FY 2014 Performance and Accountability Report

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TABLE OF CONTENTS

A Message from the Special Counsel

I am pleased to present the Performance and Accountability Report for Fiscal Year (FY) 2014 for the U.S. Office of Special Counsel (OSC).

OSC is responsible for promoting accountability, integrity, and fairness in the federal workplace and upholding the federal merit system. OSC makes a real difference in the lives of the American people by saving taxpayers millions of dollars, protecting public health and safety, and increasing the confidence of the public and the federal community in their government.

OSC has experienced a remarkable rise in demand for its services. Healthcare issues at the Department of Veterans Affairs (VA) and reprisals against VA whistleblowers were the primary driver for increasing caseloads. This past year OSC received 5,236 new matters, a 17 percent increase over FY 2013, and the first time the agency's caseload exceeded 5,000. The 3,371 new prohibited personnel practice (PPP) complaints (+15 percent) and 1,554 whistleblower disclosures about wrongdoing in government (+38 percent) were both at record levels.

More significantly, OSC set new records in achieving favorable results in PPP cases, mediated settlements, whistleblower disclosures, and disciplinary actions brought in Hatch Act cases. OSC has taken the lead in working with whistleblowers and the new leadership at the VA to identify quality of care issues and improper scheduling practices at VA health facilities, helping the government make good on its solemn commitment to veterans. OSC has also worked on behalf of service members and reservists returning to civilian life, achieving near record favorable results under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

In FY 2014, OSC was instrumental in saving the government tens of millions of dollars, particularly by bringing increased oversight to the widespread abuse of Administratively Uncontrollable Overtime at components of the Department of Homeland Security. OSC also broke new ground this year: In addition to filing amicus curiae briefs in federal courts of appeals on pivotal issues for whistleblowers, OSC filed its first amicus brief with the U.S. Supreme Court in a case critical to ensuring that government agencies do not unilaterally strip federal employees of whistleblower protections granted by Congress.

By almost any measure, OSC is moving forward. However, successfully managing the dramatic increase in demand for OSC's services poses a significant challenge. In effect, OSC is a victim of its own success. As the agency's reputation for delivering results grows, so too does its caseload. While Congress has increased OSC's appropriation in the coming year to help us increase the number of positive results and resolve more cases, we continue to struggle to meet the surging demand.

That said, I am pleased to report very strong results, which include a clean opinion with no material weaknesses, for the agency's FY 2014 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's management team and staff are dedicated to successfully fulfilling our agency's mission of uprooting waste and fraud, protecting the employment rights of federal employees and returning 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
November 17, 2014

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 Department of Homeland Security agents report massive abuses of overtime pay, Federal Aviation Administration air traffic controllers witness dangerous flight practices, Department of Veterans Affairs professionals observe unsafe practices in hospitals, or when Defense Department 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 interest disclosures, and from 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 (MSPB or 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, when appropriate, OSC 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 has three field offices located in Dallas, Detroit, and Oakland. 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 around 3,000 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 a Headquarters operation and the three 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 of wrongdoing 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 to report its findings to the Special Counsel, or closure without further action. Unit attorneys review each agency report of investigation to determine its sufficiency and reasonableness; the Special Counsel then sends her determination, the report, and any comments by the whistleblower to the President and responsible congressional oversight committees, and these are posted to an online public file.

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 (2011-2014), the USERRA Unit also investigated more than half the federal USERRA cases filed with the DOL.)

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 contacts 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 2014 was an especially busy year for the Office of Special Counsel, in large part due to a rapidly rising caseload caused mostly by an extraordinary number of whistleblower disclosures and retaliation complaints by employees of the VA. Along with receiving 750 more total new matters in FY 2014 (a 17 percent increase), OSC received 428 more whistleblower disclosures than in FY 2013 (a 38 percent increase), achieving the highest totals for these two categories in the agency's history. OSC had to manage this caseload amidst the challenges of the October government shutdown and with limited resources under an extended continuing resolution. I am pleased to report that OSC successfully fulfilled its mission of enforcing merit system principles and safeguarding accountability, integrity, and fairness in the federal workplace despite these constraints.

During FY 2014 many records were achieved: OSC achieved 174 favorable actions in response to prohibited personnel practices (PPP) complaints and 136 favorable actions in response to reprisal for whistleblowing, both new records for the agency. Mediation settlements were more than double the average year at OSC. OSC also referred a record 90 whistleblower disclosure cases to agency heads for investigation in FY 2014, more than twice an average year's referrals. The fifteen disciplinary actions under the Hatch Act that settled were also a new agency record. Excluding the government shutdown, OSC resolved cases at a record rate.

Ultimately it is not about the records achieved, it is the results those numbers represent. Throughout the year, OSC was heavily involved in whistleblowers' efforts to improve the quality of care at veterans' medical facilities throughout the country. OSC proactively engaged with whistleblowers, VA leadership, and Congress to address deficiencies in medical care for veterans and protect whistleblowers from retaliation. More significantly, the new VA leadership made very constructive efforts to work with OSC to provide relief to whistleblowers which was encouraging to VA whistleblowers. OSC's work has spurred systemic reforms of the VA's internal oversight, and significant relief for VA whistleblowers.

OSC also continued to help employees from other federal agencies. For example, OSC resolved a dispute between the Marine Corps and a civilian science advisor who revealed that Humvees provided U.S. troops in Iraq did not protect them from roadside bombs. The whistleblower's disclosure led to the replacement of the Humvees with Mine Resistant Ambush Protected (MRAP) trucks which have been credited with saving hundreds of troops' lives.[1] The mediated settlement reached by the parties under OSC's auspices helped the officer return to work and created an internal group tasked with crafting guidance for Marines and civilian employees on their whistleblower rights.

OSC filed its first ever amicus curiae (friend of the court) brief in the U.S. Supreme Court in FY 2014 on a matter critical to whistleblower protection. At issue is whether an agency's unilateral rules limiting employee disclosures trump statutory whistleblower protections granted by Congress.

OSC also concluded a three-year USERRA Demonstration Project in support of veterans. During the course of the project, OSC received over 464 cases, resolved 400 to date, and achieved favorable actions in 25 percent of these cases benefitting veterans.

[1] USA Today article: http://www.usatoday.com/story/news/nation/2014/09/25/franz-gayl-mraps-marine/16225499/

The following is a brief summary by program area.

Prohibited Personnel Practices (PPPs)
OSC's strategic goal is to significantly reduce the number of PPPs 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 2014, OSC met its percentage goal for obtaining corrective actions in referred cases while handling its largest total number of PPP complaints ever.

Whistleblower Disclosures
OSC's goal is to provide a safe and 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 90 disclosures to agency heads for investigation in FY 2014.

USERRA
The USERRA program's goal is to reduce employment discrimination against veterans and reservists in federal service. Under the three-year Demonstration Project which ended in August 2014, OSC investigated more than half the job discrimination complaints filed with the Department of Labor. Additionally, OSC handled all federal USERRA actions that were referred for possible prosecution. OSC (1) provided outreach and advice to the federal community about employment discrimination against veterans; (2) investigated allegations of discrimination and sought corrective and/or disciplinary action for violations of law; and (3) achieved mutually satisfactory solutions through mediation. In FY 2014 OSC obtained 28 favorable resolutions to USERRA violations.

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 2014 ADR achieved an overall settlement rate of 79 percent of its cases, a new record.

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 impermissible 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 three disciplinary action complaints with the Merit Systems Protection Board and accepted 100 percent of training requests it received from other government agencies to educate their personnel and avoid violations.

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. FY 2013 and FY 2014 have been banner years for the agency; during that two-year period, OSC resolved more new cases, achieved more favorable actions in response to PPP complaints and whistleblower reprisals, and settled more cases through mediation than in any other two-year period in OSC's history. The same is true for the number of whistleblower disclosures received and the number of OSC referrals of disclosures to federal agency heads.

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

OSC improves the efficiency and accountability of government in many ways, and it returns substantial sums of money to the U.S. Treasury. If FY 2014 trends continue, the agency would receive 1,500 disclosure complaints from federal whistleblowers annually; many of these complaints result in enormous direct financial returns to the government, and even greater indirect benefits in harm avoided or reduced. OSC not only ensures that disclosures are properly considered, it protects the whistleblowers who bring them forward. For example, last year OSC successfully protected a government contracting officer threatened with suspension in reprisal for disclosing $20 million in contractor waste, fraud, and abuse.

Cost Savings

The real measure of OSC's financial contribution is preventative: By providing a safe channel for whistleblower disclosures, OSC regularly reins in waste, fraud, abuse, and threats to public health and safety that pose very real risks of catastrophic harm to the public, and huge remedial and liability costs for the government. For example, in the last few years, OSC has referred for investigation and remediation numerous, harrowing disclosures from FAA employees who blew the whistle on systemic failures in air traffic control and the oversight of airline safety. And when an air traffic controller suffered retaliation after making disclosures about troubling aviation safety practices, OSC intervened, which resulted in the FAA agreeing to a host of corrective actions for the controller, including reversing his demotion and granting him back pay.

OSC cases come from throughout the federal government. The agency recently confirmed allegations made by whistleblowers in more than ten different departments and agencies. At the Department of Homeland Security, whistleblowers alerted OSC that employees were improperly paid Administratively Uncontrollable Overtime. OSC estimates that $20 million was misspent on AUO abuses at several offices within Customs and Border Patrol. By stopping these improper payments, the government may save hundreds of millions of dollars.

Prohibited Personnel Practices

The volume of complaints is substantial and growing: Over 3,300 new prohibited personnel practice complaints were filed with OSC in FY 2014, a 15 percent increase over FY 2013 and an all-time record for the agency. For many of these cases, the mediation process is used to resolve them when appropriate. Almost nine percent of new prohibited personnel practice cases were referred for full investigation. A handful of meritorious PPP cases do not settle and, when appropriate, OSC seeks corrective and even disciplinary action through litigation before the MSPB. OSC has ramped up its focus on prohibited personnel practice cases, reallocating additional agency resources for investigation and prosecution. OSC achieved a record 174 favorable actions in FY 2014, 136 of which were in response to whistleblower reprisals, also an agency record. When whistleblower disclosures increase, as they have in recent years, OSC experiences a corresponding increase in prohibited personnel practice complaints because whistleblowers are often illegally retaliated against.

During FY 2013 and FY 2014, OSC's total number of favorable actions obtained increased 71 percent over the prior two-year period. These sustained high levels of favorable actions translate into improved accountability and fairness in government as well as jobs saved, whistleblowers protected, and rights restored. Through these efforts, OSC is ensuring that Congress's and the Administration's efforts to protect whistleblowers are realized.

Mediation

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 by prosecution, thereby ensuring fairness and due process to employees while preventing paralyzing stalemates and disruptions in conducting government business. In FY 2014, OSC achieved a new settlement record for the percentage of mediations successfully resolved, with a settlement rate of 79 percent. Because mediation is a win-win for both parties in the dispute and provides OSC significant savings by reducing the amount of time required to investigate and resolve a case, OSC has expanded its mediation program for both prohibited personnel practices and USERRA claims.

Hatch Act

OSC had a decrease in the number of Hatch Act complaints filed in FY 2013 and FY 2014 as a result of the Hatch Act Modernization Act (HAMA), signed into law by President Obama in December 2012. HAMA modified the penalty provision of the Act to provide a range of possible disciplinary actions for federal employees. It also narrowed the category of state or local government employees prohibited from running for partisan political office to those employees whose entire salary is federally funded. Lastly, it changed the status of District of Columbia government employees, by treating them as state and local rather than as federal employees. After HAMA went into effect, the Hatch Act Unit issued a series of advisory opinions informing employees of the changes to the law and advising them on HAMA's application. HAMA should significantly enhance the efficiency and effectiveness of OSC's enforcement efforts and allow OSC to better direct its resources, which have shifted to resolve disclosures and prohibited personnel practices cases.

USERRA

For many years, the Department of Labor has investigated, and OSC has prosecuted, claims of discrimination under USERRA affecting federal employees. Due to OSC's excellent performance in a prior USERRA Demonstration Project, in which OSC investigated half of the complaints, Congress tapped OSC for a second three-year USERRA Demonstration Project, which began in August 2011 and completed August 2014. The Demonstration Project added hundreds of cases to OSC's docket. In FY 2014, OSC resolved 154 Demonstration Project cases, achieving favorable actions in over one-quarter of the cases.

OSC has the experience and capability to effectively handle all federal USERRA cases if adequately funded for this work.

Increased Effectiveness Resulting in Increased Workload

Word of OSC's effectiveness in achieving positive results for the federal community is spreading. The number of new cases before the agency continues to rise, as does OSC's success in resolving cases. Beginning in FY 2013 and continuing into FY 2014, OSC has resolved cases at a record level rate. More significantly, OSC has also achieved records in corrective actions and mediated settlements *and* been able to drive down the cost per case by approximately 40 percent over six years. However, in terms of productivity increases, OSC has begun to reach the point of diminishing returns. Despite its best efforts, OSC's backlog of cases increased 41 percent by the end FY 2014. Given the sharply increasing numbers of whistleblower disclosure and PPP cases, as well as the Hatch Act and USERRA matters, OSC will need budgetary increases going forward in order to continue to build upon the agency's record of success.

Other Notable FY 2014 Prohibited Personnel Practice Case Summaries

Litigation – First Disciplinary Complaints Filed (Discrimination and Hiring Practices)

- OSC filed a complaint with the MSPB alleging that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) fired a criminal investigator with over 20 years of federal law enforcement experience in violation of the First Amendment, a prohibited personnel practice under 5 U.S.C. § 2302(b)(12). The investigator gave testimony under subpoena in a federal criminal matter that was favorable to a defendant's motion to suppress a court-ordered wiretap. Neither the investigator nor ATF was involved in the underlying prosecution, having both dropped out of the case. Nevertheless, ATF disagreed with the substance of the investigator's testimony and fired him for allegedly having lacked candor in his testimony. The case is on interlocutory appeal by the Department of Justice to the MSPB to resolve whether a violation of the First Amendment under such circumstances could be a PPP.

- OSC filed three complaints with the MSPB seeking disciplinary action against three high-level Customs and Border Protection (CBP) officials for participating in a scheme to discriminate for and against applicants based on political affiliation, and to grant illegal preferences or advantages to the former Commissioner's preferred candidates. Two of the complaints settled with officials being removed from supervisory duties. The third complaint is still pending before the Board.

Whistleblower Retaliation

- OSC issued formal findings to the Department of the Army under 5 U.S.C. § 1214(b) documenting the retaliatory removal of an engineering technician for protected whistleblowing activities. The employee reported what she believed were violations of the Army's rules pertaining to the use of a government purchase card. Her report was made in the course of her duties. Shortly thereafter, the technician was fired. Prior to the WPEA, her report would have been excluded from protection as whistleblowing under Federal Court decisions (*Huffmann v OPM*, *Willis v. USDA*) because it was made in the course of regular duties. The WPEA, however, overturned these decisions and OSC was able to pursue the case. As a result of OSC's investigation and statutory report, the Army agreed to reinstate the employee with full back pay and benefits. It also convened a disciplinary review of the subjects responsible for the retaliatory discharge and is in the process of proposing disciplinary action.

- OSC issued formal findings to the Transportation Security Administration, under a memorandum of understanding with that agency, documenting the retaliatory removal of a security screener for protected whistleblowing activities. The screener reported a coworker's misconduct and his supervisor's failure to correct the misconduct. Shortly thereafter, the screener was discharged from service. As a result of OSC's investigation and statutory report, TSA agreed to a monetary settlement of $35,000.

- OSC issued formal findings to the Department of Veterans Affairs under 5 U.S.C. § 1214(b) documenting the retaliatory suspension of a nurse for having disclosed that other VA employees improperly restrained wheelchair-bound patients in violation of agency rules. As a result of OSC's statutory report, the Department agreed to take corrective action.

- OSC issued formal findings to the Department of Energy under 5 U.S.C. § 1214(b) documenting retaliatory suspensions of an electrician with the Bonneville Power Administration for protected whistleblowing. The electrician disclosed misconduct by a supervisor, which OSC determined had been covered up in a subsequent agency investigation. As a result of OSC's statutory report, the Department agreed to a monetary settlement of $50,000 and to place the employee permanently at a different location.

- OSC issued formal findings to the Department of Commerce Office of Inspector General under 5 U.S.C. § 1214(b) documenting a retaliatory performance appraisal and separation agreement. The complainant, a supervisor, was given an unfounded, failing performance appraisal which was used to coerce him into signing a separation agreement containing a non-disparagement provision (gag clause) prohibiting him from contacting OSC, Congress, or the media. OSC investigated whether these actions were taken in retaliation for complainant's perceived whistleblowing and for his engagement in the Equal Employment Opportunity process. As a result of OSC's statutory report, the Department agreed to provide full corrective action to complainant, implement systemic measures to prevent future violations, and take disciplinary action against two agency officials.

- The complainant, a supervisor with the Department of Army, was terminated during his probationary period in retaliation for making disclosures concerning his second-level supervisor's improper distribution of excess medical material. After obtaining evidence supporting the complainant's allegations—and prior to the completion of OSC's investigation—the agency agreed to convert the termination to a voluntary resignation, as well as to provide the complainant with a lump sum payment, attorneys' fees, and a neutral reference.

- Two complainants with the Transportation Security Administration made multiple disclosures, including allegations of a hostile work environment, misuse of government vehicles, improper use of awards, and improper work space allocations. One complainant was placed on a performance improvement plan and issued a proposed 14-day suspension, while the other complainant experienced a significant change in working conditions, was placed under a "mentorship agreement," and received a letter of reprimand. Following investigation, OSC negotiated a resolution for full corrective action and consequential damages for the complainants. In addition, OSC obtained disciplinary action in which the complainants' former supervisor agreed to a nonsupervisory demotion lasting a minimum of one year, a geographic reassignment, and training.

- The complainants, married seasonal park rangers with the National Parks Service, U.S. Department of Interior, were given tentative offers of employment that were rescinded after management discovered one of the spouses had made disclosures to the Office of the Inspector General concerning the former park superintendent's alleged excessive travel and illegal endorsement of a private company while employed by the federal government. Following OSC's investigation, the agency agreed to offer the complainants seasonal employment at the park of their choice and to take appropriate disciplinary action against agency officials.

Hiring Practices

- The Office of Personnel Management referred to OSC for investigation allegations that a federal official with the Federal Trade Commission violated federal regulations concerning failure to compete for a detail to a higher-graded position and for exceeding the length of time allowed for details. Following OSC's investigation, which substantiated the allegations, the agency agreed to take several systemic measures to prevent future violations.

- The Office of Personnel Management referred to OSC for investigation its findings that the National Resources Conservation Service, part of the U.S. Department of Agriculture, engaged in improper hiring practices that were sufficiently severe and pervasive to cause OPM to withdraw its delegation of hiring authority for NRCS. OSC investigated the allegations and confirmed that six officials were hired improperly, as OPM found. OSC further determined that disciplinary action was warranted for 11 officials who participated in the illegal hiring practices. OSC requested in eight instances that the agency discipline its own officials and OSC approved requests from the agency to take disciplinary action. The actions approved by OSC included a removal, four suspensions of over 14 days, a short suspension and two reprimands. In three instances, OSC negotiated directly with the individuals who no longer work at the agency. OSC obtained short suspensions in two cases, and a resignation and one-year debarment from federal service in the third.

- The Department of the Navy's Office of Inspector General referred to OSC for investigation allegations that federal officials granted unauthorized preferences to individuals by manipulating the hiring processes for several competitive positions. The referral also alleged that some of these officials violated anti-nepotism rules by advocating for the hiring of their relatives. Following OSC's investigation, which substantiated the allegations, the parties agreed to significant suspensions without pay for three current and former agency officials.

Stays of Personnel Actions

- Based on a request by OSC, MSPB ordered the suspension of a geographic detail from Rhode Island to Puerto Rico imposed by the Department of Homeland Security on a special agent who refused to obey an order that would have required him to violate laws restricting the disclosure of classified information. This was the first time OSC initiated an action based on a violation of 5 U.S.C. § 2302(b)(9)(D), a statute that prohibits personnel actions based on an employee's refusal to obey an order that would require a violation of law.

- Based on a request by OSC, the MSPB ordered the temporary reinstatement of a former consumer safety inspector based on allegations that the Food Safety Inspection Service at the U.S. Department of Agriculture coerced the inspector's resignation in retaliation for whistleblowing. The inspector disclosed that her managers ignored violations of laws and regulations at the slaughterhouse where she worked, and thereby allowed inhumane slaughter practices to continue. The Board granted the stay request based on OSC findings that the employee witnessed instances of inhumane practices, reported them to her chain of command and to the Secretary, was shortly thereafter detailed to a different duty location, and received notice of her proposed removal.

- A civilian employee and team lead with the Department of Army submitted an administrative grievance contesting her performance evaluation. Shortly thereafter, she was removed from her leadership position and reassigned. She was subsequently issued a proposed five-day suspension for misuse of government property and conduct unbecoming a federal employee in connection with her extramarital relationship with a married soldier. At OSC's request, the agency agreed to stay the suspension during the pendency of OSC's investigation.

Amicus Curiae Briefs

- OSC filed an amicus curiae brief in *Kerr v. Jewell* (9th Cir. 2013). In its brief, OSC argued that the WPEA should be applied to cases pending before the law's enactment. Specifically, OSC urged the Ninth Circuit to apply the WPEA to the case because: (1) it clarified existing law by overturning prior decisions that unduly limited whistleblower protections; (2) Congress expressly intended the WPEA to apply to pending cases; and (3) applying the WPEA to pending cases promotes government efficiency and accountability. In its ruling, the Ninth Circuit determined that portions of the original Whistleblower Protection Act had been misapplied since its inception and that the WPEA simply clarified the protections Congress intended to confer in the statute.

- OSC also filed an amicus curiae brief in *Clarke v. Dep't of Veterans Affairs* (Fed. Cir. 2014). OSC argued that the MSPB's decision was erroneous because the Board's analysis of the exhaustion of administrative remedies requirement disregarded the plain language of the statute, conflicted with precedent barring the Board from relying on OSC's determinations in analyzing the exhaustion requirement, and encroached upon OSC's independence, thereby threatening future whistleblower claims. The matter is pending.

- OSC submitted its first amicus curiae brief in the Supreme Court. The case, *Department of Homeland Security v. MacLean*, involves an interpretation of an original provision of the whistleblower statute in the CSRA in 1978. It is the first whistleblower case to be heard by the Court. At issue is whether an agency may enforce a regulation that restricts a whistleblower's ability to make a public disclosure of a danger to public health and safety. The Board permitted the agency to enforce the regulation against a federal air marshal for having disclosed to the media changes in flight coverage that he believed presented a serious threat to the safety of the flying public. The Federal Circuit reversed, holding that Congress forbade agencies from relying on their own regulations to limit the protective scope established by Congress for whistleblowers.

Motion for Intervention

- OSC moved to intervene in a case before the MSPB, challenging the Administrative Judge's decision to dismiss a complainant's individual right of action (IRA) appeal. In the intervention motion, OSC argued that the complainant exhausted his administrative remedies, that the Administrative Judge abused his discretion when he inquired into OSC's reason for terminating its investigation, and that no purpose would be served by requiring the complainant to wait 120 days to file an IRA appeal. While the matter was pending, the parties entered into a settlement agreement in which the complainant received a lump sum payment of $360,000 and all negative references were removed from his personnel file.

WPEA Nondisclosure Prohibition

- OSC intervened on behalf of an Army employee who faced disciplinary action for having reported a co-worker to a state social services agency for child abuse. The Army issued her a written counseling for taking the matter outside her chain of command. The directive states: "Taking [division] issues outside the [Army] Chain of Command is not appropriate and could result in disciplinary action should it occur in the future." Based on OSC's intervention, the division manager agreed to rescind all records of the counseling and advised all supervisors at the activity to stop counseling, admonishing, or warning employees to use the chain of command for protected disclosures inside or outside the chain of command.

Disclosure Unit FY 2014 Case Summaries

OSC received over 2,600 total disclosures in FY 2013 and FY 2014. As a result, the government gained substantial savings through the elimination of waste, mismanagement, and fraud. The disclosures also resulted in protection of patients at VA hospitals, safer workplaces, and lives saved. Here are some of the highlights.

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

Failure to Follow Proper Procedures for Electrical Work. OSC referred to the Secretary of the Navy allegations of safety violations received from electrical engineering technicians at Naval Facilities Engineering Command Mid-Atlantic, Norfolk, Virginia. The whistleblowers had been reporting the problems since 2008, but no action had been taken. The Navy investigation substantiated the whistleblowers' allegations that management officials failed to ensure that employees complied with the standard operating procedures and failed to ensure compliance with safety rules and eliminate unnecessary safety risks. The investigation did not substantiate the allegations that unqualified employees were allowed to work on high voltage assignments, that employees failed to wear proper protective equipment, or that management has not appropriately responded to these allegations.

In response to the whistleblowers' disclosures, the Navy revised its procedures and agency rules, implemented additional training and safety meetings, added safety review boards and modified its hiring processes. In addition, the agency has established an apprenticeship training program, a process for tracking and monitoring safety equipment, and a pilot program to evaluate whether further changes need to be made to agency policies. OSC found that the agency reports contain all of the information required by statute and that the findings of the agency head appear reasonable. *OSC File No. DI-12-1819. Referred April 2012; transmitted to the President and congressional oversight committees and closed on April 21, 2014.*

Insufficient Staffing and Improper Documentation of Transfusions. OSC referred to the Secretary of the Department of Health and Human Services (HHS) for investigation allegations received from a former nurse that employees at the Indian Health Service (IHS), Blackfeet Community Hospital, Browning, Montana were engaged in conduct that constituted a violation of law, rule, or regulation, and a substantial and specific danger to public health and safety with respect to patient care and facility security. The agency investigation substantiated that nurses at the hospital were expected to care for a full unit of patients without adequate clerical support, nursing staff, or supervision. The investigation also found that nurses did not properly complete transfusion tags documenting the patients' status following transfusions. In addition, hospital doors were routinely propped open and security measures were lax. Hospital staff, patients, and visitors regularly smoked at the non-smoking facility. Finally, the agency determined that multiple exterior and security lights were inoperable and the response from hospital security was slow, creating a security concern.

In response to the report, IHS issued or re-issued patient care policies, installed a lock and alarm on the security door, repaired lighting, filled all nursing positions with full-time nurses and improved supervision, revised the smoking policy, and met with the Blackfeet Tribal Health and Blackfeet Tribal Council to request assistance in implementing corrective actions. The Special Counsel determined that the agency reports contain all of the information required by statute and that the findings appear to be reasonable. *OSC File No. DI-12-3553. Referred January 2013; transmitted to the President and congressional oversight committees and closed on July 22, 2014.*

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

Widespread and Institutionalized Abuse of Administratively Uncontrollable Overtime. OSC referred to then-Secretary of Homeland Security Janet Napolitano allegations that employees at Customs and Border Protection, Commissioner's Situation Room (CSR), Washington, D.C., regularly abused the use of Administratively Uncontrollable Overtime (AUO), that the CSR director and assistant director authorized and abetted the improper use of AUO, and that they abused it themselves. The whistleblower alleged that CSR employees abused the use of AUO pay by remaining at their duty stations two hours after the end of their regularly scheduled eight-hour shift on a daily basis. The whistleblower disclosed that it was common for CSR employees to work their regular shifts and then spend two additional hours at their duty stations relaxing, joking around, surfing the Internet, watching sports and entertainment on television, and taking care of personal matters. The agency investigation of this matter substantiated the allegation that AUO was improperly used at the CSR and that previous warnings about the proper use of AUO were disregarded. In the report, the agency pledged to take action to correct the abuse of AUO, including the development of a comprehensive department-wide AUO policy, and training.

Based on a determination that DHS had committed to taking the same corrective action in 2008 when OSC brought a previous AUO abuse matter to its attention, yet had been unable or unwilling to follow through on the previous commitment, the Special Counsel found the current report unreasonable. *OSC File No. DI-13-0002. Referred January 2013; transmitted to the President and congressional oversight committees and closed on November1, 2013.*

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

Residents of Long-Term Care Units Neglected for Almost a Decade. OSC referred to the Secretary of Veterans Affairs allegations received from a former physician at the VA Boston Health Care System, Brockton Campus in Brockton, Massachusetts, that employees failed to provide appropriate medical and mental health care for individuals residing in the long-term care units of the Community Living Center (CLC).

The agency substantiated the allegations but the VA's Office of the Medical Inspector (OMI) found no violations of law, rule, or regulation. The investigation determined the CLC admitted Patient 1 with significant, chronic mental health issues, but the patient did not receive a comprehensive psychiatric evaluation until eight years later. In addition, the investigation determined that Patient 2 had serious mental health issues, and during his eight year residence in the CLC, he had only one psychiatric note written in his chart. In addition, there was no evidence that, until the whistleblower's recommendation, the CLC tried to lower or eliminate doses of psychotropic medications Patient 2 received. The agency did not substantiate allegations with respect to a third patient. The agency did not engage in a broader review of patient care beyond these three identified patients, despite the whistleblower's concerns.

OSC requested a supplemental report from the VA to explain OMI's conclusion that no patient's rights were violated. However, in its supplemental report the agency reiterated: "in some areas [the veterans'] care could have been better but [the agency] does not feel that their … rights were violated." In a second supplemental communication, the agency presented additional facts concerning the care received by Patient 1 and Patient 2. Ultimately, the VA failed to acknowledge that the confirmed neglect of residents at the facility had any impact on patient care. In addition, the OMI report did not address the whistleblower's belief that patient neglect in the CLC extended beyond the three individuals identified in his disclosure. OMI failed to look beyond these individuals to examine whether the serious care issues extended to other patients at the CLC or to other facilities within the VA Boston Healthcare System. Because of these deficiencies, the Special Counsel determined that the agency reports were unreasonable. *OSC File No. DI-13-4505. Referred November 2013; transmitted to the President and congressional oversight committees and closed on August 7, 2014.*

<u>Failure to Adhere to Decontamination and Sterilization Procedures</u>. OSC referred for investigation allegations received from a medical supply technician at the Ann Arbor VA Medical Center (Medical Center) in Ann Arbor, Michigan that employees at the facility consistently failed to follow proper procedures in the decontamination and sterile storage areas, and that patients and staff were at risk of infection from contaminated supplies and equipment. The agency investigation, conducted by the OMI, substantiated several of the allegations, finding that employees were not properly trained in safety and conduct requirements. The investigation also found that employees violated procedures to protect against contamination of sterile supplies and equipment. Despite this finding, the agency investigation did not reveal evidence of contamination as a result of the employee non-compliance. The agency reports identified the corrective actions taken at the Medical Center in response to the investigation, including renovations to improve functions in the supply and processing divisions. OMI provided a summary supplemental report on the status of the corrective actions. All of the twelve recommendations were adopted, nine have been completed, and three were ongoing. Despite OSC's request, the OMI declined to investigate more recent, specific allegations regarding compliance with safety procedures.

The Special Counsel determined that although the agency reports contained all the information required by statute, the findings did not appear reasonable given the whistleblower's ongoing concerns regarding compliance with safety procedures and the agency's decision to ignore these concerns. *OSC File No. DI-13-2133. Referred January 2013; transmitted to the President and congressional oversight committees and closed on July 30, 2014.*

Gross Mismanagement and Abuse of Authority

<u>Failure to Provide Adequate Care to Inmates</u>. OSC requested that the Attorney General investigate disclosures from a nursing assistant at the Department of Justice (DOJ), Bureau of Prisons (BOP), Federal Medical Center (FMC Rochester), Rochester, Minnesota, who alleged that employees engaged in misconduct by failing to provide adequate care to incontinent inmates, and refusing to provide physical care, such as feeding and bathing, to an HIV-positive inmate in hospice care. The agency investigation partially substantiated the disclosures. The agency determined that there were instances in which some incontinent inmates were "double diapered." The investigation, however, did not find sufficient evidence

to determine who specifically had done this or that any of the four nursing assistants identified by the whistleblower was responsible. The agency also determined that a nursing assistant behaved unprofessionally when she made comments about an HIV-positive inmate. Further, the investigation found sufficient evidence to support additional allegations raised during the investigation that two other nursing assistants did not bathe an inmate or provide him with his dinner on one occasion, and that two nursing assistants behaved unprofessionally when they joked about not feeding an inmate.

In response to the report, FMC Rochester provided training to all nursing staff members on perineal and incontinence care, pledged to update the "Patient Care Manual" to address the inappropriate practice of excessive padding in incontinence briefs, and took disciplinary action against two employees. OSC found that the agency reports contained all of the information required by statute and that the findings of the agency head appeared reasonable. *OSC File No. DI-13-2349. Referred August 2013; transmitted to the President and congressional oversight committees and closed on July 15, 2014.*

USERRA Unit FY 2014 Case Summaries

Some examples of favorable outcomes OSC has obtained for service members include:

- While working as a police officer for the U.S. Mint, a member of the Coast Guard Reserve was called to active duty for two years. During his absence, the agency issued vacancy announcements for sergeant positions, but he was not notified or given the opportunity to apply. OSC contacted the agency, which agreed to resolve his complaint by scheduling him for the next sergeant's exam, provide him with priority consideration for the next sergeant vacancy, and implement a mechanism whereby service members are notified of and permitted to apply for promotional opportunities at the agency while they are absent performing military duty.

- An air traffic controller (ATC) with the Federal Aviation Administration suffered service-connected injuries during a deployment with the Army Reserve. As a result, she was unable to continue to perform ATC duties and requested assistance in finding an appropriate position to accommodate her disabilities. After the agency told her to find something on her own, she could only secure a position with a significant pay cut that extended her time for retirement eligibility. After OSC became involved, the agency agreed to assign her to a higher-rated position, increase her base pay to the level she had in the ATC position, and arrange for her to attend a leadership development program at agency expense.

- After returning from deployment, a Reservist who worked as a civilian with the Navy was told she would be laid off for budgetary reasons, effective 40 days after her return. OSC informed the agency that USERRA prohibits terminating a service member's employment, except for cause, for six months following a period of service lasting more than 30 days. At OSC's request, the agency agreed to provide the Reservist with back pay for the remainder of the protected period (140 days), give her a lump sum payment for all the paid leave she would have accrued, and allow her to make up contributions to her Thrift Savings Plan.

- Following his deployment, a Reservist made a timely request for reemployment in his civilian position with the Department of the Navy. However, after initially confirming his requested start date, the agency delayed his reemployment another six weeks because his pre-service position was no longer available. OSC facilitated a settlement agreement under which the agency agreed to provide him with back pay and restore his seniority and other benefits as of the date he should have been reemployed six weeks earlier.

- A National Guardsman who was a cashier at the Defense Commissary Agency was improperly denied reemployment upon returning from a seven-month tour of duty, and told to apply for unemployment. OSC intervened and the agency agreed to reinstate him to his former position, restore his benefits and seniority, and provide him with back pay.

- An Army Reservist was offered a GS-13 position with NATO Special Operations Headquarters in Mons, Belgium. The offer was withdrawn after the claimant notified the agency that she would be on active duty for seven months. OSC intervened and the agency agreed to re-offer claimant the position for a later "report to duty" date that was compatible with the end date of her military service.

Hatch Act Unit FY 2014 Case Summaries

Disciplinary Action Obtained through Settlement Negotiations

OSC successfully resolved 15 Hatch Act cases through settlement negotiations this fiscal year. All of the cases involved federal employees who engaged in significant prohibited political activity, and the settlements resulted in the employees receiving disciplinary action for their violations.

For example, OSC investigated allegations that a Federal Elections Commission (FEC) employee sent dozens of partisan political tweets, including many soliciting campaign contributions, to President Obama's 2012 reelection campaign and other political campaigns. The employee also participated in a Huffington Post Live broadcast via webcam from an FEC facility, criticizing the Republican Party and then-presidential candidate Mitt Romney. Following a joint investigation by OSC and the FEC Office of Inspector General, the employee admitted to violating the Hatch Act and agreed to resign and accept a two-year debarment from federal executive branch employment.

OSC also investigated allegations that a U.S. Air Force civilian employee sent numerous partisan political e-mails using a government account to a list of as many as 60 federal employees. The employee sent each e-mail while on duty in the months leading up to the 2012 election. The employee admitted knowing about the Hatch Act's restrictions, and even after receiving warnings from his supervisors, persisted in sending more e-mails. All of the e-mails were in opposition to then-candidate President Barack Obama and the Democratic Party. As disciplinary action for his admitted violations, the employee agreed to accept a 40-day suspension without pay.

Also, OSC investigated a complaint that a an immigration services assistant for the United States Custom and Immigration Services, while on duty and in the workplace, sent several emails attempting to, among other things, organize counter-demonstrations at two Republican events during the 2012 elections. As disciplinary action for her admitted violations, the employee agreed to accept a five-day suspension without pay. She already had been disciplined by USCIS and served a ten-day suspension without pay for email abuse.

In another example, OSC investigated an IRS tax advisory specialist who promoted her partisan political views to a taxpayer she was assisting during the 2012 presidential election season. Specifically, OSC received a recorded conversation in which the employee told a taxpayer she was "for" the Democrats because “Republicans already [sic] trying to cap my pension and . . . they’re going to take women back 40 years.” She continued to explain that her mom always said, “‘If you vote for a Republican, the rich are going to get richer and the poor are going to get poorer.’ And I went, ‘You’re right. I found that out.’” The employee told the taxpayer, “I’m not supposed to voice my opinion, so you didn’t hear me saying that.” Following OSC’s investigation, the employee entered into a settlement agreement with OSC, wherein she admitted to violating the Hatch Act and agreed to accept a 14-day suspension without pay.

Corrective Action Obtained through Negotiations

The Hatch Act Unit successfully resolved eight cases this fiscal year by encouraging employees to voluntarily cease the activity that violated the Hatch Act. Seven of these cases involved federal employees who were running for partisan political office. The Hatch Act Unit was able to convince the employees to come into compliance with the law by either withdrawing from the race or resigning from their employment.

Merit Systems Protection Board Litigation

OSC filed one Hatch Act case with the MSPB this fiscal year. It involved an Internal Revenue Service (IRS) customer service representative who, when fielding taxpayers’ questions on an IRS customer service help line, repeatedly urged taxpayers to reelect President Obama in 2012 by delivering a chant based on the spelling of the employee’s last name. OSC successfully resolved the case through settlement negotiations and the employee agreed to accept a 100-day suspension without pay as disciplinary action for his violation.

OSC also received a final MSPB decision on what was the first case under the Hatch Act Modernization Act of 2012. The case involved a USPS employee who twice ran in partisan elections for the U.S. House of Representatives and solicited political contributions for his campaigns. OSC and USPS repeatedly warned the employee that his actions violated the Hatch Act and requested that he comply with the law either by withdrawing from the elections or ending his federal employment. Despite these repeated warnings, the employee refused to comply with the law. The MSPB ordered the employee removed from his employment.

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 2014, 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 2014. 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 underwent its eleventh annual financial audit in FY 2014. The auditors reported no material weaknesses this year or in any prior fiscal years. The FY 2014 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 outsourced many of its financial management and administrative activities to the Interior Business Center, including financial accounting and reporting, invoice payment, contracting operations, financial and procurement systems software and hosting, and travel services. 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. Since FY 2013 the system has been reviewed on a continuous monitoring basis in conformance with NIST guidelines. NFC's Payroll System was certified on September 2013, and in FY 2014 operated 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, 2014, 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 2014 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
November 17, 2014

VIII. Management Challenges

Since Special Counsel Carolyn Lerner took over the agency in June 2011, the Office of Special Counsel has improved its reputation among the federal workforce by protecting federal employees and applicants from prohibited personnel practices and defending the rights of whistleblowers who identify fraud, waste, and mismanagement within government. The agency has conducted outreach to inform federal workers of their rights; brought media attention to matters of public interest; sought disciplinary action against federal employees who commit PPPs; referred a record number of whistleblower disclosures of wrongdoing to agency heads for investigation; and supported legislation to expands protections for whistleblowers and increases the number of federal employees covered under the law. Over the past two years OSC has received its highest number ever of PPP complaints and whistleblower disclosures in its history. OSC's rapidly rising caseload is due in part to the following:

- **Success generates demand**: OSC's ability to obtain corrective actions for federal employees in PPP cases and initiate institutional reform due to whistleblower disclosures has generated a higher profile for the agency in the federal community. Confidence in OSC's ability to positively impact the federal workplace is the single biggest factor encouraging more federal employees to come to OSC. Over the past year, OSC has received more PPP complaints and whistleblower disclosures than at any time in the agency's history – 55 percent higher than just five years earlier. As OSC continues to inform more federal workers of their rights and gains favorable media coverage for its successes, we expect these trends to continue.

- **Media attention to veterans care issues**: OSC has received considerable media attention due to its central role in receiving whistleblower disclosures and retaliation complaints related to VA scheduling and quality of care issues. Special Counsel Lerner has been interviewed by the major networks. The new VA leadership has expressed its willingness to cooperate with OSC to provide relief for whistleblowers and fix the problems at the VA. Increased media coverage creates greater awareness within the federal community of OSC's impact, which in turn encourages more federal workers to come forward with PPP complaints and whistleblower disclosures.

- **Other notable cases**: OSC has received considerable media attention for its pivotal role in a number of important whistleblower cases. For example, OSC recently resolved a dispute between the Marine Corps and a civilian science advisor who was retaliated against for disclosing that Humvees used in Iraq did not provide American troops with adequate protection from IEDs. This case garnered significant media attention and resulted in a Pentagon policy review and the dispatch of Mine Resistant Ambush Protected trucks to better protect the troops. OSC's settlement of the personnel action against the whistleblower included the Marine Corps agreeing to institute a new internal process to educate employees about their whistleblower rights. Media coverage of such high-profile cases further increases awareness of OSC's role in protecting whistleblowers and encourages more federal employees to come forward.

- **Outreach**: OSC raises awareness about its services by conducting outreach presentations at other federal agencies. In FY 2014, OSC conducted 104 of these presentations. Many of these outreach events came at the request of federal agencies that wanted OSC to inform their staff about PPPs and whistleblower rights. While much of OSC's outreach work is demand driven, we are also proactive, especially in expanding agency certification for properly educating their staffs about protections against PPPs under the 2302(c) certification program.

Responding to this historic demand for its services remains OSC's greatest challenge. After reducing its case backlog in FY 2013, OSC saw this backlog trend upward again during FY 2014 by 41 percent. The increase was due to the surging caseloads; OSC productivity was at record levels in FY 2014. OSC's challenge in meeting the demand for its services was exacerbated by the government shutdown in October and scarce resources at the onset of the fiscal year. Reducing this backlog remains an agency top priority: Justice delayed is often justice denied, and discourages federal employees from blowing the whistle on fraud, waste, and mismanagement.

OSC has taken steps to address the case backlog. Twenty new employees were added over the course of this past fiscal year to focus on OSC casework. Work has been shifted to units based upon demand and operating procedures have been adjusted to accommodate this flexible shifting of workload. We have ramped up training efforts – this past year OSC employees took advantage of the largest amount of targeted training courses in agency history. New online training portals have been added for employees to choose from a wide variety of legal, management, business and other courses.

That being said, OSC continues to face challenges ahead. After onboarding new employees, there is an inevitable lag time as new employees undergo training and learn how to execute their new duties. Since the number of new cases keeps rising, the case backlog is likely to grow during this transition process. Overall then, the agency's must contain the case backlog and sustain agency morale while securing its hard won "can do" reputation among federal employees.

IX. Comments on Final FY 2014 Financial Statements

Financial Highlights

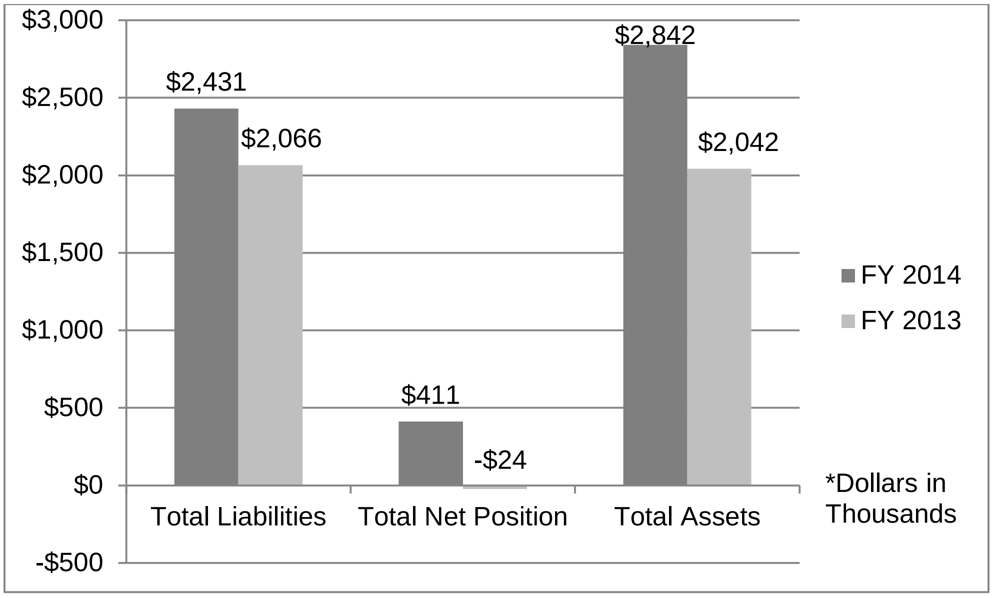
Consolidated Balance Sheet

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

OSC's balance sheets show total assets of $2,842,000 at the end of FY 2014. This is an increase of $800,000 or approximately 39 percent, compared to OSC's total assets of $2,042,000 for FY 2013. Fund Balances with Treasury comprise 90 percent of OSC's assets.

Total Liabilities for OSC increased by $365,000 from $2,066,000 in FY 2013 to $2,431,000 in FY 2014, an increase of 18 percent. The two largest components of Total Liabilities are Unfunded Leave ($1,182,000) and Accrued Funded Payroll ($415,000), which both saw increases in FY 2014, while the next largest component, Federal Employee and Veteran Benefits ($371,000), remained substantially unchanged from FY 2013 to FY 2014.

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 2014, OSC's Net Position on its Balance Sheets and the Statement of Changes in Net Position was $411,000, an increase of $435,000 above the FY 2013 ending Net Position of $-24,000. This decrease is due primarily to a decrease in OSC's Cumulative Results of Operations for FY 2014 and a significant increase in Unexpended Appropriations.

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 2014, OSC received a $20,639,000 appropriation. OSC ended FY 2014 with an increase in total budgetary resources of $2,631,000, or 14 percent, above FY 2013. Most of this change is attributable to a $2,659,000 increase in the amount of appropriations OSC received in FY 2014.

Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2014 and FY 2013 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 increased last year by $435,000 above FY 2013.

Other Financial information

In FY 2014 OSC capitalized $225,000 in leasehold improvements. (OSC's capitalization policy has a threshold of capitalizing individual assets greater than $50,000.) OSC's total Property, Plant and Equipment acquisition value stood at $1,125,000, with accumulated depreciation of $830,000 and a 2014 Net Book value of $295,000. (Note 4 to Principal Financial Statements)

OSC had $2,336,000 more in Current Year Total Obligations this year; $21,229,000 in FY 2014 as compared to $18,893,000 in FY 2013. (Note 10 to Principal Financial Statements) This was due to OSC having a higher 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 $12,000, from $866,000 in FY 2013 to $878,000 in FY 2014. 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).

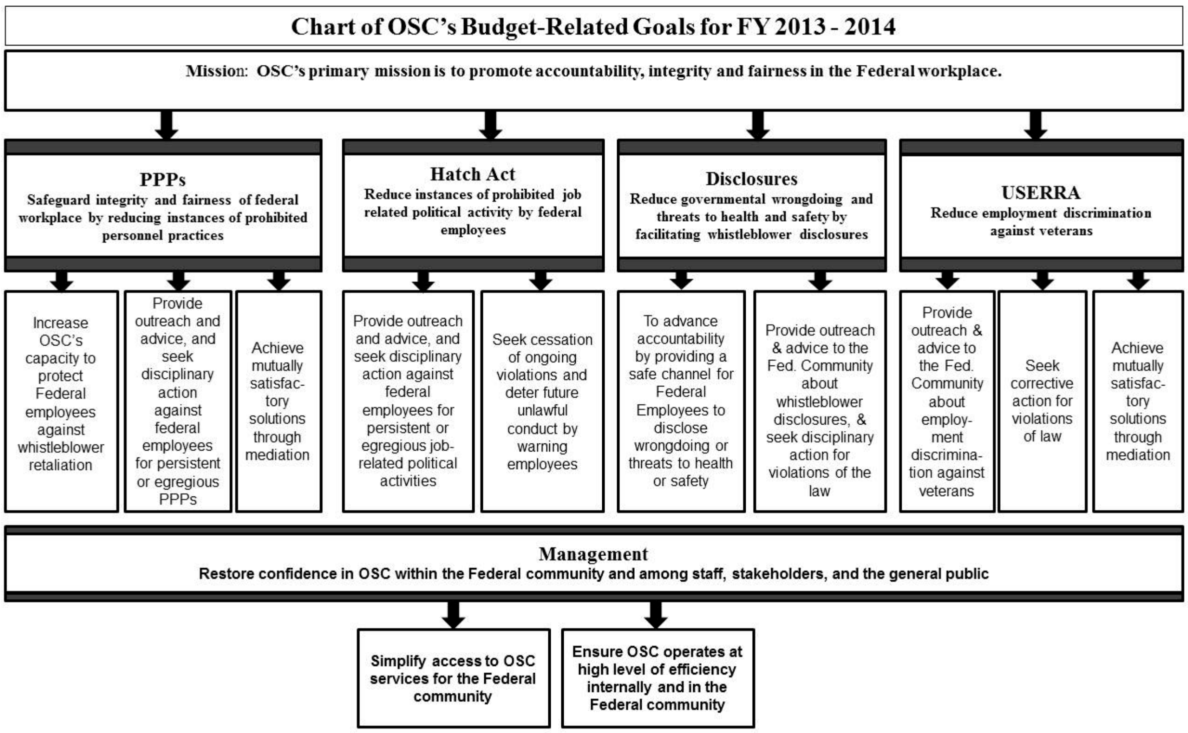
- The statements have been prepared from the books and records of the Review Commission in accordance with generally accepted accounting principles (GAAP) for federal entities and formats prescribed by the Office of Management and Budget (OMB). The statements are in addition to the financial reports 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.



Strategic Plan Government Performance and Results Act Goals

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 were their impacts on operations. Three years later in FY 2014, OSC successfully met or partially met 50 out of 73 goals, or 69 percent of its goals; 3 goals were not applicable this year. Given the FY 2014 environment of continuously rising caseloads and shrinking resources, we consider this to be a successful performance. OSC has been required to make difficult resource allocation decisions and 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.

Prohibited Personnel Practices

OSC received its highest level ever of PPP cases in FY 2014. The 3,371 complaints received represent a 15 percent increase over FY 2013 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 in the categories of corrective actions, corrective matters, and corrective actions in reprisals for whistleblowing in FY 2014.

In FY 2014 OSC successfully met 16 out of its 23 stated PPP goals, with 2 goals NA this year.

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	FY 2016 Target	FY 2016 Target
1	Number of corrective actions obtained by IPD	n/a	140	140	130	130	150	130		130	
2	Percent of corrective actions obtained per number of cases closed	n/a	5%	5%	4%	5%	5%	5%		5%	
3	Number of cases referred for investigation directly to IPD	n/a	75	83	87	87	114	95		95	
4	Number of informal stays requested	n/a	26	30	17	20	21	20		20	
5	Percent of informal stays obtained	n/a	n/a	n/a	n/a	n/a	100%	100%		100%	
6	Number of formal initial stays requested	n/a	7	10	2	5	2	5		5	
7	Percent of formal initial stays obtained	n/a	100%	100%	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	58	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%	51%	50%		50%	
10	Number of initial examinations completed by CEU within 120 days	n/a	1,716	1,801	1,576	1,600	1,645	1,700		1,600	
11	Percent of initial examinations completed by CEU within 120 days	n/a	63%	66%	57%	57%	63%	60%		60%	
12	Number of CEU cases more than 240 days old	n/a	98	120	256	140	244	200		200	
13	Percent of CEU cases more than 240 days old[13]	n/a	3%	4%	9%	10%	9%	10%		10%	
14	Number of staff allocated to whistleblower retaliation and other PPPs	53	60	65	59	65	62	65		65	
15	Percent of total staff allocated to whistleblower retaliation and other PPPs	50%	50%	52%	53%	55%	53%	55%		55%	
16	Number of staff training programs in whistleblower retaliation and other PPPs	2	3	4	4	4	5	4		4	
17	Percent of cases qualifying for full investigation referred to ADR Unit for review	n/a	89%	89%	56%	65%	74%	65%		65%	

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	FY 2016 Target	FY 2016 Result
18	Number of recommendations to agencies to take disciplinary action	n/a	n/a	6	19	12	23	18		18	
19	Number of disciplinary action complaints filed	n/a	0	1	0	1	3	1		1	
20	Number of disciplinary actions resolved pre-litigation through negotiated settlement	n/a	19	20	27	27	23	23		23	
21	Total number of successful disciplinary prosecutions	n/a	0	1	0	1	0	1		1	
22	Percent of successful disciplinary prosecutions	n/a	n/a	100%	N/A	100%	N/A	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%	97%	99%		99%	
24	Provide complainants status updates at defined intervals and when significant new developments occur[24]	n/a	88%	99%	80%	90%	93%	92%[24]		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%	87%	100%		100%	

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

Target: OSC will prepare an attachment for the acknowledgment letter explaining the complaint review process, and expected time for CEU to make a determination on the complaint. All acknowledgment letters should 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 percent result, we feel that 92 percent (for FY 2015) is in substantial compliance with this goal target.

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

Target: The 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.

Alternative Dispute Resolution

FY 2014 showed a 27 percent increase in the percentage of mediations completed that resulted in settlement. This result, 79 percent, is well above the target of 62 percent (see footnote 26 below).

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	FY 2016 Target	FY 2016 Result
26	Number of cases reviewed by the ADR Unit from all sources	n/a	186	190	155	185	132[26]	200		200	
27	Percentage of cases reviewed in which mediation is offered from all sources	n/a	67%	63%	69%	65%	61%	65%		65%	
28	Number of cases mediated (including cases withdrawn after one or more sessions)	n/a	32	50	49	50	39	45		45	
29	Percentage of all mediations completed that resulted in settlement	n/a	56%	58%	62%	62%	79%	62%		62%	

26. CEU and USERRA units referred fewer cases to ADR FY 2014.

Whistleblower Disclosures

OSC had an extraordinary 37 percent increase in the number of whistleblower disclosures received from FY 2013 to FY 2014. Despite the massive increase in workload, the Disclosure Unit had a 28 percent increase in the number of disclosures reviewed within 15 days. In addition, OSC had a remarkable 60 percent increase in the number of disclosures referred to agency heads for investigation and report.

The Disclosure Unit successfully met or exceeded 77 percent (7 out of its 9) measurable goals in FY 2014.

Goal table 4 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	FY 2016 Target	FY 2016 Result
40	Total number of outreach activities undertaken including dissemination of whistleblower information	n/a	9	9	2	5	14	10		10	
41	Success in prompting thorough agency investigations of referred disclosures	n/a	68%	68%	77%	77%	88%	77%		77%	
42	Number of whistleblower disclosures prompting effective corrective action and accountability[42]	n/a	30	32	31	33	25[42a]	33		33	

42a. The number of whistleblower disclosures prompting effective corrective action and accountability dropped because the Disclosure Unit had to shift its focus to the increased referral workload that emerged in the second half of FY 2014 (see Goal Table 7, row 43).

Goal Table 5 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	FY 2016 Target	FY 2016 Result
43	Number of whistleblower disclosures referred by OSC to agency head for investigation	n/a	39	41	51	50	90	60		60	
44	Percent of whistleblower disclosures submitted to OSC referred to agency head for investigation	n/a	4%	6%	4%	6%	7%	6%		6%	
45	Number of whistleblower disclosures either closed or referred within 15 day statutory timeline	n/a	583	590	578	580	742	600		600	
46	Percent of whistleblower disclosures closed or referred within 15 day statutory deadline	n/a	55%	55%	49%	50%	56%	53%		53%	
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 material s	n/a	Train agencies on redesigned materials	14[47]	Train agencies on redesigned materials		Train agencies on redesigned materials	
48	Survey of attendees at outreach events	n/a	n/a	Develop survey	n/a	Survey 500 attendees	New Survey has DU included	Survey 500 attendees		Survey 500 attendees	

47. This number reflects agency-wide training in which OSC's policy and process regarding whistleblower disclosures was covered. Further, major strides were made with the 2302(c) program, to successfully include VA certification.

USERRA Enforcement

In addition to handling USERRA Referral cases, OSC's USERRA Unit received 464 additional USERRA cases under a Demonstration Project mandated by Congress from August 2011 to August 2014. Unlike the referral cases, which OSC has statutory authority to prosecute, OSC was given the added responsibility to investigate Demonstration Project cases. OSC stopped receiving new cases under the Demonstration Project on August 9, 2014. With the expiration of the Demonstration Project, unless Congress again expands OSC's role under USERRA, OSC's USERRA workload will dramatically decrease during the next fiscal year.

In FY 2014, the OSC received 146 new Demonstration Project cases, in addition to the 69 cases still pending at the beginning of FY14. The USERRA Unit resolved 153 cases during FY14 and continued its high favorable resolution rate of 25 percent, bringing the total number of veterans assisted by OSC during the Project to 94. This is consistent with OSC's high favorable resolution rate during the previous Demonstration Project from 2005-2008.

The USERRA Unit successfully met or exceeded 6 out of 10 applicable goals in FY 2014.

Goal Table 6 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	FY 2016 Target	FY 2016 Result
49	Number of staff allocated	n/a	2	3	3	3	3	3		3	
50	Percent of staff allocated	n/a	25%	37%	37%	50%	50%	50%		50%	

Goal Table 7 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	FY 2016 Target	FY 2016 Result
51	Number of favorable resolutions	n/a	29	30	40	35	39	12[51]		6[51]	
52	Percentage of favorable resolutions	n/a	24%	24%	24%	24%	23%	24%[52]		N/A[52]	
53	Number of investigations within 90 days	n/a	59	60	59	60	84	20[53]		N/A[53]	
54	Percentage of investigations within 90 days	n/a	63%	63%	42%	50%	57%	50%[54]		N/A[54]	
55	Number of legal reviews within 60 days	n/a	32	33	30	32	16	18[55]		18[55]	
56	Percent of legal reviews within 60 days	n/a	76%	76%	83%	76%	80%	76%[56]		76%[56]	
57a	Customer service exit survey findings	n/a	45%	47%	50%[57a]	50%	48%	N/A[57a]		N/A[57a]	
57b	Percent of cases received by USERRA Unit referred to ADR Unit for review	n/a	18%	50%	34%	50%	21%	N/A[57b]		N/A[57b]	

51. This target was reduced for 2015 and 2016 to reflect that OSC stopped receiving new USERRA Demonstration Project cases on August 9, 2014, when the project ended. Accordingly, OSC will have a fewer number of cases in subsequent fiscal years (including USERRA Referral cases).

52. This target was maintained for 2015 but eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014. In 2015, OSC will still be completing a smaller number of remaining USERRA Demonstration Project cases. In 2016, however, most if not of all those cases will be

completed, leaving only on small number of USERRA Referral cases, for which it is not feasible to set a target for the percentage of favorable resolutions (in part because such cases are referred to OSC from DOL at the claimant's request, not based on merit).

53. This target was reduced for 2015 and eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014. Accordingly, this target will only be applicable for a small number of remaining Demonstration Project cases in 2015, and not applicable at all in 2016 (it does not apply to USERRA Referral cases, which are subject to a 60-day time limit).

54. This target was reduced for 2015 and eliminated for 2016 due to the USERRA Demonstration Project ending on August 9, 2014. Accordingly, this target will only be applicable for a small number of remaining Demonstration Project cases in 2015, and not applicable at all in 2016 (it does not apply to USERRA Referral cases, which are subject to a 60-day time limit).

55. This target was reduced for 2015 and 2016 to reflect that OSC stopped receiving new USERRA Demonstration Project cases on August 9, 2014, when the project ended. However, OSC will continue to receive a smaller number of USERRA referral cases which are subject to a 60-day time limit.

56. This target was maintained for 2015 and 2016 since OSC will continue to receive USERRA Referral cases which are subject to a 60-day time limit.

57a. This target was eliminated for 2015 and 2016 due to the USERRA Demonstration Project ending on August 9, 2014. Accordingly, OSC is no longer conducting a customer satisfaction survey for USERRA Demonstration Project cases.

57b. This target was eliminated for 2015 and 2016 due to the USERRA Demonstration Project ending on August 9, 2014.

Goal Table 8		Achieve mutually satisfactory solutions through USERRA referral for 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**	**FY 2016 Target**	**FY 2016 Result**
58	Number of USERRA cases referred to ADR unit for review	n/a	17	58	47	47	30	3		3	
59	Percent of cases referred by USERRA to the ADR Unit for review in which mediation was offered	n/a	82%	60%	66%	65%	53%	66%		66%	
60	Percent of cases in which both parties agree to mediate	n/a	50%	50%	48%	50%	75%	50%		50%	
61a	Number of cases withdrawn prior to mediation	n/a	0	n/a	5	n/a	1	0		0	
61b	Number of cases mediated	n/a	2	17	11	7	11	1		1	
61c	Percent of cases successfully mediated	n/a	100%	58%	100%	75%	82%	50%		50%	

*** The ADR Unit reviewed cases under the USERRA Demonstration Project from May 2012 through August 2014. Due to the expiration of the Demonstration Project in August 2014, there will be no new Demonstration Project cases for OSC to refer to the ADR Unit in FY 2015 and FY 2016, so targets for these categories have been greatly scaled back.

Hatch Act

In FY 2014, the Hatch Act Unit experienced additional 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 successfully met seven out of its ten goals in FY 2014.

Goal Table 9 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 Result	FY 2016 Target	FY 2016 Result
30	Number of Hatch Act updates to OSC website or Listserv messages[30]	10	15	10	10	10	10	10		10	
31	Percent of cases obtaining corrective action[31]	n/a	92%	95%	92%	90%	73%	75%		75%	
32	Percent of appropriate cases resolved thru negotiation [32]	n/a	100%	100%	100%	100%	93%	90%		90%	
33	Number of successful prosecutions	n/a	1	1	1	1	2	1		1	
34	Percent of successful prosecutions	n/a	100%	100%	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 staff try to achieve corrective action but are unsuccessful. The Unit will then compare that number to the total number of corrective actions achieved. For example, if the Unit achieves 40 corrective actions and are unsuccessful in two attempts, it would calculate the percentage as 40/42 = 95 percent 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 achieved.

Goal Table 10 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	FY 2016 Target	FY 2016 Result
35	Number of warning letters issued[35]	n/a	142	142	150	75[35]	44	50		50	
36	Percent of Hatch Act outreach/training requests accepted[36]	98%	98%	98%	100%	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%	99%	95%		95%	
38	Percent of formal written advisories issued within 120 days	n/a	95%	95%	95%	95%	100%	95%		95%	
39	Percent of formal written advisory requests responded to[39]	n/a	98%	98%	98%	98%	100%	98%		98%	

35. In FY 2014, the result (compared to FY 2013) suffered a 70 percent decrease. The primary cause of this decrease was the Hatch Act Modernization Act of 2012, which narrowed the criteria for Hatch Act violations at the state and local level. OSC expects this trend to continue into the future. 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 in which we expect the numbers 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. In FY 2014, having achieved the 100 percent mark, the best the Unit can do from now on is to maintain this perfect percentage.

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. As of FY 2014 results, which comprise three fiscal years of results, OSC sees very little variation in the high results the Unit has been achieving.

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

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 that access to OSC services for the federal community be simplified. 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 2014, 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	Start Pilot Project by Building Templates for HR	Met	Build Templates and Implement IDPs	
63	Identify targeted training to mitigate skills gaps	Conduct Annual Survey	Met	Conduct Annual Survey	Met	Conduct Annual Survey	Met	Conduct Annual Survey	
64	Percent of employees using telework and alternative schedule options; to provide employees with flexibility	55%	71%	70%	84%	70%	85%	70%	
65	Percent of employees that participate in the annual Federal Employee Viewpoint Survey on their job satisfaction	75%	92%	86%	86%	90%	85%	90%	
66	Improve the functionality of the case tracking system	See Footnote[66]	Met	See Footnote[66]	Met	See Footnote[66]	Met	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	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	3	2	

66. IT supported 30 system change requests in FY 2014. 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. Further, a plan has been developed to modernize the case management system. In FY 2014 a contract has been let for the new case management system requirements, and in FY 2015 we will complete these requirements and begin system selection and build.

Goal Table 12 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	Met	[9]Maintain and update for improvements	
70	Survey user community to gauge strengths and weaknesses of website	See footnote[70]	Unmet	See footnote[70]	Partially met	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]	Met	See footnote[71]	
72	Make use of Twitter and social media	See footnote[72]	Partially met	See footnote[72]	Met	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	Unmet	Conduct survey; Implement changes based on survey findings	

69. Narrative: OSC invited various stakeholders to give OSC feedback on its old 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.

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

Results for FY 2014 – New website launched on July 4, 2014. Receiving feedback from OSC staff and external users and implementing changes on a rolling basis.

Target for FY 2015 – Obtain more feedback on user experience and implement further changes. Expand website capabilities and install new, more user-friendly e-filing system.

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

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

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

Results for FY 2014 – Obtained feedback from numerous individual OSC employees and external users, but no survey has been conducted yet.

Target for FY 2015 – OSC will seek to get feedback from GSA's DigitalGov User Experience program and make further improvements to its website.

71: 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 Specialist speaks with members of the news media on a regular basis.

Target for FY 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.

Results for 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 for FY 2014 – 30 Tweets, 100 followers, and 550 media calls fielded; will look for areas of improvement beyond above.

Results for FY 2014 – OSC issued 25 press releases, up from 14 in FY 2013. About 300 media calls were fielded, twice the amount from FY 2013. The media's focus on Department of Veterans Affairs whistleblowing accounted for a large proportion of OSC's engagement with the press with prominent coverage in *The New York Times*, *The Washington Post*, *Wall Street Journal*, *USA Today*, *Los Angeles Times*, *Boston Globe*, CNN, CBS, NBC, and numerous other media outlets.

Target for FY 2015 – Issue 30-35 press releases and seek to improve partnerships with the press to better educate the federal workforce on prohibited personnel practices and OSC's role.

72: Narrative: OSC uses Twitter to push out information over social media, especially information on OSC's activities and educational materials.

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

Results for FY 2014 – On Twitter, OSC tweeted 31 times and gained 166 followers.

Target for FY 2015 – Expand number of Twitter followers by more than 300 to a total of 600+, with a special focus on expanding the number of employment attorneys, reporters, public policy experts, and stakeholders who follow OSC. Tweet 120 times – especially by pushing out more educational content. Review OSC's videos and seek to improve the quality of OSC's shareable multimedia content. Seek partnerships, such as with other federal agencies, to more widely distribute OSC's educational material through their social media networks to better reach the federal workforce.

Part 3: Financial Section

U.S. OFFICE OF SPECIAL COUNSEL
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202-254-3600

CFO Letter

November 14, 2014

This letter usually addresses any recommendations for improvement made by the auditor concerning deficiencies in internal controls which may have an effect on the auditor's ability to express an opinion on the financial statements. I am pleased to report that there were no such matters noted by the auditor in FY 2014 that were considered significant.

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

We believe the minor recommendations pointed out during the FY 2013 audit have been 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

U.S. OFFICE OF SPECIAL COUNSEL
AUDIT REPORT
SEPTEMBER 30, 2014

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U.S. OFFICE OF SPECIAL COUNSEL
AUDIT REPORT
SEPTEMBER 30, 2014

CONTENTS

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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, 2014 and 2013, 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 2014 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, 2014 and 2013, 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, 2014 and 2013, 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, 2014 and 2013, 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 2014 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.

We noted certain additional matters that we have reported to OSC management in a separate letter dated November 14, 2014.

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 2014 and 2013 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 2014 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 2014 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

November 14, 2014

U.S. OFFICE OF SPECIAL COUNSEL

Fiscal Year 2014
Financial Statements

Office of Special Counsel
Balance Sheet
As of September 30, 2014 and 2013
(dollars in thousands)

	2014	2013
Assets		
Intragovernmental		
Fund Balance with Treasury (Note 2)	$ 2,544	$ 1,872
Total Intragovernmental	$ 2,544	$ 1,872
Assets With the Public		
Accounts Receivable, Net (Note 3)	3	2
General Property, Plant, and Equipment, Net (Note 4)	295	168
Total Assets	$ 2,842	$ 2,042
Liabilities		
Intragovernmental		
Accounts Payable	$ 225	$ -
Employer Contributions and Payroll Taxes Payable (Note 5)	87	77
Unfunded FECA Liability (Note 5)	73	70
Other Unfunded Employment Related Liability (Note 5)	-	11
Total Intragovernmental	385	158
Liabilities With the Public		
Accounts Payable	63	45
Federal Employee and Veteran Benefits (Note 5)	371	370
Other		
Accrued Funded Payroll (Note 5)	415	274
Employer Contributions and Payroll Taxes Payable (Note 5)	15	4
Unfunded Leave (Note 5)	1,182	1,090
Contingent Liabilities (Note 5, 7)	-	125
Total Liabilities	$ 2,431	$ 2,066
Net Position		
Unexpended Appropriations-Other Funds	1,740	1,471
Cumulative Results of Operations-Other Funds	(1,329)	(1,495)
Total Net Position	$ 411	$ (24)
Total Liabilities And Net Position	$ 2,842	$ 2,042

The accompanying notes are an integral part of these financial statements

2

Office of Special Counsel
Statement of Net Cost
For the Years Ended September 30, 2014 and 2013
(dollars in thousands)

	2014	2013
Gross costs (Note 9)	$ 21,529	$ 20,216
Less: Total Earned Revenue	552	557
Net Cost of Operations	$ 20,977	$ 19,659

The accompanying notes are an integral part of these financial statements

3

Office of Special Counsel
Statement of Changes in Net Position
For the Years Ended September 30, 2014 and 2013
(dollars in thousands)

	2014	2013
Cumulative Results of Operations:		
Beginning Balances	$ (1,495)	$ (1,017)
Beginning Balances, as Adjusted	(1,495)	(1,017)
Budgetary Financing Sources:		
Appropriations Used	20,265	18,315
Other Financing Sources (Non Exchange):		
Imputed Financing (Note 8)	878	866
Other		
Total Financing Sources	21,143	19,181
Net Cost of Operations	(20,977)	(19,659)
Net Change	166	(478)
Cumulative Results of Operations	$ (1,329)	$ (1,495)
Unexpended Appropriations:		
Beginning Balances	$ 1,471	$ 1,996
Beginning Balances, as Adjusted	1,471	1,996
Budgetary Financing Sources:		
Appropriations Received	20,639	18,972
Appropriations Transferred In/Out	-	-
Appropriations Used	(20,265)	(18,315)
Other Adjustments	(105)	(1,182)
Total Budgetary Financing Resources	269	(525)
Total Unexpended Appropriations	$ 1,740	$ 1,471
Net Position	$ 411	$ (24)

The accompanying notes are an integral part of these financial statements

4

Office of Special Counsel
Statement of Budgetary Resources
For the Years Ended September 30, 2014 and 2013
(dollars in thousands)

	2014	2013
Budgetary resources:		
Unobligated balance brought forward, October 1	$ 395	$ 597
Unobligated balance brought forward, October 1, as adjusted	395	597
Recoveries of prior year unpaid obligations	433	334
Other changes in unobligated balance	(105)	(190)
Unobligated balance from prior year budget authority, net	723	741
Appropriations (discretionary and mandatory)	20,639	17,980
Spending authority (discretionary and mandatory)	557	567
Total budgetary resources	$ 21,919	$ 19,288
Status of budgetary resources:		
Obligations incurred (Note 10):	$ 21,229	$ 18,893
Unobligated balance, end of year:		
Apportioned	190	108
Unapportioned	500	287
Total unobligated balance, end of year	690	395
Total status of budgetary resources	$ 21,919	$ 19,288
Change in obligated balance:		
Unpaid obligations:		
Unpaid obligations, brought forward, October 1 (gross)	$ 1,477	$ 2,407
Adjustment to obligated balance, start of year (net)		
Obligations incurred	21,229	18,893
Outlays (gross)	(20,417)	(19,489)
Actual transfers, unpaid obligations (net)		
Recoveries of prior year unpaid obligations	(433)	(334)
Unpaid obligations, end of year (gross)	1,856	2,477
Uncollected payments:		
Memorandum (non-add) entries:		
Obligated balance, start of year	$ 1,477	$ 2,407
Obligated balance, end of year	$ 1,856	$ 2,477
Budget Authority and Outlays, Net		
Budget authority, gross (discretionary and mandatory)	$ 21,196	$ 18,547
Actual offsetting collections (discretionary and mandatory)	(557)	(567)
Budget authority, net (discretionary and mandatory)	$ 20,639	$ 17,980
Outlays, gross (discretionary and mandatory)	$ 20,419	$ 19,489
Actual offsetting collections (discretionary and mandatory)	(557)	(567)
Outlays, net (discretionary and mandatory)	19,862	18,922
Agency outlays, net (discretionary and mandatory)	$ 19,862	$ 18,922

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, 2014 and 2013

Office of Special Counsel
Notes to Principal Financial Statements
As of and for the Years Ended September 30, 2014 and 2013

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

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

C. Basis of Accounting

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

D. Taxes

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

E. Fund Balance with Treasury

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

F. Accounts Receivable

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

G. General Property, Plant and Equipment, Net

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

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 2014 and 2013 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.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2014 and 2013 were:

(dollars in thousands)

Fund Balance:	**2014**	**2013**
Appropriated Funds (general)	$ 2,544	$ 1,872
Total Fund Balance with Treasury	$ 2,544	$ 1,872
Status of Fund Balance with Treasury		
Unobligated Balance:		
Available	$ 190	$ 108
Unavailable	500	287
Obligated Balance Not Yet Disbursed	1,854	1,477
Total Status of Fund Balance with Treasury	$ 2,544	$ 1,872

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, 2014 and 2013 were as follows:

(dollars in thousands)	**2014**	**2013**
Accounts Receivable from the Public:		
Billed:		
Current	$ 3	$ 2
Total Accounts Receivable	3	2
Accounts Receivable from the Public, Net	$ 3	$ 2

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, Plant and Equipment account balances as of September 30, 2014 and 2013 were as follows:

(dollars in thousands)	Service Life	Acquisition Value	2014 Accumulated Depreciation	2014 Net Book Value
Office Equipment	5 yrs	627	(599)	28
Leasehold Improvements	10 yrs	498	(231)	267
Total		$ 1,125	$ (830)	$ 295

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

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on OSC's Balance Sheet as of September 30, 2014 and 2013 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)	2014	2013
Intragovernmental:		
Unfunded FECA Liability	$ 73	$ 71
Other unfunded employment related liability		10
Total Intragovernmental	$ 73	$ 81
Public Liabilities:		
Federal Employee and Veteran Benefits	$ 371	$ 370
Unfunded Annual Leave	1,182	1,090
Contingent Liabilities		125
Total Liabilities Not Covered by Budgetary Resources	$ 1,626	$ 1,666
Total Liabilities Covered by Budgetary Resources	805	400
Total Liabilities	$ 2,431	$ 2,066

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 2014 and

2013 were approximately $73 and $71 respectively. Unfunded Employment liabilities for 2014 were $0 and $10 for 2013. The actuarial calculation is based on benefit payments made over 12 quarters, and calculates the annual average of payments. The actuarial FECA liabilities for 2014 and 2013 were approximately $371and $370 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
2015		1,861
2016		1,889
2017		1,910
2018		1,934
2019		1,958
Total Future Lease Payments	$	9,552

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, 2014 and 2013, contingencies were $0 and $125 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, 2014 and 2013, respectively, imputed financing from OPM were approximately $878 and $866.

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)

	2014	2013
Investigations and Enforcements		
Intragovernmental Costs	$ 8,587	$ 6,508
Public Costs	12,942	13,708
Total Investigations and Enforcements	$ 21,529	$ 20,216
Intragovernmental Earned Revenue	$ 552	$ 557
Total Intragovernmental Earned Revenue	$ 552	$ 557

NOTE 10. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred reported on the Statement of Budgetary Resources in 2014 and 2013 consisted of the following:

(dollars in thousands)	2014		2013	
Direct Obligations:				
Category B	$	21,229	$	18,893
Total Obligations Incurred	$	21,229	$	18,893

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 FY 2014 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2015 and can be found at the OMB website: http://www.whitehouse.gov/omb. The 2015 Budget of the United States Government, with the actual column completed for 2013, 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, 2014 and 2013, undelivered orders amounted to approximately $1,049 thousand and $1,078.

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
For the Years Ended September 30, 2014 and 2013
(dollars in thousands)

	2014	2013
Resources Used to Finance Activities:		
Obligations Incurred	$ 21,229	$ 18,893
Spending Authority From Offsetting Collections		
Earned		
Collected	(557)	(567)
Recoveries of Prior Year Unpaid Obligations	(433)	(334)
Offsetting Receipts	-	-
Net Obligations		
Other Financing Resources		
Imputed Financing Sources	878	866
Total Resources Used to Finance Activity	21,117	18,858
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	29	323
Current Year Capitalized Purchases	(225)	-
Components of Net Costs which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect		
Other Financing Sources Not in the Budget	(878)	(866)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	98	122
Future Funded Expenses	84	115
Imputed Costs	878	866
Other Expenses Not Requiring Budgetary Resources	(126)	241
Net Cost of Operations	$ 20,977	$ 19,659

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