include provision of legal advice and support in connection with management and administrative matters; defense of OSC interests in litigation filed against the agency; management of the agency's Freedom of Information Act, Privacy Act, and ethics programs; and policy planning and development.

Administrative Services. This office manages OSC's budget and financial operations, and accomplishes the technical, analytical and administrative needs of the agency. Component units are the Budget, Finance and Procurement Branch, Human Resources and Document Control Branch, and the Information Technology Branch.

Map showing locations of OSC Field Offices



V. Performance Highlights

In FY 2010 OSC overall caseloads continued to rise, increasing to 3,950 new matters, a 6% increase over the already record levels of cases that FY 2009 had brought. Significant growth areas were Whistleblower Disclosures, which increased 33% in the year, and the Hatch Act program, where cases increased by 6%, (along with a 65% jump in the number of Hatch Act Formal Advisory requests received). Through much hard work and dedication caseload backlogs have not increased significantly and remain at manageable levels.

Of paramount importance are the positive outcomes OSC has achieved in its Programs. Favorable actions negotiated with agencies for PPP's increased 55%; Disciplinary Actions negotiated with agencies for PPP's more than doubled; stays negotiated with agencies increased 67%; and both Hatch Act corrective actions and disciplinary actions obtained doubled in FY 2010. OSC met 73% of its performance Goals in FY 2010, as described in the Performance Section. Overall, in the face of this growing caseload, the agency fulfilled its role as an independent prosecutorial and investigative agency charged with bringing greater integrity and efficiency to the merit system.

OSC'S SUCCESSES IN FY 2010

1) **Enforcing veterans' job rights under USERRA.** OSC achieved an important precedent when the MSPB accepted its argument that a federal agency can be held liable for violating the USERRA rights of a federal contractor (not just an employee) in *Silva v. DHS*. OSC also filed another case of first impression before the MSPB involving initial hiring discrimination under USERRA that should help define agencies' obligations to service members who are selected for employment but unable to report on the agency's preferred start date, due to military duty.

2) **Federal Aviation Administration (FAA) Oversight and Aviation Safety**. OSC continues its work on a number of whistleblower disclosures involving allegations of dangers to aviation safety. Investigations conducted as a result of OSC referrals substantiated allegations that in some instances, that air traffic was managed in an unsafe manner, that FAA oversight was inadequate and that FAA officials misused the Voluntary Disclosure Reporting Program (VDRP). The Department of Transportation (DOT) found that Detroit Metropolitan Airport operated an approach and departure configuration, known as the "Southwest Flow," which was unsafe and violated FAA Order 7110.65, and that an Operations Manager knowingly allowed the non-compliant operation for two months. DOT also concluded that airport managers provided Senator Carl Levin a disingenuous response to his inquiry into the matter. The airport ceased operation of the Southwest Flow, counseled airport managers, and FAA sent a letter to Senator Levin in April 2008 clarifying its response. In another case, DOT substantiated whistleblower allegations that two supervisory inspectors failed in their oversight responsibilities by violating FAA's VDRP and improperly permitting United Airlines to self-disclose noncompliance with an Airworthiness Directive (AD) after the noncompliance had

been discovered by the whistleblower. In a third case, DOT substantiated allegations that FAA officials knowingly allowed Southwest Airlines to self-disclose a violation of an AD, and to operate aircraft in passenger revenue service in an unsafe or un-airworthy situation and in violation of Title 14 of the Code of Federal Regulations and the VDRP. FAA proposed suspensions for the managers in these cases.

3) **Protecting the Health of Federal Employees**. OSC completed a referral involving allegations that air traffic controllers at Detroit Metropolitan Airport were suffering severe health problems from mold in the control tower. The DOT investigation found that previous attempts to resolve the mold and moisture problems in the control tower were unsuccessful. Following OSC's referral, DOT reinstituted the inspection and remediation process and planned to conduct an employee health survey of current and former air traffic control tower employees.

4) **Improving Safety at Construction Sites and Heavy Machinery**. The Department of the Navy substantiated an OSC referral that employees at the Naval Surface Warfare Center in Bayview, Idaho violated Naval regulations and local facility instructions when they failed to report damage to a crane and kept the damaged crane in operation without testing or recertification. The Navy inspected the crane and related equipment, completed the required accident report, changed the procedures used to deploy equipment, counseled all employees involved in the January 2009 accident and required all those involved to attend training on the use of cranes.

5) **DoD Confirms Misuse of Agency Funds.** OSC completed a disclosure case referred to the Secretary of Defense regarding allegations that Department of Defense (DoD) employees were improperly using the fees collected for Information Analysis Center (IAC) programs for unrelated DoD functions and activities. The whistleblower also disclosed that employees failed to report the IAC monies and implemented faulty policies to justify their misuse of the funds. The DoD investigation found that employees violated the Economy Act, 31 U.S.C. § 1535, and inappropriately augmented DoD's budget. The investigation also partially substantiated the allegation that DoD failed to report the IAC monies and determined that the then-Administrator of the IAC program engaged in gross mismanagement. As a result, the Administrator was removed from his position. DoD also established an IAC Reimbursable Review Board, will update its Financial Management Regulations and conduct a study in FY 2011 to ensure that compliance with its reporting requirements.

6) **Exposing Deficiencies in FAA's Drug Testing Regulations**. OSC completed a disclosure case referred to the Secretary of Transportation regarding allegations that the Federal Aviation Administration (FAA), Drug Abatement Division`s (Drug Abatement) procedures for investigating violations of FAA`s drug testing program regulations were deficient and resulted in a substantial and specific danger to public safety. The whistleblower disclosed an incident where a mechanic continued to perform safety-sensitive maintenance for a certificate holder after he tested positive for cocaine in a pre-employment drug test conducted by another certificate holder, and the positive drug test result was reported to, and investigated by, Drug Abatement. After an accident involving an aircraft operated by the certificate holder

employing this mechanic, FAA discovered the mechanic was working in violation of the regulations and had performed maintenance on the aircraft that crashed.

7) **Protecting Employees from Retaliation.** OSC continues to obtain corrective actions for employees who have suffered retaliation for whistleblowing and for engaging in other protected activity. In one such case, the whistleblower, a supervisory financial analyst with the U.S. Forest Service, disclosed that the Chief Financial Officer had misused his government travel card. The whistleblower alleged that he was not selected for a promotion because of his protected whistleblowing. After OSC's investigation into the matter, the agency agreed to settle the case by paying the whistleblower a lump sum of $30,000. In another case, the whistleblower, a National Park Service (NPS) employee, disclosed to a Park Superintendent that his supervisor had illegally used government fuel for his personal vehicle. The whistleblower alleged that he was denied an appointment as Park Ranger because of his protected whistleblowing. OSC informed NPS of its findings and successfully negotiated corrective action on the whistleblower's behalf. NPS agreed to pay the whistleblower $50,000 in back-pay.

8) **Increased Rates of Investigation.** Of the new PPP complaints received in FY2010, a record level 10% have been referred as cases for Investigation, up from 8%. The review and referral of these cases has been completed on average in less than 90 days. Altogether, we have been able to achieve a new level of timeliness and thoroughness of review of new complaints.

9) **Prohibited Personnel Practice Prosecutions-Formal Disciplinary Action.** A significant investigation by OSC resulted in 45-day and 10-day suspensions for two Department of Homeland Security Coast Guard Human Resources (HR) specialists. OSC filed two disciplinary action complaints before the Merit Systems Protection Board (MSPB). The MSPB found that both HR specialists violated one provision of the Civil Service Reform Act; the prohibition against granting an unauthorized preference or improper advantage during the hiring process for the purpose of giving advantage to a candidate for a GS-11-1801-11 Supervisory Merchant Marine Specialist position in Long Beach, California. The HR specialists had three separate vacancy announcements issued before they were able to qualify their preferred GS-8 level candidate. The final vacancy announcement redefined the manner or scope of competition by changing the grade of the position to GS-9 with promotion potential, and included a requirement that applicants have licensing experience, the preferred candidate's specialty. The MSPB concluded that the two HR specialists intentionally assisted the selecting official, a Coast Guard uniformed servicewoman, in granting an illegal preference to the preferred candidate, and ordered the suspension without pay of the two HR specialists.

10) **Two Prohibited Personnel Practice Matters that Resulted in both Corrective and Disciplinary Actions.** One OSC investigation resulted in two supervisors from the U.S. Department of Transportation (DOT), Federal Aviation Administration, receiving letters of counseling. OSC found that the supervisors improperly suspended a subordinate (the

complainant) for three days, in part, for his threat to report the supervisors to the DOT Inspector General for having given a decertified air traffic controller an undeserved "satisfactory" performance rating. OSC successfully negotiated the cancellation of the complainant's three-day suspension and pay reimbursement, a one-year detail to the Air Traffic Control Academy, and payment of attorney`s fees. Another OSC investigation resulted in a former acting medical center director receiving a letter of counseling. OSC found that the former director had improperly implemented a rule that employees who had worked at the facility for less than one year could not earn an overall summary performance rating higher than "Fully Successful." OSC obtained corrective action for five employees at the facility, including upgraded summary performance ratings, increased annual performance awards, and a letter of apology from the medical center director. Finally, the region issued a directive to all regional medical centers to cease using this rule and it conducted a training session at this medical center for supervisors concerning performance management.

11) **Obtaining Relief for an Employee Discriminated Against Based on Political Affiliation.** Another significant investigation by OSC resulted in corrective action for the complainant, an applicant for a position with the U.S. Election Assistance Commission (EAC). OSC's investigation uncovered evidence indicating that two EAC Commissioners illegally blocked the approval of the complainant's appointment to the agency's general counsel position because of the complainant's political affiliation. In lieu of taking the general counsel position, the complainant accepted a substantial lump sum payment.

12) **Clarification of OSC's responsibilities.** The Complaints Examining Unit (CEU) developed a Matrix which outlined OSC's jurisdiction over various Government agencies/entities. This Matrix addresses the following: 1) whether Title 5 is applicable to a particular agency, employees of a particular agency, or positions within a particular agency; 2) the personnel actions over which OSC has jurisdiction to investigate; and 3) the legal citation and/or case law that establishes, restricts, or prohibits our investigative jurisdiction. CEU also updated all of its standard language paragraphs based on the completed Matrix.

13) **Increased Hatch Act Litigation & Investigation.** As a result of the considerable increase in both the number and seriousness of Hatch Act violations by federal employees during the 2008 Presidential election, and the current midterm elections, the Hatch Act Unit continues to generate increased investigative and litigation activity at OSC. A number of these violations involve federal supervisors coercing subordinates to engage in political activity and federal employees soliciting political contributions or advocating the success or failure of candidates via e-mail while at work.

Due to an increased awareness of the Hatch Act at the state and local level, the Hatch Act Unit also continues to see a rise in complaints involving state and local employees; an overwhelming number of recent complaints involve the abuse of official authority, which will require onsite investigations. For example, the Hatch Act Unit recently conducted an onsite investigation of a North Carolina Sheriff who invited subordinate employees to a meeting for his reelection campaign by placing fliers in their mailboxes; the purpose of the meeting was to distribute yard signs, collect contributions, and discuss ways to assist his campaign. Another example at the federal level includes a lengthy investigation into a Supervisory Special Agent of the FBI who asked subordinate employees to volunteer for a family member's political campaign by handing out fliers on weekends, and at polling locations. As further restricted employees under the Hatch Act, the subordinates who agreed engaged in activity prohibited by the Hatch Act. The Hatch Act Unit also investigated an Assistant United States Attorney who solicited and accepted political contributions from subordinate employees; this activity occurred during their performance evaluation period. A number of the investigations completed by the Hatch Act Unit have resulted in litigation.

14) **Hatch Act Disciplinary Actions brought before the Merit Systems Protection Board.** During this fiscal year, the Hatch Act Unit has filed ten complaints for disciplinary action with the MSPB, with more to be filed soon. For example, one case was filed against a high level federal employee who, while on duty and in the federal workplace, prepared speeches, website content, and other written material for the Obama campaign. OSC also filed a complaint against a VA doctor who, while on duty and in her federal workplace, disseminated political e-mails to subordinate employees and patients urging them to vote for a particular candidate. Subsequent to filing the complaint, the case was settled for a 90-day suspension without pay. In addition, OSC filed a complaint against a Contracting Officer Technical Representative with the Bureau of Engraving and Printing who solicited political contributions from co-workers and contract employees, while on duty and in her federal workplace; the COTR disseminated two e-mails, one of which was an invitation to a campaign fundraiser for then-Presidential candidate Barack Obama, the other encouraged donations to Obama's campaign through a slide presentation. Although the contract employees were not direct subordinates, the COTR's duties included the monitoring, documenting, and evaluation of contractors' overall performance both during the contract and at the contract's end. The MSPB ordered the employee removed for her violations.
In another case, OSC filed a complaint against an IRS employee who disseminated a fundraising e-mail to approximately 44 recipients, requesting campaign contributions for then-Presidential candidate Barack Obama. The MSPB ordered that the employee receive a 120-day suspension without pay for his violation.
OSC also filed a complaint against a 30-year federal employee who composed and disseminated e-mails, while on duty and in her federal workplace, urging readers to make political contributions and attend a campaign fundraiser at her home. Despite warnings from her ethics coordinator to cancel the fundraiser, the employee held the event; one year later she again violated the Hatch Act by making a financial contribution to then-Presidential candidate Barack Obama's campaign while on duty and in her federal workplace. In an initial decision, the administrative law judge found that the employee should be removed for her violations.
Another VA employee resigned after a complaint was filed with the Board identifying over thirty political e-mails sent while the employee was on duty and in her federal workplace. Even though she resigned, the Board retained its jurisdiction, found that removal was the appropriate penalty, and ordered that a copy of the finding be placed in the employee's official personnel file.
OSC also filed a complaint against a VA doctor who sent an e-mail invitation while on duty and in his federal workplace to several individuals (including subordinates) for a political event for Presidential candidate John McCain. This same VA doctor, after receiving

notification of his violation, and while OSC was conducting an onsite investigation, sent another e-mail soliciting contributions for a candidate running for state office. An administrative law judge found him in violation and ordered his removal from employment. The employee appealed the decision, which is pending before the MSPB.

In another case, after extensive litigation, an administrative law judge recommended the removal of a police chief who, despite receiving OSC guidance that he was covered by the Hatch Act, pursued a candidacy for public office in a partisan election. This case is also on appeal before the MSPB.

OSC also filed a complaint against a Postal Service employee for running as a candidate in a partisan election. Subsequent to filing the complaint, the case settled and the employee received a thirty-day suspension without pay.

In addition, OSC filed a case against a GSA employee who sent several e-mails advocating support for then-Presidential candidate Barack Obama and soliciting contributions for his campaign. The parties subsequently agreed to settle the matter, and the employee received a sixty-day suspension with pay.

15) **Hatch Act Disciplinary Action Obtained Through Informal Settlement.** Several significant Hatch Act investigations resulted in disciplinary action through informal settlement. For example, the executive director of a state agency was suspended for sixty days without pay for inviting her staff to a fundraiser and a federal employee was suspended for thirty days without pay for forwarding several political e-mails while on duty and in his federal workplace. Another case involving a federal employee who sent a partisan political e-mail while at work settled for a 45-day suspension. In addition, a federal regulatory division chief with the U.S. Army Corps of Engineers resigned from his employment as a result of settlement negotiations.

16) **Other Hatch Act Enforcement Activity.** The Hatch Act Unit is responsible for a nation-wide program that provides federal, state, and local (including D.C.) government employees, as well as the public at large, with legal advice on the Hatch Act, enabling individuals to determine whether they are covered by the Act, and whether their contemplated activities are permitted under the Act. Specifically, the Hatch Act Unit has the unique responsibility of providing Hatch Act information and legal advice to White House and congressional offices; cabinet members and other senior management officials throughout the federal government; state and local government officials; and the media. As the only unit authorized by law to issue legal advice to persons outside the agency, the Hatch Act Unit issues all OSC advisory opinions. This year, the Hatch Act Unit has seen a tremendous increase in the volume and complexity of these requests, including the analysis of new political movements like the Tea Party and The American Revolution of 2010, and the application of the Hatch Act to social media outlets like Twitter and Facebook. The Hatch Act Unit also worked closely with the White House to provide Hatch Act guidance and provided numerous outreach programs for both federal and state/local employees subject to the Act. In total, the Hatch Act Unit has issued 4,320 advisory opinions (written, oral, and e-mail) this year.

DOT confirmed that this incident highlighted critical deficiencies in Drug Abatement`s procedures for investigating violations of FAA`s drug testing program regulations. According to the report, Drug Abatement staff was not familiar with a change in policy permitting FAA to report positive drug test results to multiple employers. The report also found that disparities between the requirements for pilots and mechanics concerning certificate verification and reporting of drug and alcohol violations pose a "potential threat to safety." FAA reiterated its new policy concerning the sharing of drug and alcohol violations with employers, and pledged to give full consideration to the disparities between pilot and mechanic requirements during Drug Abatement`s Rulemaking Project.

VI. OSC's Systems, Controls, and Legal Compliance

Management control activities carried out by OSC include periodic reviews of agency administrative and program elements to assure that obligations and costs comply with applicable laws; 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 law and management policy. During FY 2010, reviews were completed on the following agency administrative operations:

1. Information Security Program. OSC's Chief Information Officer conducts an annual security review. The results of this review were summarized in the agency's Federal Information Security Management Act (FISMA) Report, submitted to OMB in November, 2010. The review found no material weaknesses in the agency's information technology policies, procedures, or practices. Further, there were no security incidents affecting critical agency information systems.

2. Financial Audit. OSC is undergoing its seventh financial audit. The agency's first audit was in FY 2004. The auditors reported no material weaknesses in FY 2004, FY 2005, FY 2006, FY 2007, FY 2008 or FY 2009. The FY 2010 audit addresses the financial statements and accounting processes, almost all of which were accomplished by the National Business Center (NBC) at the Department of Interior under an interagency outsourcing agreement. In the event that any material control weaknesses are identified during this year's audit, they will be discussed in the next FMFIA/IG Act report.

3. OSC Review of Capital Assets. OSC has a capitalization policy for assets with a purchase price over $50,000. OSC's reviews its purchases quarterly, to determine if there are additional assets to capitalize.

4. HSPD-12. To comply with the security requirements of directive HSPD-12, OSC has an agreement for HSPD-12 services with the General Services Administration. OSC has met all deadlines so far for the accomplishment of HSPD-12 milestones, has issued PIV cards to all OSC employees, and is now working on expanding its program to include two-factor HSPD-12 authentication for securing each employee's computer.

In FY2010 OSC conducted an analysis and "Best Interest Determination" of its contracting operations and as a result outsourced this operation to the National Business Center. This increases our use of Governmental Shared Services providers. In FY 2009, OSC outsourced several financial management and administrative activities to the National Business Center (NBC), including budget accounting, financial accounting, reporting accounting, procurement systems software, and travel services. OSC personnel and payroll data entry transactions were processed by the Department of Agriculture's National Finance Center (NFC). All these operations are administered under cross-servicing agreements. For information on any significant management control issues related to services provided under these agreements, OSC relies on information received from NBC 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).

In September of 2009, NBC certified its Oracle Federal Financials Major Application, in accordance with OMB Circular A-130, Appendix III, approving the system for continued operation, and this authorization is valid until September 2012. Also, an annual SAS 70 Type 2 evaluation was also conducted this year on the Oracle Federal Financials Major Application.

VII. Management Assurances

Annual Assurance Statement on Internal Controls and Internal Control over Financial Reporting

OSC's management is responsible for 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 control 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 Internal Control. Based on the results of this evaluation, OSC can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2010 was operating effectively and no material weaknesses were found in the design or operation of the internal controls.

OSC works with the National Business Center (NBC) for its financial reporting needs. OSC obtains the SAS 70 report from NBC, and reviews it to assist in assessing internal control over financial reporting. OSC has not discovered any significant issues or deviations in its financial reporting during FY 2010 and therefore 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 on an instance hosted by NBC, a shared service provider. Because of the rigorous testing that NBC undergoes, OSC considers its financial system to be reliable and effective.

William E. Reukauf
Associate Special Counsel
November 8, 2010

VIII. Future Effects of Known Demands, Risks, Uncertainties, Events, Conditions, and Trends

In the past several years, the agency has experienced significant year-after-year increases in caseload levels. For example, in FY 2008, OSC's overall caseload increased 8.0%, in FY 2009 the overall caseload jumped 19.5%, and now in FY2010 the caseloads have increased 6% further. The most pronounced increases are in the Whistleblower Disclosure and Hatch Act Program areas. Several factors which have contributed to these rising levels of complaint filings with OSC include:

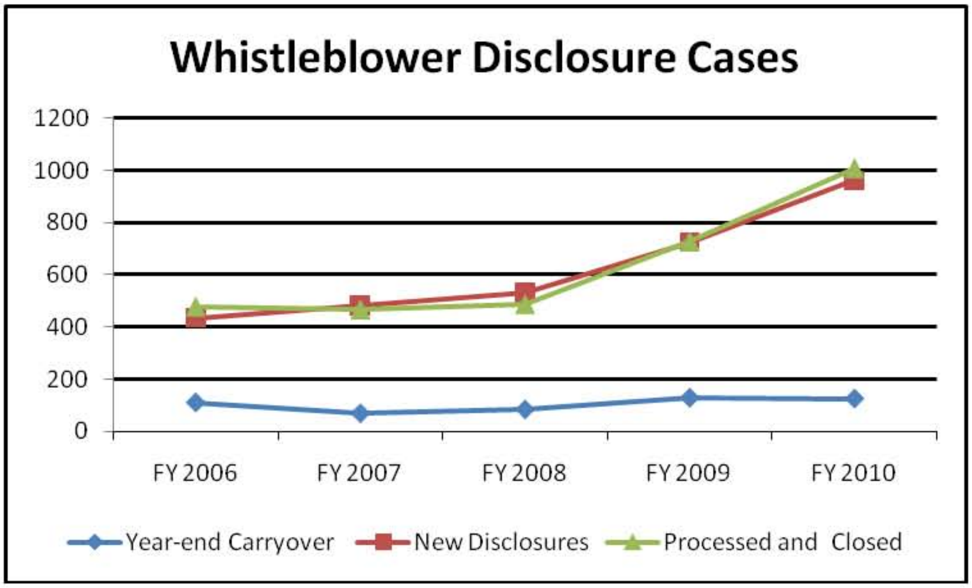
- Press coverage of OSC has continued to increase in recent years. Also, OSC's outreach program has continued to build awareness within the Federal community. During FY 2009, OSC received 724 Whistleblower disclosures, which was a 37% increase, and FY 2010 brought 961 Disclosures, a further 33% increase. (see chart below)

- Awareness of the Hatch Act along with OSC's role has continued to build among Federal employees, primarily due to media coverage. The number of Hatch Act complaints received in FY 2010 was a 6% increase over the prior year which had already brought record levels of Hatch Act cases. Hatch Act complaints in the 2010 mid-term elections are expected to continue to increase and elevated levels continuing through the Presidential Election Cycle. Further, the Advisory opinions OSC issued in FY2010 increased to 4,320, a 16% jump from the prior year, with a notable 42% increase in Formal Advisory opinions that were issued.

- During FY 2010, OSC continued to conduct a certification program 2302(c) for Federal Agencies, in addition to conducting its outreach program on the twelve Prohibited Personnel Practices. As agencies implement the certification process and partake in the OSC outreach session, agency employees who might previously have been unaware of their rights and remedies through OSC are becoming informed.

A significant development this year was the signing of legislation on October 13, 2010, for a renewed USERRA Demonstration Project commencing in approximately April 2011. OSC had conducted a USERRA Demonstration Project from 2004 through 2007. OSC will have a similar role and will receive half of the Federal USERRA cases that would typically have been investigated by the Department of Labor, thereby increasing OSC's USERRA caseload considerably. OSC is confident that it has the expertise and infrastructure to successfully conduct this pilot program and improve results for members of our military who were being denied rights under USERRA. During the prior three year program OSC achieved 120 corrective actions in USERRA cases, which represented 27% of all USERRA cases handled by OSC under the Demonstration Project.

Also of note, FY 2010 marks the second year for OSC without an appointed Special Counsel. As noted previously, the career management, namely the Associate Special Counsel, fulfills these responsibilities in the interim.


Whistleblower Disclosure Cases
1200
1000
800
600
400
200
0
FY 2006
FY 2007
FY 2008
FY 2009
FY 2010
Year-end Carryover
New Disclosures
Processed and Closed

IX. Comments on Final FY 2010 Financial Statements

- OSC's Asset Capitalization Policy has been in place for four years. It pertains to assets with an initial purchase price over $50,000. This year computer servers were added to the list of capitalized assets, in addition to the agency's phone system, videoconferencing equipment and certain leasehold improvements from prior years.

- Total Assets decreased from $4,775,000 in FY 2009 to $4,422,000 in FY 2010. Fund Balance with Treasury comprises 89% of Total Assets. Fund Balance with Treasury was down from 93% in FY 2009 due to the cancellation of large balances of funds from FY 2005 Appropriations. The other major component of Assets was Property, Plant and Equipment, which increased from $326,000 in FY 2009 to $440,000 in FY 2010 due to the added computer servers.

- Net cost of Operations rose from $17,795,000 in FY 2009 to $18,840,000 in FY 2010. The primary factor for this is our annual appropriation increasing by $1,027,000 in FY10. 85% of those costs go towards salaries, benefits, rents and utilities. Other contributing factors were a rise in imputed costs, and an increased amortization amount from our capitalized assets. Imputed costs increased from $805,000 in FY 2009 to $1,008,000 in FY 2010 due to the higher cost factors provided by OPM for Pension and other Retirement Benefits Accruals. (Pension costs, FERS, FEGLI and FEHB). Imputed Costs are expected to continue to rise. Amortized costs went up $34,000 due to the added computer servers now being capitalized.

- **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).

  The statements have been prepared from the books and records of the Review Commission in accordance with generally accepted accounting principles (GAAP) for Federal entities and formats prescribed by the Office of Management and Budget (OMB). The statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. These statements should be read with the realization that they are for a component of the United States Government, a sovereign entity.

Endnotes

[1] Public Law No. 103-94 (1993), codified in scattered sections of 5 U.S.C. and 12 U.S.C.

[2] Public Law No. 103-353 (1994), codified at 38 U.S.C. § 4301, *et seq*. The Veterans' Employment Opportunities Act of 1998 (Public Law No. 103-424) also expanded OSC's role in protecting veterans. The act made it a prohibited personnel practice to knowingly take, recommend, or approve (or fail to take, recommend, or approve) any personnel action, if taking (or failing to take) such action would violate a veterans' preference requirement. See 5 U.S.C. § 2302(b)(11). (The former § 2302(b)(11) was re-designated as § 2302(b)(12).).

[3] Public Law No. 103-424 (1994), codified in various sections of title 5 of the U.S. Code. The provision making federal agencies responsible, in consultation with OSC, for informing their employees of rights and remedies under the Whistleblower Protection Act appears at 5 U.S.C. § 2302(c).

[4] Public Law 107-71 (2001).

Part 2: Performance Section

Goal 1: TO PROTECT THE MERIT SYSTEM THROUGH TIMELY CASE PROCESSING	
PPP Enforcement Mission	**PROHIBITED PERSONNEL PRACTICES CASES**
PERFORMANCE INDICATOR	**Indicator A: Percentage of cases processed in less than 240 days.**
FY 2006 TARGET	85%
FY 2006 RESULTS	89%
FY 2007 TARGET	92%
FY 2007 RESULTS	94%
FY 2008 TARGET	92%
FY 2008 RESULTS	95%
FY 2009 TARGET	92%
FY 2009 RESULTS	94%
FY 2010 TARGET	94%
FY 2010 RESULTS	93%
FY 2011 TARGET	94%
FY 2011 RESULTS	
FY 2012 TARGET	94%
FY 2012 RESULTS	

OSC missed its timeliness target by a percentage point for PPP case processing in FY 2010. This is due to the 30% increase in cases referred by CEU to IPD for investigation. Full field investigations often take longer than 240 days due to factors outside of OSC's control, such as extensions of time requested by the agency under investigation, and the timeframes associated with litigation. This resulted in those cases taking longer, as well as in resources being directed to perform the additional investigatory work. We are maintaining 94% as the target in FY 2011, raising the target above 94% would not be realistic.

Goal 2: TO PROMOTE JUSTICE THROUGH THE QUALITY OF INVESTIGATIONS AND ENFORCEMENT ACTIONS	
PPP Enforcement Mission	**Prohibited Personnel Practices Cases**
PERFORMANCE INDICATOR	**Indicator A: % favorable outcomes in cases determined by OSC to be meritorious = (# of settlements achieved + # of successful litigations) / (# meritorious cases)**
FY 2006 TARGET	99%
FY 2006 RESULTS	100%
FY 2007 TARGET	99%
FY 2007 RESULTS	100%
FY 2008 TARGET	100%
FY 2008 RESULTS	100%
FY 2009 TARGET	100%
FY 2009 RESULTS	100%
FY 2010 TARGET	100%
FY 2010 RESULTS	100%
FY 2011 TARGET	100%
FY 2011 RESULTS	
FY 2012 TARGET	
FY 2012 RESULTS	100%

OSC did not lose any cases in FY 2010 in PPP litigation before the board. Normally, agencies will settle the matter when OSC outlines the nature of the prohibited personnel practices that have been committed. We are maintaining the target of 100% for FY 2012.

Goal 3: TO PROMOTE COMPLIANCE WITH THE STATUTES THAT OSC ENFORCES THROUGH ENHANCED OUTREACH TO FEDERAL AGENCIES	
PPP Enforcement Mission	**PROHIBITED PERSONNEL PRACTICES CASES**
PERFORMANCE INDICATOR	**Indicator A: # of new Federal agencies certified in the 2302 (c) Program by OSC.**
FY 2006 TARGET	5
FY 2006 RESULTS	6
FY 2007 TARGET	5
FY 2007 RESULTS	3
FY 2008 TARGET	5
FY 2008 RESULTS	5
FY 2009 TARGET	5
FY 2009 RESULTS	11
FY 2010 TARGET	5
FY 2010 RESULTS	5
FY 2011 TARGET	5
FY 2011 RESULTS	
FY 2012 TARGET	5
FY 2012 RESULTS	

During FY 2010, five agencies were certified or re-certified under OSC's 2302(c) program. We are not increasing the FY 2012 target for certifying agencies because of decreased interest from agencies involved in the program. We note that the statutory provision upon which OSC's certification program is based - 5 USC § 2302(c) - does not provide an enforcement tool to require agencies to become certified.

Goal 1: TO DEFEND THE MERIT SYSTEM BY ENFORCING THE HATCH ACT – THROUGH TIMELY CASE PROCESSING			
HATCH ACT MISSION	**HATCH ACT WRITTEN ADVISORY OPINIONS**	**HATCH ACT ORAL & EMAIL ADVISORY OPINIONS**	**HATCH ACT COMPLAINTS**
PERFORMANCE INDICATORS	**Indicator A:** **Percentage of formal written advisory opinions issued in less than 120 days.**	**Indicator B:** **Percentage of oral and e-mail advisory opinions issued in less than five business days**	**Indicator C:** **Percentage of matters resolved in less than 365 days.**
FY 2007 TARGET	80%	99%	70%
FY 2007 RESULTS	91%	99%	92%
FY 2008 TARGET	85%	99%	80%
FY 2008 RESULTS	60%	100% oral 95% email	88%
FY 2009 TARGET	90%	99% oral 95% email	85%
FY 2009 RESULTS	82%	99% oral 98% email	84%
FY 2010 TARGET	90%	99% oral 95% email	85%
FY 2010 RESULTS	90%	99% oral 99% email	71%
FY 2011 TARGET	85%	99% oral 95% email	85%
FY 2011 RESULTS			
FY 2012 TARGET	90%	99% oral 98% email	85%
FY 2012 RESULTS			

Indicator A: During FY 2010, OSC issued formal written advisory opinions 90% of the time within 120 days. This was a significant performance achievement given the 42% increase in the number of these formal advisory opinions.

Indicator B: During FY 2010 OSC achieved its target of 99% oral advisory opinions and exceeded its target of 95% email advisory opinions issued within 5 business days. The FY12 target for oral advisory opinions has been maintained, since a higher target would be unrealistic. The target for email advisory opinions has been increased to 98%.

Indicator C: During FY 2010, OSC did not meet its target of resolving 85% of matters within 365 days, due to the following reasons: a continued and record level rise in both caseload and advisory opinions; required prioritization towards handling important cases; an increase in the complexity of cases; more litigation (which results in redirected resources and longer case processing time). For these reasons, many cases stayed open longer on average. Despite not meeting the goal, it is important to note that overall productivity as defined by the number of complaints processed and closed increased by 72%. These trends are likely to continue into FY 11 and FY 12. However, we are keeping the target goal at 85%; additional Hatch Act staff is being added in FY 11 and efforts are being redoubled towards meeting this important goal.

Goal 2: TO PROMOTE JUSTICE THROUGH THE QUALITY OF INVESTIGATIONS AND ENFORCEMENT ACTIONS	
HATCH ACT MISSION	**HATCH ACT CASES See comment 1.**
PERFORMANCE INDICATOR	**Indicator A: % favorable outcomes in meritorious cases**
FY 2006 TARGET	90%
FY 2006 RESULTS	97%
FY 2007 TARGET	90%
FY 2007 RESULTS	97%
FY 2008 TARGET	97%
FY 2008 RESULTS	96%
FY 2009 TARGET	97%
FY 2009 RESULTS	100%
FY 2010 TARGET	97%
FY 2010 RESULTS	100%
FY 2011 TARGET	97%
FY 2011 RESULTS	
FY 2012 TARGET	100%
FY 2012 RESULTS	

During FY 2010, OSC achieved 100% favorable outcomes in meritorious Hatch Act cases, exceeding the target of 97%. We are increasing the FY 2012 target to 100%.

Goal 3: TO PROMOTE COMPLIANCE WITH THE STATUTES THAT OSC ENFORCES THROUGH ENHANCED OUTREACH TO FEDERAL AGENCIES		
HATCH ACT MISSION	**HATCH ACT OUTREACH VISITS**	**HATCH ACT SECTION OF OSC WEBSITE**
PERFORMANCE INDICATORS	**Indicator A: (# of HA trainings and outreaches given) / (# of invitations to provide HA training or outreach, where the inviter sponsors OSC)**	**Indicator B: Number of new advisory complex opinions added every month to the website. (complex opinions are also posted in the form of Q&A)**
FY 2006 TARGET	90%	One
FY 2006 RESULTS	96%	One
FY 2007 TARGET	90%	One
FY 2007 RESULTS	100%	One
FY 2008 TARGET	95%	One
FY 2008 RESULTS	98%	One
FY 2009 TARGET	95%	One
FY 2009 RESULTS	99%	One
FY 2010 TARGET	95%	One
FY 2010 RESULTS	93%	One
FY 2011 TARGET	97%	One
FY 2011 RESULTS		
FY 2012 TARGET	97%	One
FY 2012 RESULTS		

Indicator A: During FY 2010, OSC's Hatch Act Unit provided training to federal, state, and local agencies 93% of the time when invited by sponsoring organizations, missing the 95% target. Two trainings had to be declined this year, due to scheduling and critical Hatch Act program requirements. OSC recognizes the importance of outreach and is maintaining a target of 97% for FY 2012, despite an expected increase in numbers of cases and advisory opinions (on top of already elevated workload levels) in the Hatch Act program.
Indicator B: OSC met its goal of posting one complex advisory opinion to the OSC website on a monthly basis. We are maintaining this goal in FY 2012, posting more opinions would detract from the importance of the cases selected for posting.

Goal 1: TO ENFORCE THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT THROUGH TIMELY CASE PROCESSING	
USERRA MISSION	**USERRA Referral (RE) Cases**
PERFORMANCE INDICATORS	**Indicator A**: **Average number of days in which the case is settled, closed or a decision to litigate is made.**
FY 2007 TARGET	75 days
FY 2007 RESULTS	33 days
FY 2008 TARGET	75 days
FY 2008 RESULTS	110 days
FY 2009 TARGET	80% in 60 days
FY 2009 RESULTS	75% in 60 days
FY 2010 TARGET	80% in 60 days
FY 2010 RESULTS	79% in 60 days
FY 2011 TARGET	80% in 60 days
FY 2011 RESULTS	
FY 2012 TARGET	80% in 60 days
FY 2012 RESULTS	

Indicator A: OSC did not meet its FY 2010 target by one percentage point, due to a number of cases received late in the Fiscal Year that required additional investigation by OSC or in which OSC was attempting to negotiate corrective action on behalf of the service member.

Goal 2: TO PROMOTE JUSTICE THROUGH THE QUALITY OF INVESTIGATIONS AND ENFORCEMENT ACTIONS		
USERRA MISSION	**USERRA CASES**	
PERFORMANCE INDICATORS	**Indicator A: % favorable outcomes in cases determined by OSC to be meritorious = (# successful meditations + # of settlements achieved + # of successful litigations) / (# meritorious cases)**	**Indicator B: # of "test cases" filed**
FY 2006 TARGET	90%	Inappropriate to set a specific target
FY 2006 RESULTS	100%	0
FY 2007 TARGET	90%	Inappropriate to set a specific target
FY 2007 RESULTS	100%	1
FY 2008 TARGET	95%	Inappropriate to set a specific target
FY 2008 RESULTS	97%	1
FY 2009 TARGET	99%	Inappropriate to set a specific target
FY 2009 RESULTS	100%	0
FY 2010 TARGET	90%	Inappropriate to set a specific target
FY 2010 RESULTS	100%	1
FY 2011 TARGET	90%	Inappropriate to set a specific target
FY 2011 RESULTS		
FY 2012 TARGET	90%	Inappropriate to set a specific target
FY 2012 RESULTS		

Indicator A: OSC was successful in 2 out of 2 meritorious cases during FY 2010.

Indicator B: There was 1 test case filed in FY 2010 that falls in this category.

Goal 3: TO PROMOTE COMPLIANCE WITH THE STATUTES THAT OSC ENFORCES THROUGH ENHANCED OUTREACH TO FEDERAL AGENCIES		
USERRA MISSION	**USERRA CASES**	
PERFORMANCE INDICATORS	**Indicator A: (# of USERRA trainings and outreaches given) / (# of invitations to provide USERRA training or outreach visits {where inviting agency sponsors OSC})**	**Indicator B: (# of USERRA trainings and outreaches given) / (# of invitations to provide USERRA training or outreach visits {where OSC pays expenses})**
FY 2006 TARGET	90%	50%
FY 2006 RESULTS	NA	100%
FY 2007 TARGET	90%	50%
FY 2007 RESULTS	100%	100%
FY 2008 TARGET	90%	75%
FY 2008 RESULTS	100%	NA
FY 2009 TARGET	90%	75%
FY 2009 RESULTS	100%	NA
FY 2010 TARGET	100%	75%
FY 2010 RESULTS	100%	100%
FY 2011 TARGET	100%	75%
FY 2011 RESULTS		
FY 2012 TARGET	100%	100%
FY 2012 RESULTS		

Two outreaches were requested in FY 2010; one paid by the requesting agency and one by OSC. Both were accomplished by the USERRA Unit.

Goal 1: TO RECEIVE AND RESOLVE WHISTLEBLOWER DISCLOSURES WITH TIMELY PROCESSING	
WHISTLEBLOWER DISCLOSURE MISSION	**DISCLOSURES**
PERFORMANCE INDICATORS	**Indicator A: Percentage of disclosures resolved within the statutory 15 day time frame**
FY 2006 TARGET	50%
FY 2006 RESULTS	42%
FY 2007 TARGET	50%
FY 2007 RESULTS	61%
FY 2008 TARGET	50%
FY 2008 RESULTS	52%
FY 2009 TARGET	50%
FY 2009 RESULTS	54%
FY 2010 TARGET	50%
FY 2010 RESULTS	55%
FY 2011 TARGET	50%
FY 2011 RESULTS	
FY 2012 TARGET	54%
FY 2012 RESULTS	

In FY 2010, OSC's Disclosure Unit resolved 55% of its cases within the statutory time frame, exceeding its target of 50% despite a 33% increase in the unit's caseload. The target for FY 2012 has been increased to 54%.

Goal 2: TO PROMOTE JUSTICE AND PROTECT THE MERIT SYSTEM THROUGH THE QUALITY OF DETERMINATIONS AND REFERRALS	
WHISTLEBLOWER DISCLOSURE MISSION	**DISCLOSURES**
PERFORMANCE INDICATORS	**Indicator A: % Percentage of disclosures referred to agency head, pursuant to 5 U.S.C. § 1213, or under the informal IG referral process.**
FY 2006 TARGET	7%
FY 2006 RESULTS	8%
FY 2007 TARGET	7%
FY 2007 RESULTS	10%
FY 2008 TARGET	7%
FY 2008 RESULTS	6%
FY 2009 TARGET	7%
FY 2009 RESULTS	7%
FY 2010 TARGET	7%
FY 2010 RESULTS	2%
FY 2011 TARGET	7%
FY 2011 RESULTS	
FY 2012 TARGET	5%
FY 2012 RESULTS	

For FY 2010, the rate of referrals to the head of the agency was 2%, a decrease from 7% in FY 2009 and from the 7% target rate set for FY 2010. The rate of referrals is dependent upon the information received from whistleblowers and whether that information meets the “substantial likelihood” standard required by the statute. In FY 2009 OSC received a significant increase in disclosures from employees of the Federal Aviation Administration (FAA), which were referred for investigation. The number of FAA cases received in FY 2010 has decreased and accounts, in part, for the lower referral rate. The target for referrals in FY 2012 has been set at 5%, which we expect to be a more realistic estimate.

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 9, 2010

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 FY 2010 auditor that were considered significant.

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

We believe the minor recommendations for improvement pointed out during the FY 2009 audit have been fully addressed.

Sincerely,

Karl P. Kammann

Karl Kammann
Director of Finance
U.S. Office of Special Counsel

HARPER, RAINS, KNIGHT & COMPANY

Certified Public Accountants
A Professional Association

Report of Independent Auditors

Associate Special Counsel
Office of Special Counsel:

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of the U.S. Office of Special Counsel (OSC), as of September 30, 2010 and 2009, and the related consolidated statements of net cost of operations and changes in net position, and combined statements of budgetary resources, for the years then ended. These financial statements are the responsibility of OSC's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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 OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above, present fairly, in all material respects, the financial position of OSC as of September 30, 2010 and 2009, and its net cost of operations, changes in net position, and budgetary resources for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Report on Internal Control over Financial Reporting

In planning and performing our audit, we considered OSC's internal control over financial reporting and compliance. We did this in order to determine our audit procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on internal control. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04, as amended. We did not test all internal controls relevant to the operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982. Providing an opinion on internal control was not the objective of our audit. Accordingly, we do not express an opinion on OSC's internal control over financial reporting and compliance or on management's assertion on internal control included in Managements' Discussion and Analysis. However, for the controls we tested, we found no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance.

A control deficiency 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 misstatements on a timely basis. Our consideration of the internal control over financial reporting would not necessarily disclose all deficiencies that might be a significant deficiency. A significant deficiency is a deficiency in internal control, or a combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. Our consideration of the internal control over financial reporting would not necessarily disclose all significant deficiencies that might be a material weakness. A material weakness is a significant deficiency, or combination of significant deficiencies, that result in a more than remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected.

Report on Compliance with Applicable Laws and Regulations

The management of OSC is responsible for complying with laws and regulations applicable to OSC. As part of obtaining reasonable assurance about whether OSC's financial statements are free of material misstatement, we performed tests of its compliance with selected provisions of laws and regulations including laws governing the use of budgetary authority and government-wide policies identified in OMB Bulletin No. 07-04, as amended, non-compliance with which could have a direct and material effect on the determination of consolidated and combined financial statements. Our tests disclosed no instances of noncompliance with laws and regulations which would be reportable under U.S. generally accepted government auditing standards or OMB audit guidance.

We limited our tests of compliance to the provisions of laws and regulations referred to in the preceding paragraph. Providing an opinion on compliance with those provisions was not an objective of our audit. Accordingly, we do not express such an opinion.

Other Information

Management's Discussion and Analysis (MD&A) is not a required part of the financial statements but is supplementary information required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the MD&A. However, we did not audit the information and accordingly, we express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the financial statements of OSC taken as a whole. The other accompanying information included in this performance and accountability report is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of the management of the U.S Office of Special Counsel, the U.S. Office of Management and Budget, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

Harper, Rains, Knight & Company, P.A

November 10, 2010

Office of Special Counsel
Consolidated Balance Sheets
as of September 30, 2010 and September 30, 2009
(dollars in thousands)

	2010	2009
Assets		
Intragovernmental		
Fund Balance With Treasury (Note 2)	$ 3,957	$ 4,423
Total Intragovernmental	3,957	4,423
Assets With the Public		
Accounts Receivable, Net (Note 3)	25	26
General Property, Plant, and Equipment, Net (Note 4)	440	326
Total Assets	$ 4,422	$ 4,775
Liabilities		
Intragovernmental		
Other		
Employer Contributions and Payroll Taxes Payable (Note 5)	$ 144	$ 138
Unfunded FECA Liability (Note 5)	57	49
Total Intragovernmental	201	187
Liabilities With the Public		
Accounts Payable	50	117
Federal Employee and Veteran Benefits (Note 5)	258	275
Other		
Accrued Funded Payroll and Leave	574	532
Employer Contributions and Payroll Taxes Payable (Note 5)	5	-
Unfunded Leave (Note 5)	865	900
Custodial Liability	1	0
Total Liabilities	$ 1,954	$ 2,011
Net Position		
Unexpended Appropriations-Other Funds	3,183	3,636
Cumulative Results of Operations-Other Funds	(715)	(872)
Total Net Position	$ 2,468	$ 2,764
Total Liabilities And Net Position	$ 4,422	$ 4,775

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Consolidated Statements of Net Cost of Operations
for the Fiscal Years Ended September 30, 2010 and September 30, 2009
(dollars in thousands)

	2010	2009
Gross costs (Note 9)	$ 18,841	$ 17,795
Less: Total Earned Revenue	1	0
Net Cost of Operations	$ 18,840	$ 17,795

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Consolidated Statements of Changes in Net Position
for the Fiscal Years Ended September 30, 2010 and September 30, 2009
(dollars in thousands)

	2010	2009
Cumulative Results of Operations:		
Beginning Balances	$ (872)	$ (643)
Beginning Balances, as Adjusted	(872)	(643)
Budgetary Financing Sources:		
Appropriations Used	17,990	16,761
Nonexchange Revenue	(1)	(0)
Imputed Financing	1,008	805
Total Financing Sources	18,997	17,566
Net Cost of Operations	(18,840)	(17,795)
Net Change	157	(229)
Cumulative Results of Operations	$ (715)	$ (872)
Unexpended Appropriations:		
Beginning Balances	$ 3,636	$ 3,057
Beginning Balances, as Adjusted	3,636	3,057
Budgetary Financing Sources:		
Appropriations Received	18,495	17,468
Appropriations Used	(17,990)	(16,761)
Other Adjustments	(958)	(128)
Total Budgetary Financing Resources	(453)	579
Total Unexpended Appropriations	$ 3,183	$ 3,636
Net Position	$ 2,468	$ 2,764

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Combined Statements of Budgetary Resources
for the Fiscal Years Ended September 30, 2010 and September 30, 2009
(dollars in thousands)

	2010	2009
BUDGETARY RESOURCES		
Unobligated balance; start of year	$ 1,567	$ 1,463
Recoveries of prior year unpaid obligations:	406	34
Budget authority:		
Appropriation:	18,495	17,468
Total Budget authority	18,495	17,468
Permanently not available:	(958)	(128)
Total budgetary resources	$ 19,510	$ 18,837
STATUS OF BUDGETARY RESOURCES		
Obligations incurred:		
Direct:	18,127	17,270
Total Obligations incurred	18,127	17,270
Unobligated balance:		
Apportioned:	368	160
Total Unobligated balance	368	160
Unobligated balance not available:	1,015	1,407
Total status of budgetary resources	$ 19,510	$ 18,837
CHANGE IN OBLIGATED BALANCES		
Obligated balance, net; start of year:		
Unpaid obligations, brought forward, October 1	2,856	2,739
Total, unpaid obligated balance, brought forward, net	2,856	2,739
Obligations incurred	18,127	17,270
Less: Gross outlays	(18,004)	(17,119)
Less: Recoveries of prior-year unpaid obligations, actual	(406)	(34)
Total, unpaid obligated balance, net, end of period	$ 2,573	$ 2,856
Obligated balance, net, end of period:		
Unpaid obligations	2,573	2,856
Total, unpaid obligated balance, net end of period	$ 2,573	$ 2,856
NET OUTLAYS		
Net Outlays:		
Gross outlays	18,004	17,119
Net outlays	$ 18,004	$ 17,119

The accompanying notes are an integral part of these statements.

OFFICE OF SPECIAL COUNSEL
Washington, D.C

Notes to Principal Financial Statements
As of September 30, 2010 and 2009

Office of Special Counsel
Notes to Principal Financial Statements
As of September 30, 2010 and 2009

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 111 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, and the reconciliation between proprietary and budgetary accounts 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:

Description	Useful Life (years)
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.

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. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as components requiring or generating resources on the Statement of Financing. 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 (funded and unfunded) 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 2010 and 2009 to the extent directed by OMB.

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 and Statement of Net Cost, 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. Certain FY 2009 amounts have been reclassified to conform to the FY 2010 financial statement and footnote presentations.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2010 and 2009 were:

(dollars in thousands)				
Fund Balances:		**2010**		**2009**
Appropriated Funds (general)	$	3,957	$	4,423
Total Fund Balance with Treasury	$	3,957	$	4,423
Status of Fund Balance with Treasury				
Unobligated Balance:				
Available	$	368	$	160
Unavailable		1,015		1,407
Obligated Balance Not Yet Disbursed		2,573		2,856
Non-Budgetary		1		-
Total Status of Fund Balance with Treasury	$	3,957	$	4,423

Restricted unobligated 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, 2010 and 2009 were as follows:

(dollars in thousands)		2010		2009
Accounts Receivable from the Public:				
Billed:				
Current	$	25	$	26
Total Accounts Receivable		25		26
Accounts Receivable from the Public, Net	$	25	$	26

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, Plant and Equipment account balances as of September 30, 2010 and 2009 were as follows:

(dollars in thousands)	Service Life		Acquisition Value		Accumulated Depreciation		2010 Net Book Value		2009 Net Book Value
Office Equipment	5 yrs	$	556	$	(282)	$	274	$	135
Leashold Improvements	10 yrs		273		(107)		166		191
Total		$	829	$	(389)	$	440	$	326

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on OSC's Balance Sheet as of September 30, 2010 and 2009 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)		2010		2009
Intragovernmental:				
Accounts Payable	$	-	$	-
Employer Contributions & Payroll Taxes Payable		144		138
Unfunded FECA Liability		57		49
Total Intragovernmental		201		187
Public Liabilities:				
Employer Contributions & Payroll Taxes Payable		5		-
Federal Employee and Veteran Benefits		258		275
Unfunded Annual Leave		865		900
Total Liabilities Not Covered by Budgetary Resources	$	1,329	$	1,362
Total Liabilities Covered by Budgetary Resources		625		649

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 2010 and 2009 were $57 and $49, respectively. Unfunded Employment liabilities for 2010 were $0 and $0 for 2009. The actuarial calculation is based on benefit payments made over 12 quarters, and calculates the annual average of payments. The Actuarial FECA liabilities for 2010 and 2009 were $258 and $275, 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 began on October 26, 2009 and expires on October 25, 2019. The original Dallas lease term began on December 9, 2002 and after the new lease was entered now expires on December 8, 2017. The Oakland 60-month lease was entered into on February 1, 2006 and expires in BFY 2011. This lease was modified in FY06 with the period commencing on July 1, 2006 and expiring BFY 2011. The Detroit lease will begin on October 16, 2010 and will expire on October 15, 2020.

Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The operating lease amount does not include estimated payments for leases with annual renewal options.

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

(dollars in thousands)

Fiscal Year		Total
2011	$	1,738
2012		1,795
2013		1,830
2014		1,851
2015		1,873
Total Future Lease Payments	$	9,087

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 unasserted 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.

NOTE 8. IMPUTED FINANCING SOURCES

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 month ended September 30, 2010 and 2009, respectively, imputed financing from OPM were $1,008 and $805.

NOTE 9. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Such costs are summarized as follows:

(dollars in thousands)

		2010		2009
Investigations and Enforcements				
Intragovernmental Costs	$	3,646	$	2,458
Public Costs		15,195		15,337
Total Investigations and Enforcements	$	18,841	$	17,795
Intragovernmental Earned Revenue	$	1	$	-
Total Intragovernmental Earned Revenue	$	1	$	-

NOTE 10. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred reported on the Statement of Budgetary Resources in 2010 and 2009 consisted of the following:

(dollars in thousands)		2010		2009
Direct Obligations:				
Category A	$	18,127	$	17,270
Reimbursable Obligations:				
Category A		-		-
Total Obligations Incurred	$	18,127	$	17,270

NOTE 11. 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 FY10 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2011 and can be found at the OMB website: http://www.whitehouse.gov/omb. The 2009 Budget of the United States Government, with the Actual column completed for 2009, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 12. 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, 2010 and 2009, undelivered orders amounted to $1,801 and $2,069.

NOTE 13. RECONCILIATION OF NET COST OF OPERATIONS (PROPRIETARY) TO BUDGET (FORMERLY THE STATEMENT OF FINANCING)

In fiscal year 2006 this reconciliation was presented as a fifth statement, the Statement of Financing. In accordance with OMB Circular A-136, revised June 2007, presentation requirement for this information is now a footnote disclosure. Details of the relationship between budgetary resources obligated and the net costs of operations for the fiscal years ending September 30 are as follows:

Reconciliation of Net Cost of Operations (Proprietary) to Budget
As of September 30, 2010 and 2009

	2010	2009
Resources Used to Finance Activities		
Current Year Gross Obligations	$ 18,127	$ 17,270
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Earned		
Collected		
Recoveries of Prior Year Unpaid Obligations	(406)	(34)
Other Financing Resources		
Imputed Financing Sources	1,008	805
Total Resources Used to Finance Activity	18,729	18,041
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources Not in the Net Cost of Operations		
Change in Undelivered Orders	268	(166)
Current Year Capitalized Purchases	(226)	(133)
Components of Net Cost which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect		
Change in Non-Federal Receivables	1	-
Other Financing Sources Not in the Budget	(1,008)	(805)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	111	72
Future Funded Expenses	(25)	44
Imputed Costs	1,008	805
Other Expenses Not Requiring Budgetary Resources	(18)	(63)
Net Cost of Operations	$ 18,840	$ 17,795