FY 2013 Performance and Accountability Report

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A Message from the Special Counsel

I am pleased to present the Performance and Accountability Report for Fiscal Year 2013 for the U.S. Office of Special Counsel (OSC).

Since June 2011, I have had the honor of leading this essential investigative and prosecutorial agency. OSC is responsible for promoting accountability, integrity, and fairness in the Federal workplace and upholding the Federal merit system. OSC makes real differences in the lives of the American people by saving taxpayers millions of dollars and improving public health and safety.

Overall OSC has experienced a remarkable rise in demand for its services. In the last two years, OSC received 9,283 new matters (+16%), 5,902 PPP complaints (+18%), and 2,276 whistleblower disclosures (+20%), exceeding historical filings for the agency and requiring that OSC improve and streamline its case processing. Indeed, OSC has achieved a 40% reduction in its cost per resolved case over the past five years, *without diminishing the quality of the agency's work*. Favorable actions in prohibited personnel practices reached new record levels, as have settlements due to mediation and whistleblower disclosures referred for investigation. Corrective actions in Uniformed Services Employment and Reemployment Rights Act cases have also reached near-record levels.

Successfully managing this increase in demand for OSC's services nevertheless poses a significant challenge, particularly given today's difficult fiscal environment and the prospect of further sequestration. OSC has already trimmed all non-essential items from its budget, yet staffing levels are down by nearly 10% in the past year. In effect, OSC is increasingly a victim of its own success. As the agency's reputation for delivering results grows, so too does its caseload. OSC is at a tipping point where its rapidly increasing workload, without a commensurate increase in resources, threatens significant staff morale problems and diminished productivity.

That said, I am pleased to report very strong results, which include a clean opinion with no material weaknesses, for the agency's FY 2013 financial audit. I am reasonably assured that the financial and performance data presented in this report are complete, reliable and accurate. Achieving a strong financial footing is critical to the agency being able to perform its mission.

OSC has a management team and staff who are enthusiastic and dedicated to successfully fulfilling our agency's mission of uprooting waste and fraud, protecting the employment rights of Federal employees and members of the uniformed services, ensuring accountability, upholding the merit system, and standing up for taxpayers. We look forward to continuing our important work in the next year.

Sincerely,

Carolyn N. Lerner
Special Counsel
December 16, 2013

Part 1: Management Discussion and Analysis

I. About OSC

Carolyn N. Lerner, the eighth permanent Special Counsel, was confirmed by the Senate on April 14, 2011, and was sworn in on June 14, 2011. A highly respected attorney and manager, Ms. Lerner acted quickly and successfully to restore the agency's morale and reputation.

OSC's mission helps implement "The Accountable Government Initiative" from the President's Performance Management Agenda. OSC promotes government accountability, integrity, fairness, and efficiency by providing a safe channel for federal employees to come forward with evidence of waste, fraud, abuse, law-breaking, or threats to public health or safety, and it protects these employees from retaliation.

When Homeland Security agents report massive abuses of overtime pay, FAA air traffic controllers witness dangerous flight practices, Veterans Affairs professionals observe unsafe practices in hospitals, or when Pentagon procurement officers find huge irregularities in government contracts, OSC acts to ensure that the whistleblowers' claims are heard and acted upon. OSC also protects federal employees from retaliation for making public interested disclosures, and other prohibited personnel practices. In addition, through enforcement of the Hatch Act, OSC guards the integrity of the civil service by keeping partisan influences out of the Federal workplace. OSC also defends returning service members and reservists against employment discrimination by enforcing their rights under USERRA.

By assisting whistleblowers, OSC saves the Federal government substantial sums by uncovering waste and fraud. OSC's prophylactic effect is every bit as significant: By providing a safe channel for whistleblower disclosures, OSC prevents waste and potentially catastrophic disasters from occurring in the first place, thereby saving the government tens of millions of dollars.

II. Statutory Background

OSC was established on January 1, 1979, when Congress enacted the Civil Service Reform Act (CSRA). Under the CSRA, OSC operated as an autonomous investigative and prosecutorial arm of the Merit Systems Protection Board (the Board). Pursuant to the CSRA, OSC: (1) receives and investigates complaints from federal employees alleging prohibited personnel practices; (2) receives and investigates complaints regarding the political activity of federal employees and covered state and local employees and provides advice on restrictions imposed by the Hatch Act on the political activity of covered Federal, state, and local government employees; and (3), receives disclosures from federal whistleblowers about government wrongdoing. Additionally, OSC, when appropriate, files petitions for corrective and or disciplinary action with the Board in prohibited personnel practice and Hatch Act cases.

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

Congress passed legislation in 1993 that significantly amended the Hatch Act provisions applicable to federal and District of Columbia government employees.[1] The 1993 Amendments to the Hatch Act did not affect covered state and local government employees.

In 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted. USERRA protects the civilian employment and reemployment rights of those who serve or have served in the Armed Forces, including the National Guard and Reserve, and other uniformed services. It prohibits employment discrimination based on past, present, or future military service, requires prompt reinstatement in civilian employment upon return from military service, and, prohibits retaliation for exercising USERRA rights. Under USERRA, OSC may seek corrective action for service members whose rights have been violated by Federal agencies (*i.e.*, where a federal agency is the civilian employer).[2]

OSC's 1994 Reauthorization Act expanded protections for federal employees and defined new responsibilities for OSC and other federal agencies. For example, the 1994 Reauthorization Act provided 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 or exists. Also, the Reauthorization Act extended protections to approximately 60,000 employees of what was then known as the Veterans Administration (now the Department of Veterans Affairs), and whistleblower reprisal protections were extended to employees of listed government corporations. Further, the Reauthorization Act broadened the scope of personnel actions covered under these provisions. Finally, the Reauthorization Act required that federal agencies inform employees of their rights and remedies under the Whistleblower Protection Act in consultation with OSC.[3]

The Whistleblower Protection Enhancement Act (WPEA) was signed into law in November 2012 and strengthens the WPA. This law overturns legal precedents that narrowed protections for government whistleblowers, provides whistleblower protections to employees who were not previously covered, including Transportation Security Administration officers, restores the Office of Special Counsel's ability to seek disciplinary actions against supervisors who retaliate, and holds agencies accountable for retaliatory investigations, among other improvements.

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

III. Organizational Structure of OSC

OSC maintains a headquarters office in Washington, D.C., and four field offices (located in Dallas, Detroit, Oakland, and Washington, D.C.). The agency includes a number of program and support units.

Program units include:

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).

Complaints Examining Unit (CEU). This unit is the intake point for all complaints alleging prohibited personnel practices. CEU screens approximately 2,500 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 qualifying matters for Alternative Dispute Resolution (ADR) or to the Investigation and Prosecution Division (IPD) for further investigation, possible settlement, or prosecution. Matters that do not qualify for referral to ADR or IPD are closed.

Investigation and Prosecution Division (IPD). If ADR is unable to resolve a matter, it is referred to the Investigation and Prosecution Division. IPD is comprised of the four field offices, and is responsible for conducting investigations of prohibited personnel practices. IPD attorneys determine whether the evidence is sufficient to establish that a violation has occurred. If not, the matter is closed. If the evidence is sufficient, IPD decides whether the matter warrants corrective action, disciplinary action, or both. If a meritorious case cannot be resolved through negotiation with the agency involved, IPD may bring an enforcement action before the MSPB.

Disclosure Unit (DU). This unit receives and reviews disclosures from Federal whistleblowers. DU recommends the appropriate disposition of disclosures, which may include referral to the head of the relevant agency to conduct an investigation and report its findings to the Special Counsel, informal referral to the 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; the Special Counsel then sends the report, along with any comments by the whistleblower, to the President and responsible congressional oversight committees.

Hatch Act Unit (HAU). This unit enforces and investigates complaints of unlawful political activity by government employees under the Hatch Act, and represents OSC in seeking disciplinary actions before the MSPB. In addition, the HAU is responsible for providing legal advice on the Hatch Act to Federal, D.C., state and local employees, as well as the public at large.

USERRA Unit. This unit attempts to resolve employment discrimination complaints by veterans, returning National Guard members and reservists, and members of the uniformed services under the Uniformed Services Employment & Reemployment Rights Act. This unit also reviews USERRA cases referred by the Department of Labor (DOL) for prosecution and represents claimants before the MSPB. Under a second, three-year Demonstration Project, the USERRA Unit also investigates more than half the Federal USERRA cases filed with the U.S. Department of Labor.

Alternative Dispute Resolution Unit (ADR). This unit supports OSC's operational program units. Matters are received from IPD and the USERRA Unit that are appropriate for mediation. Once referred, an OSC ADR specialist will contact the affected employee and agency. If both parties agree, OSC conducts a mediation session, led by OSC-trained mediators who have experience in Federal personnel law.

Support units include:

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

Administrative Services Division. 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.

IV. Performance Highlights

FY 2013 was a challenging year for the Office of Special Counsel as we had to manage historic caseload levels under the conditions of sequestration. I am, therefore, pleased to report that OSC successfully fulfilled its responsibility to the Federal community and taxpayers by enforcing merit system principles and safeguarding accountability, integrity, and fairness in the Federal workplace. Our agency closed a record 4,808 matters in FY 2013, a 10% increase over the previous year. OSC also successfully supported key legislation to improve the merit system. The Whistleblower Protection Enhancement Act (WPEA) strengthened whistleblower protections in the Federal government, in part by extending OSC coverage to 50,000 TSA workers. The Hatch Act Modernization Act changed an unworkable penalty structure and limited Federal authority over state and local elections to areas of legitimate Federal concern.

Another significant achievement from FY 2013 was OSC's efforts to help whistleblowers improve the quality of care at veterans' medical facilities throughout the country. In FY 2013 OSC disclosed numerous violations of law and threats to patient safety at a VA hospital in Jackson, Mississippi, that resulted in significant reforms. In New York, OSC assisted whistleblowers who revealed improper record-handling procedures harming veteran care, and this effort resulted in a significant improvement plan to correct the problem.

OSC's actions in FY 2013 benefitted the common good. For example, OSC resolved a dispute between a Federal agency and an employee who had revealed that government technicians were repairing aircraft improperly, putting the public at risk. OSC also worked with the Department of Homeland Security whistleblowers to curb improper overtime payments for employees. The exposure of rampant abuse of overtime pay could save taxpayers tens of millions of dollars.

The results speak for themselves. During FY 2013, despite sequestration, OSC achieved its second highest number ever of favorable outcomes in whistleblower reprisal cases, and a new peak of 173 favorable outcomes in prohibited personnel practice matters.

The following is a brief summary.

<u>Prohibited Personnel Practices (PPPs)</u>
OSC's strategic goal is to significantly reduce the number of Prohibited Personnel Practices across the Federal government. To do so, OSC aims to: (1) increase its capacity to protect Federal employees against whistleblower retaliation; (2) provide outreach and advice; (3) seek disciplinary action against Federal employees for persistent or egregious PPPs; and (4) achieve mutually satisfactory and speedier solutions through mediation. OSC identified performance indicators to measure our success in achieving each of the three goals. In FY 2013 OSC exceeded its percentage goal for obtaining corrective actions in referred cases while handling its largest total number of PPP complaints ever.

<u>Whistleblower Disclosures</u>
OSC's goal is to provide a safe, secure channel for whistleblowers to disclose waste, fraud abuse, illegality, and dangers to public health and safety. OSC understands that whistleblowers are often in the best position to detect wrongdoing on the job. To support their efforts, OSC referred a record 51 disclosures to agency heads for investigation in FY 2013.

Hatch Act
OSC has two annual goals to reduce instances of Federal employees engaging in prohibited job-related political activities: (1) Effect disciplinary action against Federal employees for persistent or egregious job-related political activities; and (2) Achieve cessation of ongoing violations and deter future unlawful conduct by warning and educating employees. To achieve these goals, OSC filed 2 disciplinary action complaints with the Merit Systems Protection Board and accepted 100% of training requests it received from other government agencies to educate their personnel and avoid violations.

USERRA
The USERRA program's goal is to reduce employment discrimination against veterans and reservists in Federal service. OSC now investigates more than half the job discrimination complaints filed with the Department of Labor under a three-year Demonstration Project (DP). In addition, OSC handles all Federal USERRA actions that are referred for possible prosecution. OSC (1) provides outreach and advice to the Federal community about employment discrimination against veterans; (2) investigates allegations of discrimination and seeks corrective and/or disciplinary action for violations of law; and (3) achieves mutually satisfactory solutions through mediation. In FY 2013 OSC exceeded its goal by 30%, obtaining 40 favorable resolutions to USERRA violations while resolving 67% more cases than in FY 2012.

Alternative Dispute Resolution Unit (ADR)
ADR receives matters from CEU, IPD and the USERRA Unit. The ADR program's goal is to resolve these cases more quickly and efficiently. In FY 2013 ADR completed a record 50 mediations cases, nearly 4 times the level of 2 years prior, and achieved a record 29 successful settlements. Thus the agency met its ambitious goal for number of cases mediated, and exceeded its goal of mediations that resulted in successful settlements.

OSC is meeting its duties as an independent investigative and enforcement agency, bringing greater integrity and efficiency to the Federal government. OSC is also working harder, smarter and with better results than at any time in its history. The agency resolved 434 more cases in FY 2013 than in FY 2012. That is a 36% **more** than the 10-year average annual increase, even though staffing levels have recently decreased. Our agency also received record levels of total favorable actions in PPPs for the second consecutive year, with FY 2013 more than doubling the historical average, making FY 2012 and FY2013 the most productive two-year period in OSC's history. FY 2013 also saw the highest number of whistleblower disclosures referrals ever. These successes are due to increased use of ADR, redeploying staff based on workload and mission-sensitivity, enhanced internal staff training programs, more flexible distribution of agency caseload, use of enhanced case review criteria enabling resolution at the earliest point in time, and innovative use of interns, PMF's and other unpaid staff that are an extension of OSC's workforce. Considering the budgetary constraints under which OSC has operated, it truly has been a year of remarkable achievement.

V. Office of Special Counsel's Cost Savings to Government and Other Successes

Cost Savings
OSC improves the efficiency and accountability of government in many ways and, significantly, it returns large sums to the U.S. Treasury. The agency now receives over one thousand disclosure complaints from Federal whistleblowers annually, identifying tens of millions of dollars in waste and protecting against catastrophic harm.

For example, "OSC referred allegations by multiple Department of Homeland Security employees who blew the whistle on widespread misuse of overtime pay at DHS offices costing the government millions of dollars each year. The whistleblowers disclosed that numerous DHS employees in these offices routinely abused the Administratively Uncontrollable Overtime (AUO) pay system intended for irregular or occasional circumstances when failure to remain on duty constitutes negligence, such as a cross-border pursuit. Instead, DHS employees regularly claim for up to two hours a day, even when working in headquarters, on training assignments, and in other situations which are administratively controllable."

OSC's track record in leveraging whistleblower disclosures to save lives and taxpayer dollars -- exponentially more dollars than OSC is budgeted -- is but one measure of OSC's success. We are also the sole Federal agency that offers education and advice on the Hatch Act. OSC enforces this good government law so that civil servants are not coerced into partisan political activity by their superiors, and the Federal workplace is not tainted by partisan politicking. In the past three years, OSC has investigated over 1,500 Hatch Act complaints and, in addition, provided thousands of advisory opinions to government employees and the public about what types of political activity are forbidden.

Harmonious relations between managers and employees are critical to the effectiveness and efficiency of government. OSC plays a unique role in fostering a healthy Federal workplace by investigating allegations of Prohibited Personnel Practices, such as nepotism, discrimination, retaliation, and violations of merit systems principles. These cases are typically resolved by negotiation, mediation and settlement rather than prosecution, thereby ensuring fairness and due process to employees while preventing paralyzing stalemates and disruptions in the conduct of government business.

The volume of complaints is substantial and growing: Nearly 3,000 new Prohibited Personnel Practices actions were filed with OSC in 2013, of which 9% were referred for full investigations.

In several of the PPP cases that have not settled, OSC has sought corrective and even disciplinary action through litigation before the Merit System Protection Board ("MSPB" or "Board"). For example, OSC found that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) violated the First Amendment rights of a Senior Operations Officer when ATF removed the officer because of his sworn testimony on behalf of a criminal defendant, given pursuant to a subpoena, at a wiretap evidence suppression hearing. OSC obtained an initial stay of the removal, as well as subsequent stay extensions, from the Board. OSC submitted a PPP report to the Department of Justice requesting that the agency cancel the removal, but DOJ declined to take any corrective action. Accordingly, OSC filed a complaint with the MSPB for corrective action and obtained an indefinite stay of the removal. The case is now pending. In another case, OSC acted on the complaint of a Special Agent for the Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations. The Special Agent alleged that, after he refused to obey what he believed to be an improper order to enter classified information into the agency's computer tracking system, his supervisors ordered him to report for a 90-day geographic detail. OSC responded to the Special Agent's complaint by filing a request to stay the action before the Board. The Board agreed with OSC's request to return the Special Agent to his duty station. Thereafter, the agency agreed to drop the geographic detail for the remaining period.

OSC is proud of its record in ensuring that returning veterans and members of the National Guard and reserves are treated fairly in the workplace. For many years, the Department of Labor has investigated, and OSC has prosecuted, claims of discrimination under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Due to OSC's excellent performance in a prior USERRA Demonstration Project, in which OSC not only prosecuted all of the USERRA complaints but investigated half of them as well, Congress again tapped OSC for a second, three-year USERRA Demonstration Project, which began in August 2011.

Word of OSC's effectiveness in achieving good results for the Federal community is spreading. The number of new cases before the agency continues to rise, as does OSC's success in pending matters. In 2013, OSC resolved almost 1,500 more cases than it did in 2009, and 431 more than it did just the year prior. Indeed, thanks to the incredible dedication of its small but highly productive staff that keeps rising to the challenge, in FY 2013 OSC resolved 36% more matters than the historical 10-year average.

Other Successes

Disclosure Unit 2013 Case Summaries

OSC received over 1,100 disclosures this year, resulting in substantial savings to the government through the elimination of waste, mismanagement and fraud. It also resulted in improved aviation safety, protection of patients at VA hospitals, correction of improper spending procedures, safer workplaces, and perhaps even saved lives. Here are some of the highlights.

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

BOP Fort Dix Improves Medical Testing and Monitoring Processes. OSC referred to the Attorney General allegations that employees of the Bureau of Prisons (BOP), Federal Correctional Institute (FCI) Fort Dix, New Jersey, failed to timely collect samples for medically ordered laboratory diagnostic tests, including blood, stool, and urine samples, which delayed medical test results necessary for diagnoses. The agency investigation partially substantiated the allegations. The report stated that a large number of medical tests had been ordered by medical staff at FCI Fort Dix, but that medical staff had experienced delays in securing results. The agency report found that the problem with delinquent lab tests was systematic and multifaceted. Several factors contributed to the laboratory delays, including lack of proper staffing, a "tremendous" workload, the unsuccessful attempts to hire a qualified phlebotomist, the necessity to reschedule patients, the failure to adhere to pre-testing requirements such as fasting, and duplicate lab test orders. The VA Chief of Health Programs opined that there was a significant problem with pending diagnostic lab orders, even if there were duplicate requests. The agency report found that the failure to ensure timely test results involved several institutional components, including the failure of BOP's Health Services to acknowledge, assess, and remedy the untimely lab testing problems. The agency investigation determined, however, that no patients were harmed as a result of laboratory delays.

As a result of the investigation, BOP's Central Office and Northeast Regional Office established a medical review team to audit all medical files with abnormal lab results for which there was a delay in receiving lab tests. OSC confirmed that the Improving Organizational Performance (IOP) Coordinators have been auditing FCI Fort Dix's pending lab reports, as planned, in order to ensure that pending or backlogged labs are scheduled timely. The IOP Coordinators currently monitor the "pending collection" lab reports on a daily basis. In its most recent monthly report, FCI Fort Dix had no lab requests pending collection with a due date greater than 30 days. The agency report noted that the whistleblowers agreed that the systematic review processes should resolve the problem. The Special Counsel requested that the Department of Justice provide OSC with an update in six months about its progress monitoring patient medical tests at FCI Fort Dix because of concerns that the agency failed to address this serious health and safety risk regarding timely medical test results more aggressively.

In November 2012, the agency provided an update that reflected significant improvements in monitoring, pending medical test results and the timely processing of lab orders. BOP staff had been trained to monitor pending medical lab orders via electronic health records and staff had been cross-trained to eliminate a backlog of pending orders. Monitoring of medical test orders and results continued at the local, regional, and national levels through a multi-level auditing process. Furthermore, additional contracted staff have been hired at the lab to improve efficiency. *Referred July 2011; transmitted to the President and congressional oversight committees and conditionally closed pending updates on* *corrective action in May 2012. Closed and transmitted to the President and congressional oversight committees in February 2013.*

Patient Safety Abuses Involving Allegations of Violations of Law, Rule, or Regulation, Gross Mismanagement, an Abuse of Authority, and a Substantial and Specific Danger to Public Safety

Dissemination of False Information at Jackson VA Medical Center; and Patient Safety Allegations at Jackson VA Medical Center. On February 28, 2013, OSC requested that the Department of Veterans Affairs (VA) conduct an investigation based on information provided by Dr. Phyllis Hollenbeck, a physician at the G.V. (Sonny) Montgomery VA Medical Center (Jackson Medical Center or VAMC), Jackson, Mississippi. Dr. Hollenbeck alleged that Jackson VAMC does not have a sufficient number of physicians in its Primary Care Unit (PCU), resulting in a failure to provide adequate care for patients and proper supervision of nurse practitioners, who provide the majority of patient care services. Dr. Hollenbeck also alleged that management fails to properly supervise Nurse Practitioners in violation of state licensure agreements, resulting in nurse practitioners practicing without proper certification. Further, Dr. Hollenbeck disclosed that inadequate physician staffing levels result in numerous fraudulently completed Medicare Home Health Certifications for patients, and that Jackson VAMC management has permitted nurse practitioners to prescribe narcotics without following the legal requirements for doing so, including prompting physicians to sign narcotics prescriptions for patients they have not treated.

The agency report substantiated the allegation that the primary care unit lacked a sufficient number of physicians and that nurse practitioners were not properly supervised by physician collaborators, but did not find that patients received inadequate care as a result of the shortage of physicians. The agency also found that, while all the primary care nurse practitioners had requisite licenses and certifications, they were erroneously declared Licensed Independent Practitioners (LIP), and that the required monitoring of their practice did not occur. In response, the agency directed the Jackson VAMC to immediately correct the improper LIP designations for nurse practitioners, implement appropriate scopes of practice for nurse practitioners, and ensure they have collaborative agreements where required. The agency also directed the elimination of locum tenens physicians in the primary care unit and the hiring of additional primary care physicians. The agency also required the elimination of "ghost clinics," and the movement to electronic privileging and credentialing folders.

The report substantiated the allegation that nurse practitioners were advised by management that they did not need individual DEA numbers, and that nurse practitioners were allowed to write prescriptions for narcotics in violation of federal law. The report noted that immediate action was taken, and current prescribing practices comply with federal and state law.

The agency was unable to substantiate the allegation that Medicare home health certificates were improperly executed, but did not rule out the possibility that the allegation was credible. The report directed that a random check of primary care patient charts be completed to determine if Medicare forms are present, and if they were completed appropriately.

On March 5, 2013, OSC referred to the Secretary additional allegations regarding the Jackson VAMC. These disclosures were made by Dr. Charles Sherwood, the former Chief of Ophthalmology at the Jackson VA. Dr. Sherwood disclosed that a former radiologist at the Jackson VAMC regularly marked patients' radiology images as "read" when, in fact, he failed to fully or properly review the images, and at times, failed to read them at all. Dr. Sherwood further alleged that the failure to properly read these images, or at times, to read them at all, led to numerous missed diagnoses of serious, and in some cases, fatal conditions including inoperable cancers, neck fractures, and enlarged lymph nodes. Dr. Sherwood also disclosed that medical records were falsified to cover-up the treatment and diagnostic errors, and that management was aware of this malfeasance but never required that the images be re-reviewed or took steps to remedy this problem, and instead acted to protect the radiologist at fault. Finally, Dr. Sherwood alleged that the agency failed to notify the large number of patients who were potentially affected by this lapse in clinical care.

The agency report did not substantiate the allegation that the radiologist at issue failed to read images or read images too quickly, nor did it substantiate the allegation that the radiologist's failure to properly read images led to missed diagnoses. The agency also failed to substantiate the allegations that medical records were falsified to cover up diagnostic errors, or that management was aware of such problems but refused to take action. However, the agency did require the medical center to review 8 cases identified as problematic, and to identify an appropriate number of cases for an external peer review to determine if further action is required.

The whistleblowers in both matters provided comments that refuted the findings in the agency's reports. Based upon OSC's review of the original disclosures, the agency's reports, and the whistleblowers' comments, we found that the reports were deficient and the findings unreasonable. *Referred on May 12, 2011and July 1, 2011; transmitted to the President and congressional oversight committees in March 2013.*

Air Traffic Control Abuses Involving Violations of Law, Rule, or Regulation and a Substantial and Specific Danger to Public Safety

OSC transmitted to the President and Congress an agency report based on a disclosure made by a whistleblower at the Department of Transportation (DOT), Federal Aviation Administration, Detroit Metropolitan Airport, Terminal Radar Approach Control (TRACON), Detroit, Michigan, alleging that employees engaged in conduct that may violate law, rules, or regulations and constitute a substantial and specific danger to public safety. The whistleblower was a Front Line Manager in the TRACON. He disclosed that FAA managers in Detroit adopted informal guidance for the operation of simultaneous visual approaches that resulted in a violation of the specific requirement of FAA Order 7110.65, paragraph 7-4-4c2, and failed to treat violations of the order as losses of separation.

DOT did not substantiate the allegations, but it took action to correct identified concerns impacting runway safety, and the reporting, investigation, and determination of loss of separation events. DOT properly acknowledged that communication in a safety culture is essential. The agency revised FAA Order 7110.65, paragraph 7-4-4 in response to the disclosures and to address similar concerns about parallel approaches at airports with wider runways. The Special Counsel determined that the report met all statutory requirements and that the findings of the agency head appeared reasonable. Notwithstanding this finding, she urged the agency to monitor the effect of these changes at Detroit Metropolitan Airport and other affected airports to ensure that their implementation mitigates the risks identified when simultaneous parallel approaches are conducted. *Referred on March 13, 2012; transmitted to the President and congressional oversight committees in May 2013.*

Allegations Involving Violations of Law, Rule, or Regulation, Gross Mismanagement, and an Abuse of Authority

Improper Allocation of Employee Salaries at Bureau of Prisons Facility. OSC referred to the Attorney General allegations filed by a Facility Operations Assistant at the Bureau of Prisons (BOP), Federal Correctional Institute (FCI), Waseca, Minnesota. The whistleblower alleged that FCI Waseca employees violated a law, rule, or regulation and engaged in gross mismanagement and an abuse of authority by misallocating employee salaries and overtime expenditures, and failing to obtain prior approval for overtime expenditures.

The BOP Office of Internal Affairs investigation substantiated the allegations, concluding that expenditures should have been allocated to the Building and Facilities (B&F) funds. The investigation also found that there were seven occasions when staff worked overtime on a B&F project without the required prior approval and S&E salary expenditures of $3,872 should have been designated as B&F expenditures. A supplemental report provided by the agency confirmed that employees received the recommended training to address the problem. Additional information received from the agency verified that disciplinary action had been taken against the officials found responsible. The Special Counsel determined that the agency's findings appear reasonable. *Referred on February 28, 2012; transmitted to the President and congressional oversight committees in May 2013.*

Air Traffic Control Abuses: Violation of Law, Rule, or Regulation, Gross Mismanagement, and a Substantial and Specific Danger to Public Safety

Air Traffic Controller Misconduct at Westchester Control Tower. OSC referred to the Secretary of Transportation allegations received from an Air Traffic Control Specialist, a Federal Aviation Administration (FAA) employee at the Westchester Air Traffic Control Tower, White Plains, New York. The whistleblower alleged that certified professional controllers and developmental (or trainee) controllers were engaged in prohibited activities while on the job, compromising air safety and resulting in a substantial and specific danger to public safety, violations of law, rule, or regulation, and gross mismanagement.

The agency investigation substantiated the following allegations: (1) Controllers used personal electronic devices, including cell phones, in the tower cab; however, the investigation concluded that the majority of the electronic device usage occurred while controllers were on break. (2) A certified professional controller violated an FAA Order and local operating procedures when he failed to remain in the tower for two minutes after a position relief briefing. (3) Unwanted items were left by co-workers in the whistleblower's cubby in the tower cab; however, the investigation was unable to determine that the items conveyed or posed a specific threat. (4) Threatening language was posted on a website; however, the investigation was unable to determine whether the author was an employee at the Westchester Control Tower or any other FAA facility.

In response to these findings, the Air Traffic Organization (ATO) worked with FAA's Office of Chief Counsel to propose and implement administrative action against management officials at the facility. ATO also developed a corrective action plan to bring the facility into compliance with FAA rules, procedures and standards. Finally, FAA issued 16 Letters of Reprimand to controllers and 4 Proposed Notices of Suspension to management officials at the tower. The Special Counsel determined that the agency's findings appeared reasonable. *Referred on April 25, 2012; transmitted to the President and congressional oversight committees in June 2013.*

Allegations of Passport Processing Problems Involving Violations of Law, Rule, or Regulation, Gross Mismanagement, and an Abuse of Authority

Improper Guidance for Processing Passport Applications. OSC referred to the Secretary of State in two separate matters allegations that employees in the Bureau of Consular Affairs, Passport Services Directorate, Western Passport Center, were: (1) instructed to require certain passport applicants to pay an unnecessary File Search Fee; and (2) directed to suspend valid passport applications that established U.S. citizenship pursuant to the Child Citizenship Act of 2000, 8 U.S.C. § 1431. The investigation substantiated the allegation that Western Passport Center employees received incorrect guidance regarding File Search Fees. The investigation revealed, however, that superseding, corrective guidance was sent to all passport centers and that no applicant was affected by the incorrect guidance issued to the Western Passport Center. An audit of applications submitted to all other passport centers during the relevant time period did not reveal any instance in which an applicant was improperly charged a File Search Fee pursuant to the incorrect guidance.

The investigation of the second allegation found that management has directed employees to suspend passport applications that attempt to document acquisition of citizenship at a time other than birth pursuant to the Child Citizenship Act where there is evidence that the applicant may have acquired citizenship at birth. The agency determined, however, that this practice is in accordance with guidance from Passport Services Headquarters, is consistent with the agency's mission, and does not violate a law, rule, or regulation.

OSC determined that the agency's reports contained all of the information required by statute and that the findings appeared to be reasonable. *Referred April and July 2012; transmitted to the President and congressional oversight committees in June 2013.*

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 ensure 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 2013, 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 2013. 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 tenth annual financial audit. The auditors reported no material weaknesses in any prior fiscal years. The FY 2013 audit addresses the financial statements and accounting processes, almost all of which were accomplished by the Interior Business Center (IBC) at the Department of Interior under an interagency outsourcing agreement.

3. 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.

OSC has continued to outsource financial management and administrative activities which it moved to IBC in FY 2009, including budget, financial, and reporting accounting, and procurement systems software, along with travel services. Contracting operations were moved to the IBC in FY 2010. OSC personnel and payroll data entry transactions have been processed by the Department of Agriculture's National Finance Center (NFC). All these operations are administered under cross-servicing agreements with these certified shared services providers. For information on any significant management control issues related to services provided under these agreements, OSC relies on information received from IBC and NFC, and any audits or reviews issued by the Inspectors General and Chief Financial Officers of the Departments of Treasury and Agriculture, and the Government Accountability Office (GAO). IBC conducts multiple internal and external reviews on its operations, which are captured in the Annual Assurance statement on Internal Controls provided yearly to OSC.

In September of 2012, IBC certified its Oracle Federal Financials Major Application, in accordance with OMB Circular A-130, Appendix III, approving the system for continued operation. In FY 2013 the system is now reviewed on a continuous monitoring basis in conformance with NIST guidelines. NFC's Payroll System was certified on September 2013, and in FY 2014 enters operation with a continuous monitoring program. Also, an annual SSAE 16 evaluation was conducted this year on the Oracle Federal Financials Major Application, as well as on NFC's Payroll System. OSC has updated Interconnect Security Agreements previously in place with IBC and NFC to cover the travel, financial and payroll systems.

VII. Management Assurances

Annual Assurance Statement on 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 controls over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular A-123, "Management's Responsibility for Internal Control." Based on the results of this evaluation, OSC can provide reasonable assurance that, as of September 30, 2013, its internal controls over the effectiveness and efficiency of operations were compliant with applicable laws and regulations, and no material weaknesses were found.

For its financial reporting needs, OSC works with the Interior Business Center (IBC). OSC obtains the SSAE 16 report from IBC, and reviews it to assist in assessing internal controls over financial reporting. OSC has not discovered any significant issues or deviations in its financial reporting during FY 2013 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 in an environment hosted by IBC, a shared service provider. Because of the rigorous testing that IBC undergoes, OSC considers its financial system to be reliable and effective.

Carolyn N. Lerner
Special Counsel
December 16, 2013

VIII. Management Challenges

Since Carolyn Lerner was sworn in as Special Counsel in June 2011, a trend has emerged: As the Federal workforce has regained confidence in OSC's ability to perform its mission, demand for OSC's services has grown, causing its intake of PPP complaints and whistleblower disclosures to reach historic highs over the past two years. The following have contributed to these rising levels of complaint filings with OSC:

- Success: Recognition of OSC's record achievements in gaining corrective actions for Federal employees in PPP and USERRA matters, and institutional reform due to whistleblower disclosures, is spreading within the Federal community. Growing confidence in OSC's ability to make a difference is the single biggest factor in both encouraging Federal employees to turn to OSC and in agencies taking OSC complaints seriously.

- OSC received considerable media, Congressional and Executive-level attention for its work on whistleblower disclosures in 2013, following the methodology it began using in 2011 to address improper handling of the remains of fallen service members in Iraq and Afghanistan. In 2012, as with the Port Mortuary case, OSC drew wide attention to significant Federal aviation safety issues by pulling together multiple whistleblower disclosures evidencing systemic regulatory problems. This year, OSC shone a light on substandard care and procedures at VA hospitals in Mississippi and New York, resulting in substantial improvement plans.

- OSC received considerable media attention for its work on whistleblower disclosures in 2013. For example, OSC shined a light on substandard care and procedures at VA hospitals in Mississippi and New York. In both cases OSC successfully obtained improvement plans to address the problems.

- Increased awareness of OSC has been driven, to a significant extent, by media coverage of high profile cases OSC has handled. OSC received long-running media publicity from the 2012 Dover Port Mortuary affairs case, where service-members remains were mishandled, to later this year with OSC's protection of whistleblowers who revealed that Department of Homeland Security employees were improperly receiving overtime payments for work they never performed. Those landmark cases were book-ends to a string of other important cases that have been widely reported as well. OSC's reports on these matters have received national attention through newspaper and television coverage. As OSC continues to be involved in these high profile cases, awareness of OSC's mission and demand for its services will continue to increase.

- Under a pilot program created by Congress which started in August of 2011, OSC began investigating half of the USERRA cases that would typically be handled by the Department of Labor, thereby increasing OSC's USERRA caseload considerably. In FY 2013, OSC achieved 38 corrective actions in USERRA cases, a 25% success rate. The demonstration project ends in 2014: Congress may then ask OSC to continue its role or even take on more responsibility for investigating Federal USERRA cases.

- New legislation has increased OSC's jurisdiction. The Whistleblower Protection Enhancement Act expanded the types of cases OSC is required to investigate and added 50,000 TSA employees under OSC's whistleblower protection.

- OSC continues to actively increase awareness of its mission among Federal workers. During FY 2013 OSC's Outreach Program made 64 Outreach presentations at Federal agencies and OSC plans to continue its outreach efforts in FY 2014. As more Federal workers learn about OSC's role upholding merit system principles and shielding whistleblowers from retaliation, OSC anticipates greater demand for its services.

OSC has responded to the historic demand for its services by working harder and smarter. As compared to five years earlier, OSC achieved a 40% decrease in its cost per case in FY 2013. This is a truly remarkable feat considering the difficulties posed by sequestration, reducing OSC staffing levels during the year. These efficiencies can only be extended so far without exacting a serious toll on employee morale. There is no fat to cut.

OSC continues to stress the importance of agency-wide cross training. This is an important initiative, which has already provided benefits in efficiency by cross-training many of the agency's employees to enable them to operate in more than one of OSC's four areas of statutory authority. Such flexibility allows OSC to address pikes in workflow and plan for cyclical swings.

Despite these efforts, OSC continues to face the challenge of an increasing backlog of cases. During FY 2013, OSC experienced a 23% increase in PPP complaints carried over from FY 2012, and a 70% increase in whistleblower disclosures carried over from FY 2012. The PPP cases in particular can take over 240 days to investigate and resolve. With continued sequestration possible in FY 2014, the number of FTE, training opportunities and case-necessitated travel may be further reduced. Containing the backlog while sustaining agency morale, and OSC's hard-earned reputation as a viable option for Federal employees, is a critical challenge facing the agency going forward.

IX. Comments on Final FY 2013 Financial Statements

Financial Highlights

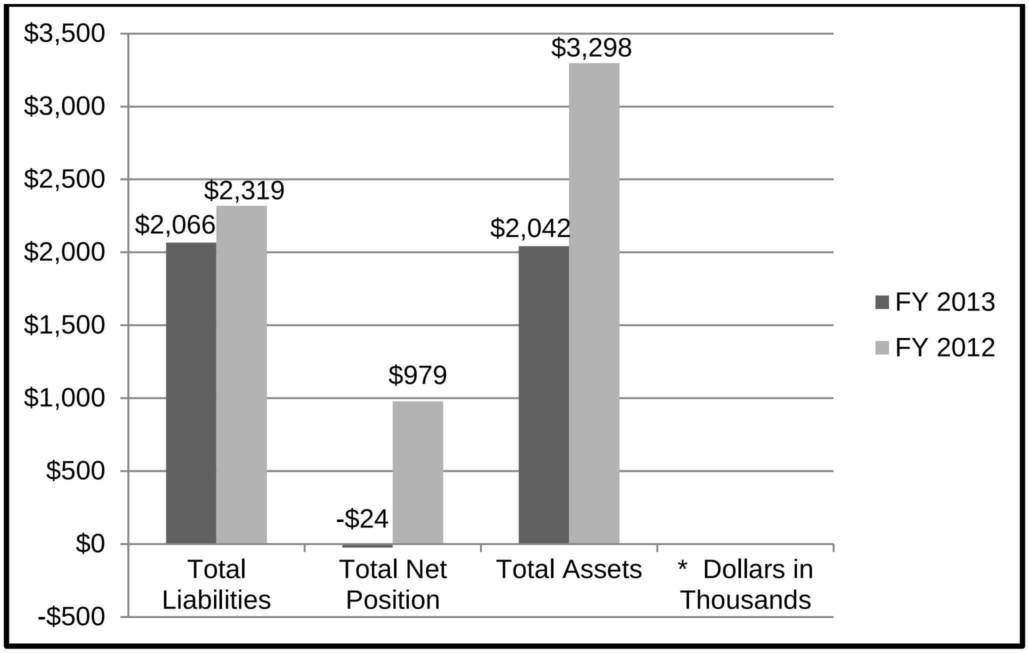
Consolidated Balance Sheet

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

OSC's balance sheets show total assets of $2,042,000 at the end of FY 2013. This is a decrease of $1,256,000 or approximately 38 percent, compared to OSC's total assets of $3,298,000 for FY 2012. Fund Balances with Treasury comprise 92% of OSC's assets.

Total Liabilities for OSC decreased by $253,000 from $2,319,000 in FY 2012 to $2,066,000 in FY 2013, a decrease of 11%. The two largest components of Total Liabilities are Unfunded Leave ($1,090,000) and Federal Employee and Veteran Benefits ($370,000) which both saw increases in FY 2013, while the next largest component, Accrued Funded Payroll and Leave ($274,000), experienced a decrease during FY 2013.

US Office of Special Counsel Balance Sheet



The Net Position is the sum of Unexpended Appropriations and the Cumulative Results of Operations. At the end of FY 2013, OSC's Net Position on its Balance Sheets and the Statement of Changes in Net Position is $-24,000, a decrease of $1,003,000 below the FY 2012 ending Net Position of $979,000. This decrease is due primarily to an increase in OSC's Cumulative Results of Operations for FY 2013 and a significant decrease in Unexpended Appropriations used the same year.

Combined Statements of Budgetary Resources

The Combined Statements of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY 2013, OSC received a $17,980,000 appropriation.

OSC ended FY 2013 with a decrease in total budgetary resources of $894,000, or 4 percent, below FY 2012. Most of this change is attributable to a $992,000 decrease in the amount of appropriations OSC received in FY 2013.

Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2013 and FY 2012 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position decreased last year by $1,003,000 below FY 2012.

Other Financial information

In FY 2013 OSC did not capitalize any new assets (OSC's capitalization policy has a threshold of capitalizing individual assets greater than $50,000.) due to sequestration and other considerations. As a result, OSC's total Property, Plant and Equipment acquisition value was $900,000, with accumulated depreciation of $609,000 and a 2013 Net Book value of $168,000. (Note 4 to Principal Financial Statements)

OSC had $692,000 fewer Current Year Total Obligations this year; $18,893,000 in FY 2013 as compared to $19,585,000 in FY 2012. (Note 10 to Principal Financial Statements)   This was due to OSC having a lower appropriation base to obligate against.

OSC recognizes Imputed Financing sources and corresponding expense to represent its share of the cost to the Federal Government of providing accrued pension and post-retirement health and life insurance benefits. These benefit expenses for current employees increased by $61,000, from $805,000 in FY 2012 to $866,000 in FY 2013.   Assets and Liabilities relating to these benefits are the responsibility of the Office of Personnel Management.

- The dollar amounts listed above are rounded to the nearest thousand, in accordance with the rounding on the Financial Statements.

- Percentages are rounded off to the nearest whole percentage.

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

- 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.

X. Endnotes

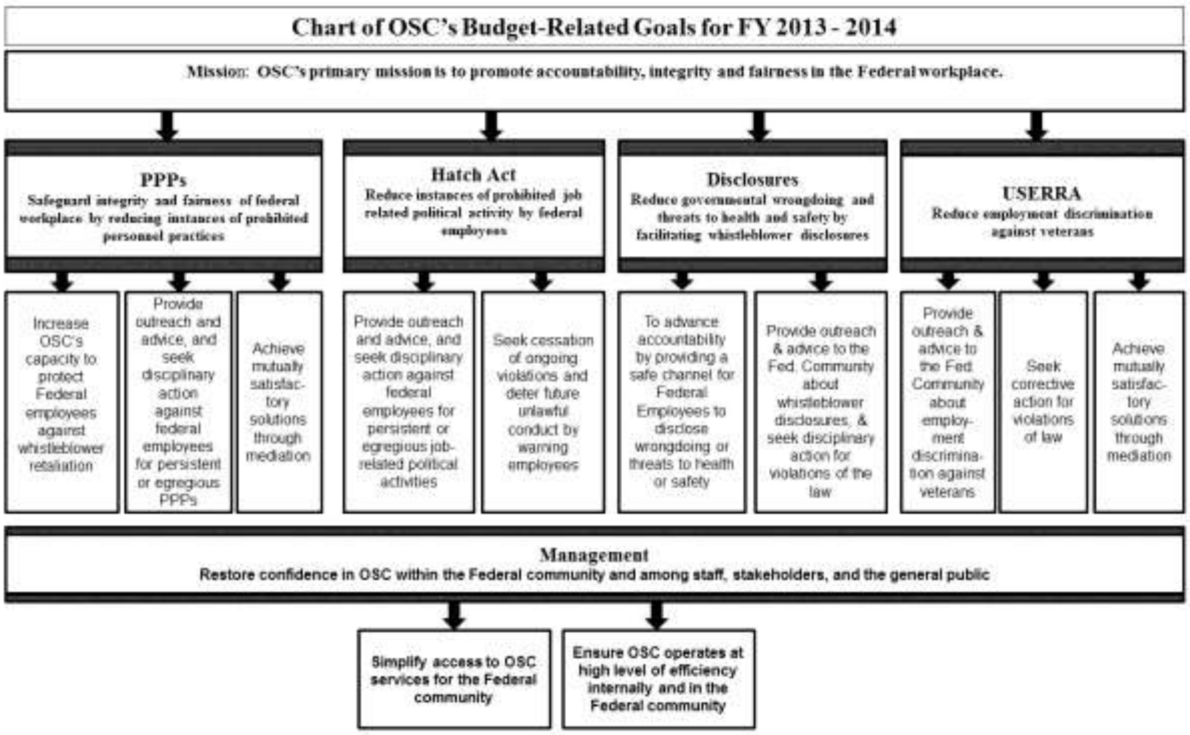
[1]Public Law No. 103-94 (1993), codified in Titles 5 and 12 of the United States Code.

[2]Public Law No. 103-353 (1994), codified at 38 U.S.C. § 4301, et. seq. The Veterans' Employment Opportunities Act (VEOA) of 1998 (Public Law No. 103-424) also expanded OSC's role in protecting veterans. The VEOA makes 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 section 2302(b)(11) was re-designated as section 2302(b)(12).)

[3]5 U.S.C. § 2302(c).

Part 2: Performance Section

The Performance Results Section presents detailed information on the annual performance results of programs related to OSC's four statutory responsibilities. A chart is provided for each performance goal showing OSC's results against the targets, along with the highlights for each objective.



Following the arrival of OSC's new Special Counsel in 2011, the agency developed a new strategic plan in FY 2012, updating its Mission Statement, Strategic Goals and Performance Measures. The rising levels of caseloads to come were not yet foreseeable, nor was their impact on operations. Two years later in FY 2013, OSC successfully met 42 out of 75 goals. Given the FY 2013 environment of rising caseloads and shrinking resources, we consider this to be a successful performance. OSC has been required to make difficult resource allocation decisions. OSC will recalibrate its goals to reflect these resource challenges.

Below are tables listing each of OSC's Performance Measures. The metrics they contain correspond to the appropriate Budget-Related Goals found in the chart above. Overall, OSC met, partially met, or exceeded 43/73, or 58% of its goals.

Prohibited Personnel Practices

OSC received the second highest level ever of PPP cases in FY 2013. The 2,936 complaints received represent a 13% increase over FY 2011 levels.

Even as the caseload has risen, the quality of the agency's work has improved, resulting in large numbers of cases referred for full investigations, netting significant results. OSC received a record-level 173 favorable actions in FY 2013, more than doubling the level of 2 years prior.

In FY 2013 OSC successfully met 13 out of its 28 stated PPP goals.

Goal Table 1 Safeguard integrity and fairness of Federal workplace by reducing instances of prohibited personnel practices

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
1	Number of corrective actions obtained by IPD	n/a	140	140	130	130		130	
2	Percent of corrective actions obtained per number of cases closed.	n/a	5%	5%	4%	5%		5%	
3	Number of cases referred for investigation from CEU to IPD (non-ADR)	n/a	75	83	87	87		95	
4	Number of informal stays requested	n/a	26	30	17	20		20	
5	Percent of informal stays obtained[5]	n/a	n/a[5]	n/a[5]	n/a[5]	TBD		TBD	
6	Number of formal initial stays requested	n/a	7	10	2	5		5	
7	Percent of formal initial stays obtained	n/a	100%	100%	100%	100%		100%	
8	Number of corrective actions obtained in cases referred for investigation directly from CEU to IPD	n/a	31	31	50	50		50	
9	Percent of corrective actions obtained per number of cases referred for investigation directly from CEU to IPD	n/a	41%	45%	57%	50%		50%	
10	Number of initial examinations completed by CEU within 120 days	n/a	1,716	1,801	1,576[10]	1,600		1,600	
11	Percent of initial examinations completed by CEU within 120 days	n/a	63%	66%	57%	57%		57%	
12	Number of CEU cases more than 240 days old	n/a	98	120	256	140		150	
13	Percent of CEU cases more than 240 days old[13]	n/a	3%	4%	9%	10%		11%	
14	Number of staff allocated to whistleblower retaliation and other PPPs	53	60	65	59	65		65	
15	Percent of total staff allocated to whistleblower retaliation and other PPPs	50%	50%	52%	53%	55%		55%	
16	Number of staff training programs in whistleblower retaliation and other PPPs	2	3	4	4	4		4	
17	Percent of cases qualifying for full investigation referred to ADR Unit for review	n/a	89%	89%	56%	65%		65%	

5. OSC has not yet established a procedure to automate, track, and report on this metric.
10. Additional case load, approximately 50% higher per employee, slowed down our efficiency in FY 2013.
13. Due to the sharp increase in PPP caseload, an increase in the number of aged cases will occur. The FY 2014 and FY 2015 targets were adjusted upward to reflect this reality.

Goal Table 2 Provide outreach and advice; seek disciplinary action against Federal employees for persistent or egregious prohibited personnel practices									
Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
18	Number of recommendations to agencies to take disciplinary action	n/a	n/a	6	19	12		12	
19	Number of disciplinary action complaints filed	n/a	0	1	0	1		1	
20	Number of disciplinary actions resolved pre-litigation through negotiated settlement	n/a	19	20	27	27		27	
21	Total number of successful disciplinary prosecutions	n/a	0	1	0	1		1	
22	Percent of successful disciplinary prosecutions	n/a	n/a	100%	0%	100%		100%	
23	Upon receipt of a complaint, clearly explain the OSC review process and when action can be expected[23]	n/a	99%	99%	99%	99%		99%	
24	Provide complainants status updates at defined intervals and when significant new developments occur[24]	n/a	88%	99%	80%	90%		92%[24]	
25	If OSC declines to refer a case for investigation, clearly inform complainant of the reason(s) why[25]	n/a	100%[24]	100%	82%	100%		100%	

23. Upon receipt of a complaint, clearly explain the OSC review process and when action can be expected:

Target: Since the third quarter of FY 2012, prepare an attachment for the acknowledgment letter explaining the complaint review process, and expected time for CEU to make a determination on the complaint. Since beginning fourth quarter FY 2012, all acknowledgment letters include the attachment. CEU Chief will provide senior management a list of files that do not include the attachment.

24. Provide complainants status updates at defined intervals and when significant new developments occur. The IT system is coded to generate this information. Since we cannot dedicate additional resources to maintain a 99% result, we feel that 92% (for FY 2015) is a substantial compliance with this goal target.

25. If OSC declines to refer a case for investigation, clearly inform complainant of the reasons why:

Target: Since the third quarter of FY 2012, and at the beginning of each FY thereafter, CEU Chief will meet with examiners to identify the information that should be included in preliminary determination and closure letters. CEU Chief will provide senior management a list of the files (by case number and name) lacking this information.

Result: The 2012 result of 100% was obtained from a combination of an automatic query of data in OSC 2000, and a manual count as well.

Alternative Dispute Resolution

FY 2013 was a banner year for the ADR Unit which set new agency records with 49 mediations conducted, a 23% increase over FY 2012, and 29 mediations that yielded settlement, a 61% increase over FY 2012.

Goal Table 3 Achieve mutually satisfactory solutions through mediation

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
26	Number of cases reviewed by the ADR Unit from all sources	n/a	186	190	155	185		200	
27	Percentage of cases reviewed in which mediation is offered from all sources	n/a	67%	63%	69%	65%		65%	
28	Number of cases mediated (including cases withdrawn after one or more sessions)	n/a	32	50	49	50		50	
29	Percentage of all mediations completed that resulted in settlement	n/a	56%	58%	62%	62%		62%	

Hatch Act

In FY 2013 the Hatch Act Unit experienced sharp decreases in complaints received and requests for advisory opinions which resulted in fewer complaints processed and advisory opinions issued. This trend can be attributed to the December 2012 Hatch Act Modernization Act, which narrowed the criteria for Hatch Act violations by state and local officials. The Hatch Act Unit will continue to track these numbers in the future to determine if this change is permanent.

The Hatch Act Unit successfully met 9 out of its 10 goals in FY 2013.

Goal Table 4 Provide outreach and advice; seek disciplinary action against Federal employees for persistent or egregious job-related political activity

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Target
30	Number of Hatch Act updates to OSC website or Listserv messages[30]	10	15	10	10	10		10	
31	Percent of cases obtaining corrective action[31]	n/a	92%	95%	92%	90%		90%	
32	Percent of appropriate cases resolved thru negotiation [32]	n/a	100%	100%	100%	100%		100%	
33	Number of successful prosecutions	n/a	1	1	1	1		1	
34	Percent of successful prosecutions	n/a	100%	100%	100%	100%		100%	

30. Message/Update Records: The Hatch Act Unit will keep track of how many messages and updates we complete each year.

31. Calculating corrective actions: Hatch Act Unit attorneys will keep track of cases where we try to achieve corrective action but are unsuccessful. We will then compare that number to the total number of corrective actions we achieve. For example, if we achieve 40 corrective actions and are unsuccessful in two attempts, we would calculate the percentage as 40/42 = 95% successful. The FY 2014 target for the number of warning letters issued was reduced from 95 to 90, due to the Hatch Act Modernization Act of 2012, which narrowed the criteria for Hatch Act violations at the state and local level. OSC anticipates a reduction in the number of Hatch Act complaints received and warning letters issued as a result of these changes. After FY 2015, the Hatch Act Unit will reassess the effects of the new legislation on complaints received and warning letters issued in order to provide an accurate estimate for FY 2016.

32. Calculating Disciplinary Actions: Hatch Act Unit attorneys will keep track of the number of unsuccessful attempts at settlements and compare that number to the total number of negotiated disciplinary actions we achieve.

Goal Table 5 Reduce instances of prohibited job-related political activity by Federal employees

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
35	Number of warning letters issued[35]	n/a	142	142	150	75[35]		75	
36	Percent of Hatch Act outreach/training requests accepted[36]	98%	98%	98%	100%	98%		98%	
37	Percent of oral and email advisories issued within 5 business days of receipt of complaint[37]	95%	99%	95%	98%	95%		95%	
38	Percent of formal written advisories issued within 120 days	n/a	95%	95%	95%	95%		95%	
39	Percent of formal written advisory requests responded to[39]	n/a	98%	98%	98%	98%		98%	

35. The FY 2014 target for the number of warning letters issued was reduced from 150 to 75, due to the Hatch Act Modernization Act of 2012, which narrowed the criteria for Hatch Act violations at the state and local level. OSC experienced a reduction in the number of Hatch Act complaints received and warning letters issued as a result of these changes and expects this trend to continue. After FY 2015, the Hatch Act Unit will reassess the effects of the new legislation on complaints received and warning letters issued in order to provide a more accurate estimate for FY 2016, a presidential election year when the numbers are expected to rise.

36. HA outreach records: The Outreach Coordinator retains a record of requests that are accepted and declined each year. One outreach request was denied in FY 2012 due to a shortage of resources. In addition, starting in FY 2013, the HAU Program Assistant will maintain a record of this information.

37. Oral and Email advisories: Hatch Act Unit attorneys will keep track of the number of oral and email advisories that take longer than five days to issue and compare that number to the total number for the year, to come up with the percentage.

39. Advisories: Compares intakes with number of advisories issued for fiscal year.

Whistleblower Disclosures

The Disclosure Unit cases have more than doubled in the last five years. In FY 2013, the unit received 1,128 disclosures, a near-record high and an increase of 22% increase from just two years prior. Despite this heavy workload and resource limitations imposed by sequestration, the Unit managed to review disclosures within 15 days in 49% of the cases. Overall, the Unit had a remarkably productive year, processing and resolving a record 1,139 cases, an 8% increase over last year's number.

The Disclosure Unit successfully met 2 out of its 7 measurable goals in FY 2013.

Goal table 6 Reduce governmental wrongdoing and threats to health and safety by facilitating whistleblower disclosures

	Description of Target	FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
40	Total number of outreach activities undertaken including dissemination of whistleblower information	n/a	9	9	2	5		5	
41	Success in prompting thorough agency investigations of referred disclosures[41]	n/a	68%	68%	77%	77%		77%	
42	Number of whistleblower disclosures prompting effective corrective action and accountability[42]	n/a	30	32	31	33		33	

41. This is taken from the subset of reports received that did not require a return action back to the agency involved. This captures only the percentage of investigations performed within the same fiscal year.

42. This reflects the number of cases closed in the fiscal year, in which an action code was entered signifying corrective action, disciplinary action, changes in agency policy, or cost-savings. These cases were closed in the given fiscal year, but may have been referred in a prior fiscal year. Due to the length of time our process takes, cases referred in one fiscal year can be closed in subsequent fiscal years.

Goal Table 7 Provide outreach and advice to the Federal community about Whistleblower Disclosures; seek corrective action

	Description of Target	FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
43	Number of whistleblower disclosures referred by OSC to agency head for investigation	n/a	39	41	51	50[43]		50	
44	Percent of whistleblower disclosures submitted to OSC referred to agency head for investigation	n/a	4%	6%	4%	6%[44]		6%	
45	Number of whistleblower disclosures either closed or referred within 15 day statutory timeline	n/a	583	590	578	580[45]		580	
46	Percent of whistleblower disclosures closed or referred within 15 day statutory deadline	n/a	55%	55%	49%	50%[46]		50%	
47	Expand Federal agency compliance with provisions of the Whistleblower Protection Act by invigorating the Certification Program under Section 2302c	n/a	n/a	Develop and redesign training materials	n/a[47]	Train agencies on redesigned materials		Train agencies on redesigned materials	
48	Survey of attendees at outreach events[48]	n/a	n/a[48]	Develop survey	n/a[48]	Survey 500 attendees		Survey 500 attendees	

43. The FY 2014 target was adjusted from 43 to 50 because the target was too low based on actual results.

44. The 2014 target was adjusted from 8% to 6% based on the projected increase of disclosures received and anticipated reduction in staff.

45. The 2014 target was adjusted from 596 to 580 based on the projected increase of disclosures received and reduction in staff.

46. The 2014 target was adjusted from 55% to 50% based on the projected increase of disclosures received and reduction in staff.

47. The FY 2012 result is n/a as OSC is starting this goal in FY 2013. The agency has not pursued this requirement yet as of FY 2013. The FY 2015 planned target is to increase number of certifications by 5%.

48. The FY 2012 result is n/a. The goal was for the survey to be developed in FY 2013. The agency has not completed this requirement yet.

USERRA Enforcement

In addition to enforcing its docket of USERRA Referral cases, OSC's USERRA Unit is currently performing a Demonstration Project, at the mandate of Congress, which resulted in an additional 138 USERRA cases in 2013. Unlike the Referral cases, which were always prosecuted, OSC investigates and prosecutes the Demonstration Project cases. This is a substantial increase in the USERRA Unit's scope and caseload. In FY 2013, a record 154 cases were resolved (the 154 number includes cases carried over from the prior year). OSC achieved a 25% favorable resolution rate, on par with the results from the prior Demonstration Project from 2005-2008.

The USERRA Unit successfully met 9 out of its 16 applicable goals in FY 2013.

Goal Table 8 Provide outreach and advice to the Federal community about employment discrimination against veterans

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
49	Number of staff allocated	n/a	2	3	3	3		3	
50	Percent of staff allocated	n/a	25%	37%	37%	50%		50%	

Goal Table 9 Seek disciplinary or corrective action for violations of law

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
51	Number of favorable resolutions	n/a	29	30	40	35[51]		35[51]	
52	Percentage of favorable resolutions	n/a	24%	24%	24%	24%		24%	
53	Number of investigations within 90 days	n/a	59	60	59	60[53]		60[53]	
54	Percentage of investigations within 90 days	n/a	63%	63%	42%	50%[54]		50%[54]	
55	Number of legal reviews within 60 days	n/a	32	33	30	32[55]		32[55]	
56	Percent of legal reviews within 60 days	n/a	76%	76%	83%	76%		76%	
57a	Customer service exit survey findings	n/a	45%	47%	50%[57a]	50%		50%	
57b	Percent of cases received by USERRA Unit referred to ADR Unit for review	n/a	18%	50%	34%	50%		50%	

51. Due to the record number of cases closed, the targets for 2014 and 2015 were increased from 31 to 35. All 2014 and 2015 Targets in this section are predicated on Congress continuing OSC's role in investigating half of Federal USERRA complaints.

53. Due to the loss of 13% of staff, and loss of work hours due to sequestration and furlough, plus a record number of cases closed, the targets for 2014 and 2015 were reduced from 61 to 60.

54. Due to the loss of 13% of staff, and loss of work hours due to sequestration and furlough, plus a record number of cases closed, the targets for 2014 and 2015 were reduced from 63% to 50%.

55. Due to the loss of 13% of staff, and loss of work hours due to sequestration and furlough, plus a record number of cases closed, the targets for 2014 and 2015 were reduced from 34 to 32.

57a. In FY 2013, 50% of those surveyed were very satisfied, satisfied, or neutral regarding OSC's level of service.

Goal Table 10		Achieve mutually satisfactory solutions through USERRA mediation							
Description of Target		**FY 2012 Target**	**FY 2012 Result**	**FY 2013 Target**	**FY 2013 Result**	**FY 2014 Target**	**FY 2014 Result**	**FY 2015 Target**	**FY 2015 Result**
58	Number of USERRA cases referred to ADR unit for review[58]	n/a	17	58	47	47		47	
59	Percent of cases referred by USERRA to the ADR Unit for review in which mediation was offered	n/a	82%	60%	66%	65%		65%	
60	Percent of cases in which both parties agree to mediate	n/a	50%	50%	48%	50%		50%	
61a	Number of cases withdrawn prior to mediation	n/a	0	n/a	5	n/a		n/a	
61b	Number of cases mediated	n/a	2	17	11	7		7	
61c	Percent of cases successfully mediated	n/a	100%	58%	100%	75%		75%	

58. The ADR Unit started reviewing referrals in May 2012. All 2014 and 2015 Targets in this section are predicated on Congress continuing OSC's role in investigating half of Federal USERRA complaints.

Management

The OSC adopted a management goal to "restore confidence within the Federal community and among staff, stakeholders, and the general public." This is a two part goal that includes ensuring OSC operates at a high level of efficiency internally and in the Federal community, and simplifying access to OSC services for the Federal community. Our management goals are overarching goals, which when met contribute to the overall success of the agency and all its programs.

In the Management goals area for FY 2013, OSC successfully met or partially met 10 out of 12 goals.

Goal Table 11 Ensure OSC operates at a high level of efficiency internally and in the Federal community

Description of Target		FY 2012 Target	FY 2012 Result	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
62	Establish Individual Development Plans (IDPs) for all employees to identify skills and gaps	Start Classification Study	Met	Conduct Requirements Assessment	Met	Build Templates and Implement IDPs		Build Templates and Implement IDPs	
63	Identify targeted training to mitigate skills gaps	Conduct Annual Survey	Met	Conduct Annual Survey	Met	Conduct Annual Survey		Conduct Annual Survey	
64	Percent of employees using telework and alternative schedule options; to provide employees with flexibility	55%	71%	70%	84%	70%		70%	
65	Percent of employees that participate in the annual Federal Employee Viewpoint Survey on their job satisfaction	75%	92%	86%	86%	90%		90%	
66	Improve the functionality of the case tracking system	See Footnote[66]	Met	See Footnote[66]	Met	See Footnote[66]		See Footnote[66]	
67	Number of congressional staff or member contacts to strengthen covered laws and improve oversight and accountability	10	25	30	40	40		40	
68	Number of amicus briefs, SOI interventions, or other submissions concerning the scope or contours of the laws that OSC enforces.	2	2	2	3	2		2	

66. IT supported 24 system change requests in FY 2013. OSC's case tracking system and its canned reports are constantly being improved upon and updated. The improvements made to the functionalities in the case tracking system are often the result of change requests and new requirements from the program offices. IT aims to meet Six Sigma perfection (our disciplined, data-driven approach and methodology for eliminating defects) in the implementation of the change requests for the case-tracking.

Goal Table 13 Simplify access to OSC services for the Federal community

	Description of Target	FY 2013 Target	FY 2013 Result	FY 2014 Target	FY 2014 Result	FY 2015 Target	FY 2015 Result
69	Upgrade look, feel, and user friendliness of website and keep it current.	See footnote[69]	Partially Met[69]	Launch redesigned website		[9]Maintain and update for improvements	
70	Survey user community to gauge strengths and weaknesses of website	See footnote[70]	Unmet	See footnote[70]		See footnote[70]	
71	Issue press releases on major agency activities and results in cases; maintain dialogue with news media	See footnote[71]	Met	See footnote[71]		See footnote[71]	
72	Make use of Twitter and social media	See footnote[72]	Partially met	See footnote[72]		See footnote[72]	
73	Conduct biannual surveys of Federal community to gauge OSC name and mission recognition	Develop survey; Receive survey approval	Unmet	Conduct survey; Implement changes based on survey findings		Conduct survey; Implement changes based on survey findings	

69. Target FY 2013 – – Implement website design, work out problems and begin to get results from users. OSC expects the design firm to deliver its product by spring and to have the new website implemented and public by the end of fiscal 2013.

Results for FY 2013 – Numerous problems with the website contractor and technical glitches with the e-filing system and other components of the new website delayed the rollout of the website. New goal is to roll out the website January 1, 2014.

Target FY 2014 – Conduct survey of users to determine ongoing weak spots and to fix/improve them.

70. Target FY 2013 – Will have many in-house and external users testing new website as the design is implemented.

Results FY 2013 – Since the website production itself was delayed, the survey of a user community was also delayed.

Target FY 2014 – Will conduct survey of users and hope to put website through some kind of external, possibly GSA, test or survey as well.

Narrative: OSC invited various stakeholders to give OSC feedback on its website. We have completed outreach to numerous nonprofits, unions, management organizations and veterans' organizations and have included website queries in these meetings. We have incorporated their feedback and the feedback of numerous government IT people from various agencies into our website goals and specifications. We will continue this outreach and incorporate feedback into website improvements.

71: Target: 2013 – 30 Tweets, 100 followers, and 550 media calls fielded. Continue to leverage phone, Twitter and e-mail contact with media. Continue to build press list and groupings of reporters by content area into Outlook. Continue to issue and disseminate press releases on all possible areas of OSC activity.

Result FY 2013 – OSC continued to issue press releases on all appropriate cases and fielded roughly 150 media calls in FY 2013. Given this was an off-year for electoral politics/Hatch Act activity, the number of press releases issued fell slightly from FY 2012. However, more PPP and USERRA cases are being publicized, a trend OSC intends to continue.

Target: 2014 - 30 Tweets, 100 followers, and 550 media calls fielded; will look for areas of improvement beyond above.

Narrative: OSC currently issues between 15 to 30 press releases a year, depending on the activity, caseload, and what cases warrant a news release. These releases are tweeted, posted on the website, and e-mailed to reporters as well as to stakeholder organizations and people, such as nonprofits, management organizations, veterans' groups and labor unions. OSC's Communications Manager speaks with members of the news media on a daily basis.

72: Target FY 2013 – Increase number of Tweets over previous fiscal year. Observe other small government agencies' Twitter accounts for examples of best practices/innovative ways to communicate with public.

Results FY 2013 – OSC Twitter presence continued to expand, with 123 followers. In keeping with the press release slowdown, the number of tweets in FY 2013 was slightly below the numbers for FY 2012.

Target FY 2014 – Same as FY 2013 target – Same as FY 2013 target – look for better ways to reach out and increase amount of traffic.

Narrative: OSC includes information on Twitter only if it also available on the OSC website, according to guidelines from the General Counsel. Given that stipulation and the potential for inappropriate commentary from outside users on Facebook, OSC has not yet launched a Facebook account. OSC will likely launch a YouTube account this fiscal year and incorporate videos from that into its new website.

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

December 13, 2013

This letter 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. Overall, the financial statement received an unqualified opinion, with no material weaknesses or significant deficiencies. We feel that during FY 2013 OSC has made strides towards improving internal financial processes.

The FY 2012 audit report identified one matter involving internal controls that the auditors considered significant, regarding the need for improvements on the Official Personnel Folders documentation. This year OSC implemented significant control improvements to address this matter and it has been removed as a significant deficiency for FY 2013. A 100% review of Official Personnel Folders was conducted initially. Since then OSC conducted periodic reviews and quality control checks of OPFs, to include employee benefit elections as well as other OPF areas. We also placed strong emphasis on the New Employee Orientation (NEO) to ensure all appropriate employee documents were distributed, completed, and returned. Overall, this focus has helped improve the accuracy of these files, resulting in removal of this matter as a significant deficiency.

OSC plans to continue with these improvement actions going forward, in order to continue improving the accuracy of these files.

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

Aside from the matter discussed above, we believe the recommendations for improvement pointed out during the FY 2012 audit have been fully addressed.

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

Sincerely,

Karl P. Kammann

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

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Independent Auditors' Report

Special Counsel
U.S. Office of Special Counsel

We have audited the accompanying consolidated balance sheet of the U.S. Office of Special Counsel (OSC) as of September 30, 2013 and 2012, and the related consolidated statements of net cost, changes in net position, and combined statement of budgetary resources for the year then ended (hereinafter referred to as "consolidated financial statements"). The objective of our audits was to express an opinion on the fair presentation of these consolidated financial statements. In connection with our fiscal year 2013 audit, we also considered OSCs' internal controls over financial reporting and tested OSCs' compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on these consolidated financial statements.

Summary

As stated in our opinion of the consolidated financial statements, we concluded that OSC consolidated financial statements as of and for the years ended September 30, 2013 and 2012, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

We did not identify any deficiencies in internal control over financial reporting we considered to be a material weakness or significant deficiency as defined in the *Consideration of Internal Control* section of this report.

Our test of compliance with certain provisions of laws and regulations did not disclose any instances of non-compliance.

The following sections discuss our opinion on OSC consolidated financial statements; our considerations of OSC internal control over financial reporting; our tests of OSC compliance with certain provisions of applicable laws and regulations; and management's and our responsibilities.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of OSC as of September 30, 2013 and 2012, and related consolidated statements of net costs and changes in net position, and combined statements of budgetary resources for the years then ended.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of OSC as of September 30, 2013 and 2012, and its net costs, changes in net position, and budgetary resources for the year then ended in conformity with U.S. general accepted accounting principles.

The information in the *Management and Discussion Analysis* section of this report is not a required part of the basic financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However we did not audit this information and, accordingly, we express no opinion on it.

Consideration of Internal Control

A control deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatement on a timely basis. A significant deficiency is a control deficiency or a combination of control deficiencies, that adversely affects OSCs' 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 OSC's financial statements that is more than inconsequential will not be prevented or detected. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

Our consideration of internal control over financial reporting was for the limited purpose described in the *Responsibilities* section of this report and was not designed to identify all deficiencies in internal control over financial reporting that might be a control deficiency, significant deficiency, or material weakness. In our fiscal year 2013 audit, we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness or significant deficiency, as defined above.

Exhibit I presents the status of prior year significant deficiency.

We noted certain additional matters that we have reported to OSC management in a separate letter dated December 6, 2013.

Compliance with Applicable Laws and Regulations

The results of our tests of compliance as described in the Responsibilities section of this report, disclosed no instances of noncompliance or other matters that are required to be reported herein under Government Auditing Standards or OMB Bulletin No. 14-02.

Responsibilities

Management Responsibilities: Management is responsible for the consolidated financial statements; establishing and maintaining effective internal control over financial reporting; and complying with laws and regulations applicable to OSC.

Auditors' Responsibilities: Our responsibility is to express an opinion on the fiscal year 2013 and 2012 consolidated financial statements of OSC based on our audits. We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and OMB Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. 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 the consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for expressing an opinion on the effectiveness of OSC internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements.
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2013 audit, we considered OSC's internal control over financial reporting by obtaining an understanding of OSC's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the consolidated financial statements, but not to provide an opinion on the effectiveness of OSC internal control over financial reporting. Accordingly we do not express an opinion on OSC's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 14-02. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

As part of obtaining reasonable assurance about whether OSCs' fiscal year 2013 consolidated financial statements are free of material misstatements, we performed test of OSCs' compliance with certain provisions of laws and regulations, which noncompliance with could have a direct and material effect on the determination of the consolidated financial statement amounts, and certain provisions of other laws specified in OMB Bulletin 14-02.

This report is intended solely for the information of OSC management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

Allmond & Company, LLC

December 6, 2013

Exhibit I
Status of Prior Year Findings and Recommendations

The following table provides the fiscal year (FY) 2013 status of all recommendations included in the Independent Auditors' Report on the U.S. Office of Special Counsel's FY 2012 Consolidated Financial Statements (November 14, 2012).

FY 2012 Finding	FY 2012 Recommendation	FY 2013 Status
1. Lack of Sufficient Controls over Supporting Documentation for Personnel Expenses – Significant Deficiency	**Recommendation:** OSC update its control over the maintenance of its personnel files. Additionally, management should perform a thorough review of its employees' personnel files to ensure that documentation is complete and accurate.	Open and Revised to Control Deficiency

U.S. OFFICE OF SPECIAL COUNSEL

Fiscal Year 2013
Financial Statements

Office of Special Counsel
Balance Sheet
As of September 30, 2013 and 2012
(dollars in thousands)

	2013	2012
Assets		
Intragovernmental		
Fund Balance With Treasury (Note 2)	$ 1,872	$ 3,004
Total Intragovernmental	1,872	3,004
Assets With the Public		
Accounts Receivable, Net (Note 3)	2	3
General Property, Plant, and Equipment, Net (Note 4)	168	291
Total Assets	$ 2,042	$ 3,298
Liabilities		
Intragovernmental		
Employer Contributions and Payroll Taxes Payable	77	186
Unfunded FECA Liability (Note 5)	71	70
Other Unfunded Employment Related Liability	10	5
Total Intragovernmental	158	261
Liabilities With the Public		
Accounts Payable	45	70
Federal Employee and Veteran Benefits (Note 5)	370	256
Other		
Accrued Funded Payroll	274	721
Employer Contributions and Payroll Taxes Payable	4	30
Unfunded Leave (Note 5)	1,090	981
Contingent Liabilities (Note 7)	125	-
Total Liabilities	$ 2,066	$ 2,319
Net Position		
Unexpended Appropriations-Other Funds	1,471	1,996
Cumulative Results of Operations-Other Funds	(1,495)	(1,017)
Total Net Position	$ (24)	$ 979
Total Liabilities And Net Position	$ 2,042	$ 3,298

The accompanying notes are an integral part of these financial statements.

Office of Special Counsel
Statement of Net Cost
For the Years Ended September 30, 2013 and 2012
(dollars in thousands)

	2013		2012	
Gross costs (Note 9)	$	20,216	$	20,665
Less: Total Earned Revenue		557		643
Net Cost of Operations	$	19,659	$	20,022

The accompanying notes are an integral part of these financial statements.

Office of Special Counsel
Statement of Changes in Net Position
For the Years Ended September 30, 2013 and 2012
(dollars in thousands)

		2013		2012
Cumulative Results of Operations:				
Beginning Balances	$	(1,017)	$	(866)
Beginning Balances, as Adjusted		(1,017)		(866)
Budgetary Financing Sources:				
Appropriations Used		18,315		19,066
Other Financing Sources (Non Exchange):				
Imputed Financing (Note 8)		866		805
Total Financing Sources		19,181		19,871
Net Cost of Operations		(19,659)		(20,022)
Net Change		(478)		(151)
Cumulative Results of Operations	$	(1,495)	$	(1,017)
Unexpended Appropriations:				
Beginning Balances	$	1,996	$	3,059
Beginning Balances, as Adjusted		1,996		3,059
Budgetary Financing Sources:				
Appropriations Received		18,972		18,972
Appropriations Used		(18,315)		(19,066)
Other Adjustments		(1,182)		(969)
Total Budgetary Financing Resources		(525)		(1,063)
Total Unexpended Appropriations	$	1,471	$	1,996
Net Position	$	(24)	$	979

The accompanying notes are an integral part of these financial statements.

Office of Special Counsel
STATEMENT OF BUDGETARY RESOURCES
For the Years Ended September 30, 2013 and 2012
(dollars in thousands)

	2013	2012
Budgetary resources:		
Unobligated balance brought forward, October 1	$ **597**	$ 1,134
Unobligated balance brought forward, October 1, as adjusted	597	1,134
Recoveries of prior year unpaid obligations	334	402
Other changes in unobligated balance	(190)	(969)
Unobligated balance from prior year budget authority, net	741	567
Appropriations (discretionary and mandatory)	17,980	18,972
Spending authority (discretionary and mandatory)	567	643
Total budgetary resources	$ 19,288	$ 20,182
Status of budgetary resources:		
Obligations incurred (Note 10):	$ 18,893	$ 19,585
Apportioned	108	164
Unapportioned	287	433
Total unobligated balance, end of year	395	**597**
Total budgetary resources	$ 19,288	$ 20,182
Change in obligated balance:		
Unpaid obligations:		
Unpaid obligations, brought forward, October 1 (gross)	$ 2,407	$ 2,872
Obligations incurred	18,893	19,585
Outlays (gross)	(19,489)	(19,648)
Recoveries of prior year unpaid obligations	(334)	(402)
Unpaid obligations, end of year (gross)	1,477	2,407
Memorandum (non-add) entries:		
Obligated balance, start of year	$ 2,407	$ 2,872
Obligated balance, end of year	$ 1,477	2,407
Budget Authority and Outlays, Net		
Budget authority, gross (discretionary and mandatory)	$ 18,547	$ 19,615
Actual offsetting collections (discretionary and mandatory)	(567)	(643)
Budget authority, net (discretionary and mandatory)	$ 17,980	$ 18,972
Outlays, gross (discretionary and mandatory)	$ 19,489	$ 19,648
Actual offsetting collections (discretionary and mandatory)	(567)	(643)
Outlays, net (discretionary and mandatory)	18,922	19,005
Agency outlays, net (discretionary and mandatory)	$ 18,922	$ 19,005

The accompanying notes are an integral part of these financial statements.

OFFICE OF SPECIAL COUNSEL
Washington, D.C.

Notes to Principal Financial Statements
As of and for the Years Ended
September 30, 2013 and 2012

Office of Special Counsel
Notes to Principal Financial Statements
As of and for the Years Ended September 30, 2013 and 2012

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 119 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

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. Additionally, the government, acting in its sovereign capacity, can abrogate liabilities.

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

J. Accounts Payable

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

K. Annual, Sick, and Other Leave

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

L. Accrued Workers' Compensation

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

M. Retirement Plans

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

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

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

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

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

N. Net Position

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

O. Imputed Costs/Financing Sources

Federal government entities often receive goods and services from other Federal government entities without reimbursing the providing entity for all the related costs. In addition, Federal government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. OSC recognized imputed costs and financing sources in fiscal years 2013 and 2012 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 2012 amounts have been reclassified to conform to the FY 2013 financial statement and footnote presentations.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2013 and 2012 were:

(dollars in thousands)

Fund Balance:		**2013**		**2012**
Appropriated Funds (general)	$	1,872	$	3,004
Total Fund Balance with Treasury	$	1,872	$	3,004

Status of Fund Balance with Treasury				
Unobligated Balance:				
Available	$	108	$	164
Unavailable		287		433
Obligated Balance Not Yet Disbursed		1,477		2,407
Total Status of Fund Balance with Treasury	$	1,872	$	3,004

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, 2013 and 2012 were as follows:

(dollars in thousands)		**2013**		**2012**
Accounts Receivable from the Public:				
Billed:				
Current	$	2	$	3
Total Accounts Receivable		2		3
Accounts Receivable from the Public, Net	$	2	$	3

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, Plant and Equipment account balances as of September 30, 2013 and 2012 were as follows:

(dollars in thousands)	**Service Life**		**Acquisition Value**		**Accumulated Depreciation**		**2013 Net Book Value**		**2012 Net Book Value**
Office Equipment	5 yrs		627		(541)		86		179
Leasehold Improvements	10 yrs		273		(191)		82		112
Total		$	900	$	(732)	$	168	$	291

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on OSC's Balance Sheet as of September 30, 2013 and 2012 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)		2013		2012
Intragovernmental:				
Unfunded FECA Liability		71		70
Other unfunded employment related liability		10		5
Total Intragovernmental		81		75
Public Liabilities:				
Federal Employee and Veteran Benefits		370		256
Unfunded Annual Leave		1,090		981
Contingent Liabilities		125		-
Total Liabilities Not Covered by Budgetary Resources	$	1,666	$	1,312
Total Liabilities Covered by Budgetary Resources		400		1,007
Total Liabilities	$	2,066	$	2,319

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 2013 and 2012 were approximately $71 and $70 respectively. Unfunded Employment liabilities for 2013 were $10 and $5 for 2012. The actuarial calculation is based on benefit payments made over 12 quarters, and calculates the annual average of payments. The actuarial FECA liabilities for 2013 and 2012 were approximately $370 and $256 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 Dallas lease term began on December 9, 2002 and expires on December 8, 2017; at lease renewal a 4% increase is estimated. The current Oakland lease was renewed in February 2011 for a period of 10 years through June 2021, with a market rate reset occurring on July 2016, estimated at a 4% increase in the first year and 1% thereafter. The Detroit lease is through November 2020; lease rates will reset to market rates on November 2015, estimated at a 4% increase in the first year and 1% thereafter.

Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Escalation cost estimates for Oakland and Dallas for market rate resets and lease renewals have been factored in.

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

(dollars in thousands)

Fiscal Year		Total
2014		1,750
2015		1,770
2016		1,799
2017		1,821
2018		1,845
Total Future Lease Payments	$	8,985

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.

For the fiscal years ended September 30, 2013 and 2012, contingencies were $125 and $0, respectively.

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 years ended September 30, 2013 and 2012, respectively, imputed financing from OPM were approximately $866 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)

		2013		2012
Investigations and Enforcements				
Intragovernmental Costs	$	6,508	$	3,660
Public Costs		13,708		17,005
Total Investigations and Enforcements	$	20,216	$	20,665
Intragovernmental Earned Revenue	$	557	$	643
Total Intragovernmental Earned Revenue	$	557	$	643

NOTE 10. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred reported on the Statement of Budgetary Resources in 2013 and 2012 consisted of the following:

(dollars in thousands)		2013		2012
Direct Obligations:				
Category B	$	18,893	$	19,585
Total Obligations Incurred	$	18,893	$	19,585

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 FY13 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2014 and can be found at the OMB website: http://www.whitehouse.gov/omb. The 2014 Budget of the United

States Government, with the actual column completed for 2012, 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, 2013 and 2012, undelivered orders amounted to approximately $1,078 thousand and $1,401.

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, 2013 and 2012
(dollars in thousands)

	2013	2012
Resources Used to Finance Activities		
Current Year Gross Obligations	$ 18,893	$ 19,585
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Earned	(567)	(643)
Change in Unfilled Customer Orders	-	(402)
Recoveries of Prior Year Unpaid Obligations	(334)	-
Other Financing Resources		
Imputed Financing Sources	867	805
Total Resources Used to Finance Activity	18,859	19,345
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	323	524
Components of Net Cost which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect		
Other Financing Sources Not in the Budget	(867)	(805)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	122	115
Future Funded Expenses	115	62
Imputed Costs	867	805
Other Expenses Not Requiring Budgetary Resources	240	(24)
Net Cost of Operations	$ 19,659	$ 20,022

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