United States

Merit Systems Protection Board

Performance and Accountability Report for Fiscal Year 2010

November 15, 2010

Foreword

The U.S. Merit Systems Protection Board (MSPB) presents its Performance and Accountability Report (PAR) for fiscal year 2010. This report contains the annual audited financial statement required by the Accountability of Tax Dollars Act (ATDA) and the annual performance report required by the Government Performance and Results Act (GPRA). The financial accountability report section of the PAR also includes the annual report on internal controls required by the Federal Managers' Financial Integrity Act (FMFIA). This report also includes information about MSPB appeals processing as required by Section 7701(i)(1) and (2) of Title 5 United States Code.

The PAR has been prepared in accordance with guidance provided by the Office of Management and Budget (OMB) and other sources. The MSPB PAR for FY 2010 was prepared by Government employees, except for the audit, which was conducted by independent auditors. The MSPB will duplicate and bind copies of the FY 2010 PAR sufficient for the November 15, 2010 distribution to the President, OMB, and Congress and will make the PAR available in electronic form on the MSPB website (www.mspb.gov). Additional copies of the PAR will be printed at a later date and may be ordered from the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419.

We invite our customers and stakeholders to provide comments to improve this report. Please send comments to:

U.S. Merit Systems Protection Board
ATTN: Comments on the PAR for FY 2010
1615 M Street, NW
Washington, DC 20419

Toll free: 1-800-209-8960
Fax: 202-653-7130
e-mail: mspb@mspb.gov

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The Merit Systems Protection Board
Fiscal Year 2010
Performance and Accountability Report

Message from the Chairman

It is my honor to submit the Fiscal Year (FY) 2010 Performance and Accountability Report (PAR) for the U.S. Merit Systems Protection Board (MSPB). I am pleased to report that MSPB met all of its program performance goals and received a clean audit of its financial statements for FY 2010. These achievements reflect the expertise and dedication of our employees with whom Vice Chairman Wagner, Board Member Rose, and I are proud to serve.

The MSPB's role as the independent, bipartisan protector of the merit systems under which Federal employees work is essential to assuring the American people that their Federal civil servants are well-qualified to perform their duties and effectively serve the public. The MSPB carries out its mission to protect the Federal merit systems and the rights of individuals within those systems by: providing for independent adjudication of employee appeals of personnel actions for over two million Federal employees; enforcing compliance with Board orders and decisions; conducting studies of the merit systems and other Federal management issues to ensure employees are managed in accordance with the merit principles and free from Prohibited Personnel Practices; and reviewing the significant actions of the Office of Personnel Management (OPM).

I am pleased to report that MSPB met all of its ten performance goals for FY 2010. The MSPB continued to issue high-quality decisions on initial appeals filed in the regional and field offices and on Petitions for Review filed at headquarters. Although processing of Petitions for Review slowed this year, we met our overall performance goal for adjudication timeliness. For the first time in 24 years, the Board heard oral arguments on two related cases. To improve transparency, we will continue to hear oral arguments when they involve significant legal issues with broad potential impact. We completed several merit systems studies on topics such as improving supervision, a retrospective look at Prohibited Personnel Practices, and targeting competencies for training. We also note that the President's Hiring Reform Initiative contained several long-standing recommendations from MSPB study reports. We successfully administered the 2010 Merit Principles Survey to over 70,000 Federal employees with a 60 percent response rate for the online survey. We made changes to improve our hiring timeliness and received provisional certification of our Senior Executive Service Performance Management Plan. We received 43 percent of initial appeals and 36 percent of pleadings via e-Appeal, resulting in efficiency and cost savings for MSPB,

appellants, and agencies. We received an unqualified audit of our FY 2009 financial statements for the eighth straight year. We also increased our physical security as a result of threats and vulnerabilities that were identified.

The most significant issues affecting MSPB's ability to carry out its mission to protect the Federal merit systems include a large number of cases involving veterans' rights; changes in law and jurisdiction; changes in employee and management flexibilities; changing demographics of the workforce; and the Federal budget. We also conducted several initial reviews and assessments of our mission and management programs. The results of these reviews brought to light management challenges in mission planning and effectiveness, budgetary planning and resources management, and management processes that affect our ability to successfully achieve our mission in both the short and long term. This report contains a discussion of these issues and the actions we are taking to address them.

Finally, this report provides a variety of legally required assurances regarding our performance and financial data, management controls, and financial systems. All data reported were obtained from the agency's appeals case management system, audited FY 2010 financial reports, and reports submitted by the agency's program managers. In accordance with law and Office of Management and Budget (OMB) guidance, I have determined that the performance and financial data included in this report are complete and reliable. There are no material inadequacies or non-conformances in either the completeness or reliability of the performance or financial data. The MSPB has existing systems to ensure the completeness and reliability of the performance data used in this report and is using OMB guidance to review and continually improve these systems. In addition, following an assessment of MSPB's comprehensive management control program, I certify, with reasonable assurance, that MSPB's systems of accounting and internal control are in compliance with the provisions of the Federal Managers' Financial Integrity Act.

Respectfully,

Susan Tsui Grundmann
Chairman

November 15, 2010

Management Discussion and Analysis

About the U.S. Merit Systems Protection Board

The U.S. Merit Systems Protection Board has its origin in the Pendleton Act of 1883. Passage of the Act followed decades of discussion about reforming the process to hire and fire Federal employees. The final impetus leading to passage of the Act, was the assassination of President Garfield in 1881 by a frustrated Federal job seeker who felt he was owed a Federal job in compensation for his support of the President. The Act created the Civil Service Commission (CSC) and provided a structure for hiring based on qualifications in order to curtail the excesses of political patronage in Federal Civil Service. The CSC was responsible for establishing and overseeing competitive hiring processes and protecting employee rights by ensuring they were not fired for political reasons. These changes provided the initial foundation for improvements in Government efficiency and effectiveness by helping to ensure a stable, highly-qualified Federal workforce was available to provide effective service to the American people.

Through the next several decades, work performed by Federal employees became more complicated and covered a wider range of occupations. As the Commission's responsibilities multiplied, a growing consensus emerged that it could not properly and adequately set managerial policy, protect the merit systems, and adjudicate appeals simultaneously. Concern over the inherent conflict of interest in the Commission's role as both rule-maker and judge was a principal motivating factor behind the enactment by Congress of the Civil Service Reform Act of 1978. The Act replaced the Civil Service Commission with three new agencies: the MSPB as the successor to the Commission; the Office of Personnel Management (OPM), which serves as the President's agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority (FLRA), which oversees Federal labor-management relations.

During hearings on the CSRA, the role and functions of the MSPB were described during testimony by various members ". . . [MSPB] will assume principal responsibility for safeguarding merit principles and employee rights" and be "charged with insuring adherence to merit principles and laws, " and with "safeguarding the effective operation of the merit principles in practice."[1] The MSPB assumed the employee appeals functions of the Commission by providing employees and agencies an independent, third party adjudicatory authority for employee appeals. The MPSB was given the authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and enforce compliance with final MSPB decisions. The MPSB was also given new responsibilities to conduct independent studies of the merit systems and to review the regulations and significant actions of the OPM. The MSPB may on its own motion, or at the request of other parties, review, and potentially overturn OPM regulations if such regulations would require an employee to commit a Prohibited Personnel Practice (PPP) or the implementation of the regulation requires an employee to commit a PPP.

[1] Legislative History of the Civil Service Reform Act of 1978. Committee on Post Office and Civil Service, House of Representatives. March 27, 1979, Volume No. 2. (pg 5-6)

Considering MSPB's relatively small size and budget, it provides an enormous benefit to the Government with a significant return on investment. The MSPB provides this return on investment through the protection of merit principles and the promotion of employee engagement aimed at strengthening and maintaining a fair, effective, and efficient workforce. Federal departments, agencies, and employees benefit individually and collectively through the promotion of innovative and effective management practices that help ensure the Federal workforce is highly qualified to serve the public, and help reduce the occurrence of Prohibited Personnel Practices (PPP) that negatively affect agency and employee resources.

The MSPB provides superior adjudication services (including alternative dispute resolution) for agencies, appellants, and the Government aimed at adjudicating cases effectively and efficiently. It also provides high-quality merit systems studies that provide cost savings through improved hiring and selection, better management, greater employee engagement, better organizational performance, improved service to the public, and a reduction in the number of appeals Governmentwide. Review of OPM significant actions, regulations and rules can protect the integrity and viability of the merit systems and civil service, provide benefits to agencies similar to those related to merit systems studies, and cost savings to agencies in terms of fewer PPPs, less employee misconduct, fewer adverse actions, and fewer appeals.

The MSPB Mission

The mission of the Merit Systems Protection Board is:

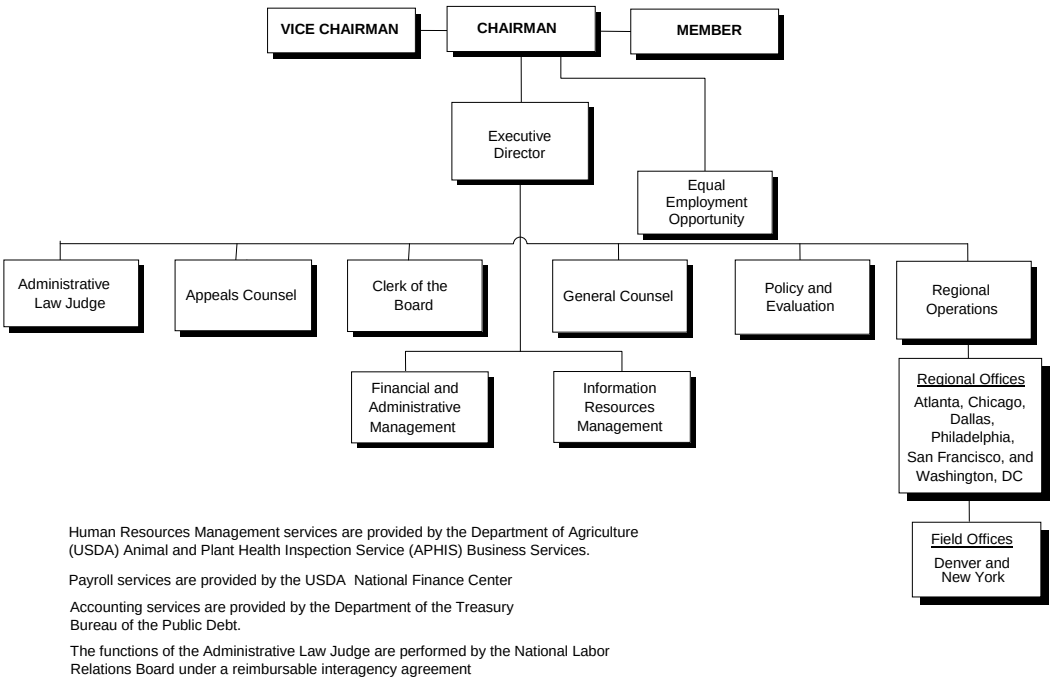
To protect Federal merit systems and the rights of individuals within those systems.

The MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals and by conducting merit systems studies. In addition, the MSPB reviews the regulations and significant actions of the Office of Personnel Management to assess the degree to which those actions support adherence to the merit principles and do not lead to the commission of PPPs.

The MSPB Organization

The agency is divided into several offices organized to conduct and support its statutory functions. The agency has three appointed Board members and is currently authorized 226 Full-time Equivalents (FTEs) with offices in Washington, DC (headquarters) and six regional and two field offices, which are located throughout the United States.

U.S. Merit Systems Protection Board



The **Board Members** adjudicate the cases brought to the MSPB. The bipartisan Board consists of the Chairman, Vice Chairman, and Member, with no more than two of its three members from the same political party. Board members are appointed by the President, confirmed by the Senate, and serve overlapping, non-renewable seven-year terms. The **Chairman**, by statute, is the chief executive and administrative officer of the MSPB. Office Directors report to the Chairman through the Executive Director.

The **Office of the Administrative Law Judge** (ALJ) adjudicates and issues initial decisions in corrective and disciplinary action complaints (including Hatch Act complaints) brought by the Special Counsel, proposed agency actions against ALJs, MSPB employee appeals, and other cases assigned by the MSPB. The functions of this office are currently performed by ALJs at the National Labor Relations Board (NLRB), the Federal Communications Commission (FCC), and the Environmental Protection Administration (EPA) under interagency agreements.

The **Office of Appeals Counsel** conducts legal research and prepares proposed decisions for the Board in cases where a party petitions for review of an Administrative Judge's (AJ) initial decision and in most other cases decided by the Board. The office prepares proposed decisions on interlocutory appeals of rulings made by judges, makes recommendations on reopening cases on the Board's own motion, and provides research and policy memoranda to the Board on legal issues.

The **Office of the Clerk of the Board** receives and processes cases filed at MSPB headquarters, rules on certain procedural matters, and issues MSPB decisions and orders.

The office serves as MSPB's public information center, coordinates media relations, produces public information publications, operates MSPB's library and on-line information services, and administers the Freedom of Information Act and Privacy Act programs. The office also certifies official records to the courts and Federal administrative agencies, and manages MSPB's records systems, legal research systems, and the Government in the Sunshine Act program.

The **Office of Equal Employment Opportunity** plans, implements, and evaluates MSPB's equal employment opportunity programs. It processes complaints of alleged discrimination brought by agency employees and provides advice and assistance on affirmative employment initiatives to MSPB's managers and supervisors.

The **Office of Financial and Administrative Management** administers the budget, accounting, travel, time and attendance, human resources, procurement, property management, physical security, and general services functions of the MSPB. It develops and coordinates internal management programs, including review of internal controls agency-wide. It also administers the agency's cross-servicing agreements with the U.S. Department of Agriculture, National Finance Center for payroll services, U.S. Department of the Treasury, Bureau of the Public Debt for accounting services, and U.S. Department of Agriculture, Animal and Plant Health Inspection Service for human resources management services.

The **Office of the General Counsel**, as legal counsel to the MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents the MSPB in litigation; prepares proposed decisions for the Board to enforce a final MSPB decision or order, in response to requests to review OPM regulations, and for other assigned cases; conducts the agency's petition for review settlement program; and coordinates the agency's legislative policy and congressional relations functions. The office drafts regulations, conducts MSPB's ethics program, and plans and directs audits and investigations.

The **Office of Information Resources Management** develops, implements, and maintains MSPB's automated information systems to help the agency manage its caseload efficiently and carry out its administrative and research responsibilities.

The **Office of Policy and Evaluation** carries out MSPB's statutory responsibility to conduct special studies of the civil service and other Federal merit systems. Reports of these studies are sent to the President and the Congress and are distributed to a national audience. The office provides information and advice to Federal agencies on issues that have been the subject of MSPB studies. The office also conducts special projects for the agency and has responsibility for preparing MSPB's strategic and performance plans and performance reports required by the Government Performance and Results Act.

The **Office of Regional Operations** oversees the agency's six regional and two field offices, which receive and process appeals and related cases. It also manages MSPB's Mediation Appeals Program (MAP). AJs in the regional and field offices are responsible for adjudicating assigned cases and for issuing fair, well-reasoned, and timely initial decisions.

Program Performance Goals and Results

The MSPB Performance Plan for FY 2010 consisted of ten annual performance goals associated with the three strategic goals described in the agency's Strategic Plan for FY 2010-2015. Each performance goal has from one to five performance measures with targets established for each measure. Highlights and a tabular summary of our program performance results are presented below.[2]

Strategic Plan Goal 1- Adjudication: To provide fair, high-quality, timely and efficient adjudication of cases filed with the MSPB and to make effective use of alternative methods of dispute resolution in MSPB proceedings.

The MSPB met all four of its adjudication performance goals for FY 2010. We continued to issue high-quality decisions. Ninety-two percent of MSPB cases were left unchanged by the U.S. Court of Appeals for the Federal Circuit. Nine percent of initial decisions filed with the Board on PFR were reversed or remanded to MSPB judges. We also met our performance goal for overall adjudication case processing timeliness. We exceeded our timeliness targets for percent of initial decisions closed within 110 days and for average PFR processing, and met our targets for average processing time for initial appeals and for enforcement cases at headquarters. However, we did not achieve our target for percent of PFRs closed within 150 days. More information about the issues involved in the timeliness of PFR processing is included in the performance section of this report. We began implementing changes in our PFR process to improve understanding and transparency. For the first time in 24 years, we held oral arguments on two related cases that raised a significant legal issue of broad potential impact.

We met our performance goal for alternative dispute resolution. The initial appeals settlement program and the mediation appeals program both had success rates over 60 percent. However, we discovered that the methods for measuring success rate in the PFR settlement program were inconsistently applied so we do not have an accurate measure for success of the PFR settlement program. During FY 2011, we will review and refine measures of success and impact of the PFR settlement program. Finally, we met our performance goal for customer satisfaction of our adjudication program. We implemented several changes to e-Appeal to improve its internal and external usability and successfully migrated the hosting of e-Appeal from the original contractor to MSPB headquarters. We continued to collect and use feedback from our adjudication stakeholders.

Overall, MSPB received 8,260 cases in FY 2010, 11 percent more cases than were received in FY 2009. The MSPB processed 7,708 cases in FY 2010. Seventy-two percent of initial appeals were processed in 110 days or less (84 percent of initial appeals were processed in 120 days or less) and 58 percent of PFRs were processed in 110 days or less. The remaining 28 percent of initial appeals took more than 110 days to process (16 percent took more than 120 days to process), and 42 percent of PFRs took more than 110 days to process. Each case

[2] The performance goals and targets for FY 2010 are those described in the MSPB Performance Budget for Fiscal 2011 submitted to the Congress on February 8, 2010. The performance goals, measures, and/or targets for FY 2011 have been revised and may be adjusted further based on action taken on the FY 2010 budget and other factors. The Final Performance Plan for FY 2011 will be completed by December 31, 2010.

is adjudicated on its merits and in a manner consistent with the interests of fairness, which is achieved by assuring due process and the parties' full participation at all stages of the appeal.[3]

Strategic Plan Goal 2 – Merit Systems Studies: To conduct merit systems studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from Prohibited Personnel Practices.

The MSPB completed five external reports and four internal evaluation reports dealing with a variety of topics, including supervisory preparedness, Prohibited Personnel Practices, Federal competencies and how to obtain them, whistleblowing protections and the law, as well as the FY 2009 MSPB annual report. MSPB completed four editions of the *Issues of Merit* newsletter and has begun posting revolving content to the studies webpage. Merit systems study reports continue to be cited by practitioners, policy-makers, and the media. Most significantly, the Office of Personnel Management has enacted numerous longstanding MSPB recommendations as part of the President's 2010 hiring reform initiative. MSPB successfully administered the 2010 Merit Principles Survey to over 70,000 Federal employees and supervisors, with a 60 percent response rate on the online survey. The agency has conducted extensive outreach in developing its 2011-2014 research agenda and we are committed to a transparent process for finalizing the agenda.

Strategic Plan Goal 3 – Management Support and Organizational Excellence: To achieve organizational excellence and strategically manage MSPB's human capital, information technology, and other internal systems and processes.

The MSPB met all three of our performance goals for management support and organizational excellence. We achieved the targets on all four human resource and EEO measures. As part of the hiring makeover's emphasis on timely hiring, and in preparation for the President's Hiring Reform Initiative, we made several improvements to our vacancy announcements, automated hiring system, and applicant notification procedures. We continued to support a diverse workforce by developing a new employee training and development policy, and implementing a new EEO and Diversity training policy. We received provisional certification of our SES Performance Management Plan and our employees gave positive feedback on the e-OPF program.

We exceeded one and met two of our information technology measures, and fell short of the target on the fourth measure. For the measure on electronic filing, 43 percent of initial appeals were filed electronically, 8 percent higher than the target of 40 percent, and 36 percent of pleadings were filed electronically, 29 percent higher than the target of 28 percent. Ninety- nine percent of technical support tickets were resolved within one business day,

[3] In accordance with 5 USC 7701(i)(1) and (2), several factors may contribute to the length of time it takes to resolve a particular case. It takes time to issue notices, respond to discovery, and other motions, subpoena documents, arrange for and question witnesses, present evidence, conduct a hearing and often to participate in alternative dispute resolution efforts. When there is good cause to do so, the parties may be granted additional time in an effort to preserve due process. Adjudication also may require more time when cases involve new, particularly complex, or numerous factual issues, or the interpretation of new statutory or regulatory provisions. In addition, when Board members do not agree regarding the disposition of issues or cases, the need to resolve disagreements or prepare separate opinions may increase the time needed for adjudication.

15 percent higher than the target of 85 percent. Seventy-five percent of the 94 internal respondents to the IT customer support survey reported they were satisfied or very satisfied that their IT needs were being met, short of the target of 85 percent. We continued to comply with IT regulatory requirements including FISMA, and information security awareness training. We are voluntarily complying with the Open Government Directive as we focus on improving transparency. Finally, we met our performance goal for effective and efficient management of our budget, financial, and other support programs. We achieved an unqualified opinion on the audit of our FY 2009 financial statements for the eighth straight year. We successfully implemented a new e-Requisition system, increased our physical security as a result of threats and vulnerabilities that were identified, and administered a customer satisfaction survey of the internal customers of these programs.

Summary of Program Performance Results

Strategic Goal 1 - To provide fair, high-quality, timely and efficient adjudication of cases filed with the MSPB and to make effective use of alternative methods of dispute resolution in MSPB proceedings.	
Performance Goal 1.1 Issue high-quality decisions.	✓
Performance Goal 1.2 Issue timely decisions.	✓
Performance Goal 1.3 Make effective use of alternative methods of dispute resolution.	✓
Performance Goal 1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.	✓
Strategic Goal 2 - To conduct studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from Prohibited Personnel Practices.	
Performance Goal 2.1 Conduct merit systems studies and recommend improvements to policy-makers and practitioners.	✓
Performance Goal 2.2 Assess the practice of merit in the workplace.	✓
Performance Goal 2.3 Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts.	✓
Strategic Goal 3 - To achieve organizational excellence and strategically manage MSPB's human capital, information technology, and other internal systems and processes.	
Performance Goal 3.1 Attract, develop, and retain a high-quality, diverse and highly motivated workforce.	✓
Performance Goal 3.2 Effectively use information technology to enhance organizational performance and efficiency, and provide access to and dissemination of MSPB information.	✓
Performance Goal 3.3 Effective and efficient operation of financial, budget, and other support programs.	✓

Performance goal exceeded *Performance goal met* *Performance goal not met*

External Trends and Issues

The most significant external trends or issues affecting MSPB's ability to carry out its mission to protect the Federal merit systems include changes and developments in appeal rights and management flexibilities, changing demographics of the workforce, and continued pressure on the Federal budget.

Veteran's rights and changes in law and jurisdiction

In FY 2010, MSPB received a combined total of 1,012 cases under two related veterans' rights laws, the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans Employment Opportunities Act (VEOA). Veterans who seek employment in the Federal civil service and are not hired have the right to seek redress for any alleged violation of their veterans' preference rights before the MSPB under the VEOA. VEOA provides a means of redress for any violation of an individual's rights under any statute or regulation relating to veterans' preference. Individuals who left employment in the Federal civil service to serve in the military have the right to reemployment in the Federal civil service, and to challenge the terms (or denial) of reemployment before the MSPB under USERRA. The MSPB expects to continue to receive a large number of cases under these veterans' rights laws as our nation remains engaged in major military conflicts.

The Americans with Disabilities Act (ADA) Amendments Act of 2008 became effective on January 1, 2009. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. However, it changes the way these statutory terms should be interpreted. While discrimination claims alone are not appealable to the MSPB, such claims are frequently raised as affirmative defenses to actions that are appealable (thus known as "mixed" cases). The broader interpretation and expanded rights afforded by the ADA Amendments Act will likely make some MSPB appeals more complex and may encourage additional claims.

The MSPB may see an increase in the number of appeals related to implementation of the Postal Service's National Reassessment Project (NRP). While most Postal Service non-preference eligible employees do not have appeal rights to MSPB for an adverse action, appeals from NRP-related actions raise issues concerning the restoration to duty statute and regulations, which cover a much broader category of employees. MSPB expects to continue to see increasing numbers of restoration to duty appeals from Postal Service employees.

Members of both houses of Congress have introduced legislation that, if enacted, would increase MSPB's caseload in whistleblower appeals as well as increase the complexity of the processing of those appeals. For example, the Whistleblower Protection Enhancement Act would allow MSPB to consider certain new kinds of retaliation claims; remove several existing exceptions to whistleblower protection; create a new category of whistleblowing; bring screeners employed by the Transportation Security Administration within the coverage of the Whistleblower Protection Act; and require that findings be made on certain issues in whistleblower cases that currently are not always made. According to the analysis of the Senate version of this legislation provided to the Congressional Budget Office by MSPB, the bill would likely lead to 350 additional cases filed in MSPB's regional and field offices each

year, an additional 225 hearings per year, and an additional 64 case receipts at MSPB headquarters each year.

Changes in appeal rights and appellate jurisdiction also increase the importance of the MSPB's statutory responsibility to promote merit and educate employees, supervisors, managers, leaders, on the merit system, merit system principles, PPPs, and MSPB appellate procedures, processes, and case law. Educating and promoting merit and sharing important information about appeals procedures will improve workforce management, and reduce the cost of appeals to agencies, appellants, and the Government.

Changes in management and employee flexibilities

Changes in management flexibilities could involve employees in single agencies such as those in the Department of Defense DoD). The National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111-84) ended the DoD's National Security Personnel System (NSPS), requiring the Department to transfer all employees and positions from NSPS by January 1, 2012. The NDAA also encouraged the Secretary of Defense to propose new personnel flexibilities, and other agencies continue to be interested in additional flexibilities.

Management flexibilities may also affect several agencies at a time. The American Recovery and Reinvestment Act may result in considerable hiring by some Federal agencies. It appears that some of this hiring will be under appointing authorities that exclude appeal rights, which may generate appeals before MSPB arguing to the contrary. Of course, any additional hiring that does grant appeal rights may generate an increased number of appeals as well.

A Presidential Memorandum has mandated and the OPM has proposed several flexibilities to improve Federal hiring that would be implemented Governmentwide. These flexibilities include the use of category rating, eliminating the need for applicants to submit Knowledge, Skills, and Abilities narratives for each application, the use of multiple hurdles in recruitment and assessment, and shortened hiring times. These initiatives have great potential to improve the effectiveness and efficiency of Federal hiring. However, how these processes are implemented could have either a positive or adverse impact on merit or the perception of merit.

As flexibilities are used, and as employees move from more flexible systems such as NSPS back to the traditional system under Title 5, it is possible that MSPB could see an increase in its appeals workload as well as increased complexity in the various legal authorities and precedents used to decide these appeals. These flexibilities also emphasize the need for MSPB to continue its study of Federal merit systems and human capital management practices to ensure the flexibilities are implemented and operated in accordance with merit system principles and are free from PPPs. Studying these new systems may also identify ways to improve the effectiveness and efficiency of Government operations. Flexibilities and other changes in human resource management policies issued through OPM regulation make it imperative that MSPB strengthen and expand its statutory authority to review OPM regulations. Reviewing OPM regulations can save the Government millions in direct costs such as those associated with transferring employees in and our of more flexible systems that are later terminated, and in indirect costs associated with negative employee perceptions of the new system and possible reductions in morale. Finally, changes in management

flexibilities also increase the importance of MSPBs role in promoting and educating employees and the public about the merit system, merit system principles, and PPPs.

Changing demographics of the Federal workforce

The proportion of retirement-eligible Federal employees continues to increase. While current economic conditions may delay the retirements of some of these Federal employees, it is still likely that retirements will increase in the next few years. As retirements increase, we might expect to see an increase in retirement-based appeals. The FY 2010 NDAA may provide an incentive to Federal employees covered by the Federal Employees Retirement System to retire sooner than they had anticipated due to a provision that allows them to claim service credit toward retirement for their sick leave balance. However, the NDAA also allows full-time Federal employees to end their careers in a part-time status without adversely affecting the amount of their annuity. This may be an incentive for employees to postpone retirement and work in a part-time status. As the government replaces retiring employees with relatively younger, less experienced employees, there is likely to be a decrease in the average age of the workforce. As this occurs, we may expect to see an increase in appeals because less experienced employees typically experience more appealable actions than do more experienced employees.

In addition to changes in workforce demographics, the Government work has continued to shift from administrative processing, to knowledge-based work. Federal human resources management systems, many designed in the 1940s and 1950s, do not have the flexibility needed to manage a knowledge-based workforce effectively. Issues, including recruitment and hiring, performance management and pay, training and development need to be improved in order to improve and maintain a workforce of highly engaged and motivated employees would can perform agency missions and serve the public. At the same time, merit principles, fair treatment, and freedom from discrimination and from PPPs must be ensured. Improvements are also needed in the selection and training of supervisors and managers who must use the existing management systems to manage a modern workforce and achieve results for the public. These changes emphasize the need for a strong merit systems studies function and increased focus on promoting and educating employees and the public about the merit systems, merit system principles, and PPPs.

The Federal Budget

Irrespective of the hiring that the American Recovery and Reinvestment Act may spur in some agencies, increasing budget pressures may result in a greater potential for other agencies to cut costs by decreasing the size of their workforce, reducing or freezing hiring, or reducing training. Reducing the workforce may lead to increases in the number of employees who are separated involuntarily through reductions in force. If historical trends are accurate, this will lead to potentially large increases in the number of appeals to the MSPB.

Reductions in hiring and workforce training may also have long-term impacts on merit principles such as the efficiency and effectiveness of the workforce. Employees may perform better and refrain from misconduct in an effort to keep their jobs. On the other hand, employees may experience more workplace conflict and other behavioral and performance issues due to the stress caused by economic conditions over which they have no control.

Emphasis on merit systems studies is important to understand the strategic, long-term implications of the methods used to control spending on the workforce, the merit system, adherence to merit and avoidance of PPPs. In addition, it is important to promote merit and educate the workforce, especially managers and leaders about how to adhere to merit principles and avoid PPPs any making management decisions such as those related to reducing the workforce.

In addition to these indirect affects of the Federal Budget on our mission, any decreases in MSPB's budget will have a direct, adverse impact on our ability to perform our mission. Internal review of our budget processes has shown that years of using vacancies to fund operational requirements and contingencies has resulted in staff deficiencies that are endangering our ability to continue to achieve our goals. Position vacancies have already contributed to the slowing of PFR processing and is a contributing factor in our ability to maintain our studies output. In addition, we are not currently able to provide the outreach and education services that are essential to the effectiveness and efficiency of our adjudication and studies functions. If our budgets do not increase and our appellate workload increases as it did this year, we will not be able improve the timeliness of PFR processing and are likely to experience reductions in the timeliness of initial appeals processing. Inadequate budgets will also jeopardize our studies output and impact in the near and long term, and will delay internal improvements in our management processes.

Internal Issues and Management Challenges

Changes in Board membership and senior leadership

Chairman Susan Tsui Grundmann and Vice Chairman Anne Wagner were sworn in on November 12, 2009, giving the MSPB a full contingent of three confirmed Board Members for the first time in over a year. In addition, Steve Lenkart was appointed as the Executive Director, James Eisenmann was appointed as the General Counsel, and Ernest Cameron was selected as the Director of the Office of Financial and Administrative Management. These leaders bring a wealth of private sector and Government experience that will help MSPB continue its success now and in the next several years.

Review and Assessment of Mission and Management Programs

Beginning in November 2009, MSPB conducted several major initial reviews and internal assessments (some of which are ongoing). These reviews and assessments included top-to-bottom reviews of our strategic direction, performance planning, and performance measurement. This included a two-day offsite strategic planning meeting of all agency leaders and managers, and intense follow-on work by small groups of agency managers. Our internal assessment of agency budget planning, resource management, and management processes included historic review of these processes and their outcomes as well as discussions with process participants and agency managers. Internal reviews of the adjudication and studies programs, including their legislative mandate and history, current funding and staffing levels, and program outcomes were also conducted. Information was gathered in meetings with external stakeholder groups such as adjudication practitioners, labor unions, management and employee groups, and good government advocacy groups, and internal meetings with employees, the MSPB Professional Association, and program managers. Additional

information was gathered about our studies program and future research topics via electronic survey from customers, users, and other stakeholders of our studies program. We also performed a general review of how the agency conducts business, makes decisions, delegates responsibility and authority, ensures accountability, and communicates with employees. The results of these reviews brought to light management challenges in mission planning and effectiveness, budgetary planning and resources management, and management processes that affect our ability to successfully achieve our mission in both the short and long term.

In terms of overall mission planning and ensuring optimum effectiveness, results indicated there has been little to no review of OPM regulations, which is one of our statutory functions[4], and identified a need for better integration between performance goals and the annual budget process to ensure MSPB is able to achieve its legislative intent to protect and promote merit. In adjudication, there is external concern about MSPB time constraints and the negative impact such constraints have upon case development and discovery, and ensuring full consideration of all issues presented in whistleblower cases. There is a need to balance measures of adjudication quality, fairness, and timeliness; increase outreach to improve adjudication effectiveness and efficiency and understanding of the adjudicatory process; and increase the emphasis on enforcement of compliance decisions.[5]

In merit systems studies, we need to improve the distribution and promotion of information to capitalize on savings via better management, greater engagement, and fewer appeals; conduct more outreach to coordinate research plans and improve implementation of study recommendations; and improve our ability to administer surveys and leverage the unique scope and quality of our data. In the area of performance and budget planning and resource management, there is need to justify budgets to support the full mission including better planning for improvements and contingencies thus eliminating the routine use of hiring freezes to offset operational requirements. We also need to improve workforce planning, including succession planning, and support for employee development to ensure availability of professional and technical staff, and establish an accurate and stable FTE structure.

The MSPB is already making considerable changes and improvements in these areas to ensure the agency is prepared to achieve its mission and positioned to address the external factors that impact our work. To address challenges in strategic and performance planning, performance measurement and accountability, we are in the process of developing a new outcome oriented strategic plan focused on MSPB's overall responsibility for adherence to merit principles and promoting merit principles Governmentwide, and are beginning internal planning on how to best integrate OPM regulation oversight into daily operations. We have a three-phase plan through FY 2012 to implement the new strategic plan and its related performance plans. Working groups have proposed updates to our mission, vision and organizational values, and reviewed performance measures and long-term targets. We are in the process of developing a management integration plan that will link agency strategic and performance planning with management functions and goals. We have reconstructed the budget process and fully engaged managers in justifying their current and future resource

[4] Title 5, U.S.C., Section 1204(a)(4)

[5] Title 5, U.S.C., Section 1204(a)(2)

needs. The new budget process addresses previous budget inadequacies, ensuring full justification of resources including operational requirements and contingencies.

To address program challenges, we are continuing to assess adjudication trends and processes in the field and at headquarters including assessment of quality assurance and timeliness measures. We are improving the transparency of our adjudication processes including, for the first time in 24 years, the use of oral arguments in PFRs that raise significant legal issues with broad impact on the merit systems or the workforce. We have improved our website including the addition of rotating content, and are voluntarily participating in the Open Government Directive. We are reviewing the studies program, including ways to improve outreach to government agencies and stakeholder groups on Governmentwide policies that affect merit and PPPs. We have solicited considerable stakeholder input to our new studies research agenda and are improving the transparency of the agenda setting process. We are also considering improvements in our survey administration capacity.

To address challenges in management and communication, we created an Executive Committee of all SES, chaired by the Executive Director, with program subcommittees staffed by employees at all levels. We created a labor-management council to open communication with the Professional Association. We are encouraging a culture for SES to serve as agency leaders as well as office directors in considering planning, policy development, and management issues that have broad impact on the agency now and in the future. Finally, we will be improving our workforce planning including succession planning, employee training and development, and a formal FTE structure.

Analysis of Financial Statements

Improving financial management continues to be a high priority at the MSPB. It is an essential element in demonstrating accountability and enhancing services provided to the public. Financial improvements initiated by MSPB have been driven by recent legislation and external initiatives, as well as by a strict organizational belief that adherence to sound financial policies and procedures will directly enhance the efficiency and effectiveness of the agency. This is of particular importance in an era of financial uncertainty and tightening budgets. Pivotal to driving better performance results through enhanced financial management practices has been MSPB's ongoing efforts to provide day-to-day decision-makers with reliable budgetary and cost information.

The principal financial statements summarize MSPB's financial position, net cost of operations, and changes in net position, provide information on budgetary resources and financing, and present the sources and disposition of custodial revenues for FY 2010 and FY 2009. Highlights of the financial information presented in the principal financial statements are shown below.

Summary by Budget Activity (Dollars In Thousands)						
	2009		2010		2011 (requested)	
Budget Activity	**FTE**	**Amt**	**FTE**	**Amt**	**FTE**	**Amt**
Adjudication	175	$33,192	172	$34,241	183	$36,363
Merit Systems Studies	12	2,443	12	2,469	13	2,633
Management Support	30	5,209	29	5,074	30	5,204
TOTAL	**217**	**$40,844**	**213**	**$41,784**	**226**	**$44,200**

Financial Position

MSPB's Balance Sheet presents its financial position through the identification of agency assets, liabilities, and net position. The agency's total assets increased from $7.4 million in FY 2009 to $8.5 million in FY 2010. Liabilities totaled $5 million at the end of FY 2009 and $5.7 million in FY 2010. The agency's total liabilities and net position at the end of FY 2010 was $8.5 million.

Net Cost of Operations

The net cost of MSPB's operations for FY 2010 was $44.5 million, an increase of approximately 2% over the agency's FY 2009 cost of operations. In FY 2010, 82 percent of MSPB's resources were spent on the adjudication program, which processed 7,708 cases during the year. About 6 percent of the agency's resources were devoted to the merit systems studies program, which conducts studies of the Federal personnel system and makes recommendations for its improvement. In addition, about 12 percent of MSPB's resources were spent on management support, which provides vital financial, administrative, information technology, and human resources services to the agency.

Statement of Budgetary Resources

This statement reports the budgetary resources available to MSPB during FY 2010 and FY 2009 to effectively carry out the activities of the agency, as well as the status of these resources at the end of each fiscal year. The MSPB had direct obligations of $39.3 million in FY 2010, an increase of $900K over FY 2009.

Limitations on the Principal Financial Statements

As required by the Government Management Reform Act of 1994 (31 USC 3515 (b)), the principal financial statements report the MSPB's financial position and results of operations. While the statements have been prepared from the agency's books and records, in accordance with formats prescribed by the Office of Management and Budget (OMB), the

statements differ from the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the realization that the MSPB is a component of the U.S. Government, a sovereign entity, and that liabilities reported in the financial statements cannot be liquidated without legislation providing resources to do so.

Systems, Controls and Legal Compliance

Federal Managers' Financial Integrity Act (FMFIA)

In accordance with the FMFIA, MSPB has established an internal management control system to ensure that: (1) obligations and costs comply with applicable law; (2) assets are safeguarded against waste, loss, unauthorized use, or misappropriation; (3) revenues and expenditures are properly recorded and accounted for; and (4) expenditures are being made in accordance with the agency's mission and they are achieving their intended results.

Improper Payments Act

Improved financial performance through the reduction of improper payments continues to be a key financial management focus of the Federal government. At the MSPB, developing strategies and the means to reduce improper payments is a matter of good stewardship. Accurate payments lower program costs. This is particularly important as budgets have become increasingly tight.

OMB originally provided Section 57 of Circular A-11 as guidance for Federal agencies to identify and reduce improper payments for selected programs. The Improper Payments Information Act of 2002 (IPIA) broadened the original erroneous payment reporting requirements to programs and activities beyond those originally listed in Circular A-11. In August 2006, OMB issued Circular A-123, Appendix C - Requirements for Effective Measurement and Remediation of Improper Payments.

The IPIA defines improper payments as those payments made to the wrong recipient, in the wrong amount, or used in an improper manner by the recipient. The IPIA requires a Federal agency to identify all of its programs that are of high risk for improper payments. It also requires the agency to implement a corrective action plan that includes improper payment reduction and recovery targets and to report annually on the extent of its improper payments for high risk programs and the actions taken to increase the accuracy of payments.

To coordinate and facilitate MSPB's efforts under the IPIA, the Chief Financial Officer works with Office Directors to develop a coordinated strategy to perform annual reviews for all programs and activities susceptible to improper payments. This cooperative effort includes developing actions to reduce improper payments, identifying and conducting ongoing monitoring techniques, and establishing appropriate corrective action initiatives. MSPB has determined that there is no significant risk of improper payments based on the review of its programs in FY 2010.

Management Controls

MSPB's management review of the system of internal accounting and administrative control was evaluated in accordance with the applicable Federal guidance. The objectives of the system are to provide reasonable assurance that:

- Obligations and costs are in compliance with applicable laws;
- Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- Revenues and expenditures applicable to operations are properly recorded and accounted for to permit the preparation of reliable accounting, financial, and statistical reports; and,
- Accountability over the assets is maintained.

The evaluation of management controls extends to every responsibility and activity undertaken by the MSPB and is applicable to financial, administrative, and operational controls. Furthermore, the concept of reasonable assurance recognizes that: (1) the cost of management controls should not exceed the projected derived benefits; and (2) the benefits consist of reductions in the risks of failing to achieve the stated objectives. The expected benefits and related costs of control procedures should be addressed using estimates and managerial judgment. Moreover, errors and irregularities may occur and not be detected because of inherent limitations in any system of internal accounting and administrative control, including those limitations resulting from resource constraints, restrictions, and other factors. Finally, projection of any evaluation of the system to future periods is subject to risk that the procedures may be inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Adjudication Performance

Strategic Goal 1: To provide fair, high-quality, and timely adjudication of cases filed with the MSPB and to make effective use of alternative methods of dispute resolution in MSPB proceedings.

Performance Goals

1.1 Issue high-quality decisions.

1.2 Issue timely decisions.

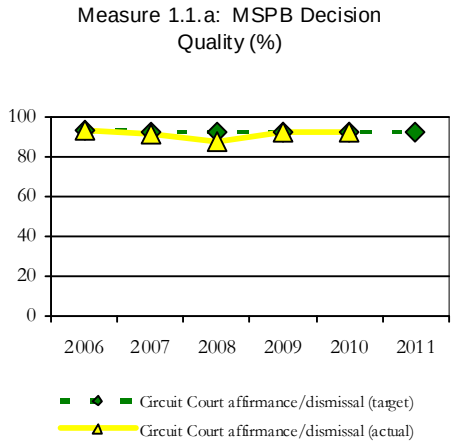
1.3 Make effective use of alternative methods of dispute resolution.

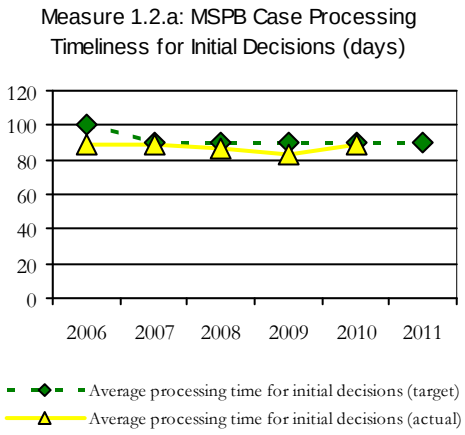
1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

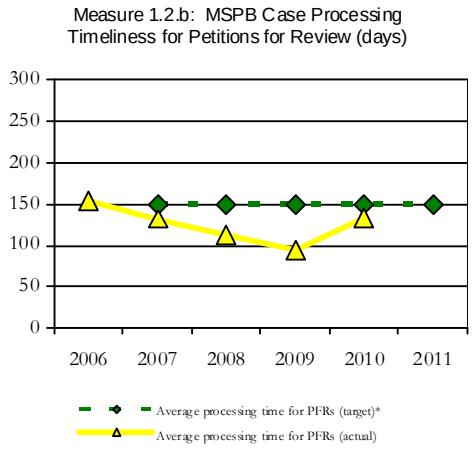
Resources

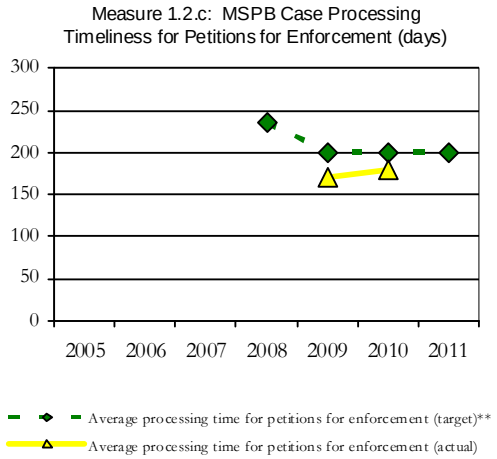
	FY 2010 (enacted)	FY 2011 (requested)
Budget $ (000)	$35,286	$36,380
% of total MSPB resources	82%	82%

Selected Trend Results (*new goal in FY 2007; ** new goal in FY 2008)









Adjudication Performance Results

		Target	Result	
Strategic Goal 1 -- To provide fair, high-quality, timely and efficient adjudication of cases filed with the MSPB and to make effective use of alternative methods of dispute resolution in MSPB proceedings.				
Performance Goal 1.1 Issue high-quality decisions.				
1.1.a	Percentage of MSPB decisions unchanged on review by the U.S. Court of Appeals for the Federal Circuit.	92% or more	92%	✓
1.1.b	Percent of cases decided by the Board on Petition for Review (PFR) that are reversed and/or remanded to MSPB judges for a new decision.	10% or less	9%	
Performance Goal 1.2 Issue timely decisions.				
1.2.a	Average case processing time for initial decisions.	90 days or less	89 days	✓
1.2.b	Average case processing time for PFRs.	150 days or less	134 days	
1.2.c	Average case processing time for petitions for enforcement.	200 days or less	180 days	
1.2.d	Percentage of initial appeals decided within time standards.	50% or more	72%	
1.2.e	Percentage of PFRs decided within time standards.	50% or more	42%	
Performance Goal 1.3 Make effective use of alternative methods of dispute resolution.				
1.3.a	Maintain rate of settlement of initial appeals that are not dismissed at 50% or higher.	50% or higher	62%	✓
1.3.b	Maintain rate of settlement of cases selected for the PFR settlement program at 25% or higher.	25% or higher	*****	
1.3.c	Number of cases mediated and percentage of cases successfully resolved through mediation procedures.	106 or more 50% or more	273 62%	
Performance Goal 1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.				
1.4.a	Customer satisfaction with adjudication and alternative dispute resolution processes and with adjudication outreach efforts.			✓

Performance goal exceeded *Performance goal met* *Performance goal not met*

Performance Goals, Measures, and Results

Performance Goal 1.1: Issue high-quality decisions.

1.1.a: Percentage of MSPB decisions unchanged on review by the U.S. Court of Appeals for the Federal Circuit (Court dismisses case or affirms Board decision).

Results		**Targets**	
FY 2006	93%	**FY 2010**	92% or greater.
FY 2007	91%	**FY 2011**	92% or greater; study alternative measures of quality of Board decisions.
FY 2008	87%*		
FY 2009	92%		
FY 2010	92%		

* A significant number of cases were affected by the Court's decision in *Kirkendall v. Department of the Army*. Adjusting for these related decisions results in 94 percent of the cases left unchanged by the Court.

1.1.b: Percent of cases decided by the Board on Petition for Review (PFR) that are reversed and/or remanded to MSPB judges for a new decision, adjusted for those not due to error or oversight by the AJ.

Results		**Targets**	
FY 2006	10%	**FY 2010**	10% or fewer.
FY 2007	9%	**FY 2011**	10% or fewer; study alternative measures of quality of initial appeals.
FY 2008	6%		
FY 2009	5%		
FY 2010	9%		

Summary of results for Performance Goal 1.1: This Performance Goal was **MET**. Ninety-two percent of MSPB decisions were unchanged on review by the U.S. Court of Appeals for the Federal Circuit, which meets the FY 2010 performance target. The percent of cases decided by the Board on PFR that were reversed and/or remanded to MSPB judges, adjusted for those cases that were not due to an error or oversight by the AJ, was 9%, slightly fewer than the performance target of 10%. The percent of cases left unchanged by the court has varied from 87% to 93% over the last five years. The FY 2011 target of 92% or greater for percent of cases left unchanged by the Court is near the best actual result demonstrated in recent years. There is considerable year-to-year variability in PFR remands and reversals. Therefore, the FY 2011 target for this measure will remain 10% or fewer.

Performance Goal 1.2: Issue timely decisions.

1.2.a: Average case processing time for initial decisions.

Results		Targets	
FY 2006	89 days.	**FY 2010**	90 days or less.
FY 2007	89 days.	**FY 2011**	90 days or less.
FY 2008	87 days.		
FY 2009	83 days.		
FY 2010	89 days.		

The average case processing time for initial decisions excluding the time spent in the MAP was 84 days for FY 2010.

1.2.b: Percentage of initial appeals decided within time standards.

Results		Targets	
FY 2006	New measure in FY 2007.	**FY 2010**	50% or more of cases decided within 110 days.
FY 2007	85% decided within 120 days.		
FY 2008	72% decided within 110 days.	**FY 2011**	50% or more of cases decided within 110 days; review measure and set future targets.
FY 2009	75% decided within 110 days.		
FY 2010	72% decided within 110 days.		

The percentage of initial appeals decided within time standards excluding the time spent in the MAP was 74% for FY 2010.

1.2.c: Average case processing time for Petitions for Review (PFRs).

Results		Targets	
FY 2006	154 days.	**FY 2010**	150 days or less.
FY 2007	132 days.	**FY 2011**	150 days or less.
FY 2008	112 days.		
FY 2009	94 days.		
FY 2010	134 days.		

Performance Goal 1.2: (Continued)

1.2.d: Percentage of PFRs decided within time standards.

Results		**Targets**	
FY 2006	New measure in FY 2007.	**FY 2010**	50% or more of cases decided within 110 days.
FY 2007	48% decided within 110 days.		
FY 2008	60% decided within 110 days.	**FY 2011**	50% or more of cases decided within 150 days.
FY 2009	72% decided within 110 days.		
FY 2010	42% decided within 110 days.		

1.2.e: Average case processing time for Petitions for Enforcement (Headquarters only).

Results		**Targets**	
FY 2006	New measure in FY 2008.	**FY 2010**	200 days or less.
FY 2007	New measure in FY 2008.	**FY 2011**	200 days or less.
FY 2008	Measure assessed and target established for FY 2009.		
FY 2009	171 days.		
FY 2010	180 days.		

Summary of results for Performance Goal 1.2: This Performance Goal was **MET**. Of the five measures of adjudication timeliness, two met, two exceeded, and one failed to meet the targets. The average case processing time for initial decisions was 89 days, slightly faster than the target of 90 days. The proportion of initial appeals that were decided within 110 days was 72%, which exceeded the target by 44%. The average processing time for PFRs was 134 days, or slightly over 10% faster than the target of 150 days. The proportion of PFRs closed within 110 days was 42%, which was 16% short of the target of 50%. The average case processing time for petitions for enforcement was 180 days, 10% faster than the target of 200 days.

Overall processing time for PFRs slowed in FY 2010. Three factors contributed to this result. Conservative hiring decisions in FY 2009 led to a higher than average number of vacancies among the attorneys who process PFRs and draft PFR decisions for the Board members. Several of the attorneys who process PFRs were also assigned to the offices of new Board members, further reducing the number of attorneys available to draft decisions for the Board members. The arrival of two new Board members also increased Board membership to its authorized level of three Board members. PFR processing time normally increases when cases are reviewed by three rather than two Board members. In addition, temporary increases in processing time also occurs as MSPB attorneys adapt to the style and

Performance Goal 1.2: Summary of Results (Continued)

priorities of new Board members, and the new Board members gain experience with MSPB procedures and processes. Resolution of these issues will continue through FY 2011. During this process, we are committed to maintaining the target for average processing time for PFRs at 150 days or less. However, because the inventory of PFRs is larger, the target for percent of PFRs closed within time standards has been adjusted to 50% or more PFRs closed within 150 days. The FY 2011 timeliness targets for initial appeals and petitions for enforcement at headquarters will remain at FY 2010 levels.

Performance Goal 1.3: Make effective use of alternative methods of dispute resolution.

1.3.a: Success rate for settlement of initial appeals that are not dismissed.

Results		**Targets**	
FY 2006	58%	**FY 2010**	50% success rate or better.
FY 2007	57%	**FY 2011**	50% success rate or better.
FY 2008	54%		
FY 2009	62%		
FY 2010	63%		

1.3.b: Success rate for settlement of cases selected for the PFR settlement program.

Results		**Targets**	
FY 2006	38%	**FY 2010**	25% success rate or better.
FY 2007	23%	**FY 2011**	Continue to examine and refine measures of program success and impact.
FY 2008	34%		
FY 2009	65%		
FY 2010	***		

*** The methods for measuring program success were found to be inconsistently applied in FY 2010. Therefore, we do not have a valid and accurate measure for the success rate of the program. We have begun a review of the methodology used to measure program success and impact, which will continue in FY 2011.

1.3.c: Success rate for cases resolved through mediation procedures.

Results

FY 2006 109 cases mediated with a success rate of 45% at the conclusion of Mediation Appeals Program (MAP), and a success rate of 61% including cases that settled after returning to adjudication.

Performance Goal 1.3: (Continued)

FY 2007 100 cases were mediated with a success rate of 48% at the conclusion of MAP, and a success rate of 67% including cases that settled after returning to adjudication (19 additional cases settled).

FY 2008 147 cases were mediated with a success rate of 54% at the conclusion of MAP (79 settled cases), and a success rate of 71% including cases that settled after returning to adjudication (26 additional cases settled).

FY 2009 173 cases were mediated with a success rate of 55% at the conclusion of MAP, and a success rate of 62% including cases that settled after returning to adjudication.

FY 2010 273 cases were mediated with a success rate of 62% at the conclusion of MAP, and a success rate of 64% including cases that settled after returning to adjudication.

Targets

FY 2010 Mediate 106 or more cases with a 50% or better success rate.

FY 2011 50% success rate or better.

Summary of results for Performance Goal 1.3: This Performance Goal was **MET**. The settlement rate of initial appeals that were not dismissed was 62%, which exceeded the performance target of 50%. The methods for measuring success of the PFR settlement program were found to be inconsistently applied in FY 2010. Therefore, we do not have a valid and accurate measure for the success rate of the program. The number of cases mediated in FY 2010 was 273, far exceeding the performance target of 101 cases. The success rate for the MAP was 62 percent exceeding the performance target of 50%. Although recent settlement rates for initial appeals have been higher than the target of 50%, we will retain this target level for FY 2011 because it is reasonable and achievable without inappropriately emphasizing settlement as a method of resolving cases. During FY 2011, we will review and refine measures of success and impact of the PFR settlement program. The MAP has become an established option for resolving select cases brought to the MSPB. Therefore, the MSPB will no longer set targets for the number of cases mediated, but will retain a target success rate for the MAP at 50% or better.

Performance Goal 1.4: Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

1.4.a: Customer satisfaction with adjudication and alternative dispute resolution processes and with adjudication outreach efforts.

Performance Goal 1.4: Measure 1.4.a (Continued)

Results

FY 2006 New measure in FY 2007.

FY 2007 Completed internal report on customer satisfaction with initial appeals and settlement processes, which indicated that customers are satisfied with MSPB processes and their interactions with MSPB employees; feedback from e-Appeal users was positive including many who reported encouraging all users in their agencies to file using e-Appeal.

FY 2008 Developed four automated surveys for e-Appeal customers including those who file appeals, use automated pleadings, use the repository, and those who created e-Appeal accounts but did not use the system to file their appeal.

FY 2009 The automated surveys for e-Appeal customers were implemented.

FY 2010 Improved internal and external usability of e-Appeal by upgrading, redesigning, or clarifying processes involving security, email reminders, document listing, help text, pleading options, and file size limits. Successfully migrated the hosting of e-Appeal from the original external contractor to MSPB headquarters. A report including adjudication customer satisfaction data was completed.

Targets

FY 2010 Implement appropriate modifications to e-Appeal based on survey results.

FY 2011 Establish a strategic customer satisfaction survey program and schedule, and set targets for overall level of satisfaction with adjudication.

Summary of results for Performance Goal 1.4: This Performance Goal was **MET**. We implemented several improvements in e-Appeal to improve the external and internal usability of the system. We also successfully migrated the hosting of e-Appeal from its original contractor to MSPB Headquarters saving an estimated $237,000 annually. A report updating adjudication customer satisfaction data was completed. In FY 2011, we will establish a strategic customer satisfaction survey program and schedule for the adjudication program.

Merit Systems Studies Performance

Strategic Goal 2: To conduct studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from Prohibited Personnel Practices (PPPs).

Performance Goals

2.1 Conduct merit systems studies and recommend improvements to policy-makers and practitioners.

2.2 Assess the application of merit in the workplace.

2.3 Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts.

Resources

	FY 2010 (enacted)	FY 2011 (requested)
Budget $ (000)	$2,536	$2,634
% of total MSPB Resources	6%	6%

Selected Results

Significant impact of MSPB merit systems studies

Increased attention on the importance of improving the Federal recruitment and selection process. Numerous longstanding MSPB policy recommendations were enacted in the President's 2010 hiring reform initiative, introduced through the *Presidential Memorandum—Improving the Federal Recruitment and Hiring Process*. These recommendations include:

- Making the application process less complex, being enacted through the introduction of resume-only applications;
- Improving communication with applicants, being enacted through a systematic 4-touch approach;
- Improving the quality of job announcements to better attract applicants;
- Improving the validity and reliability of applicant assessment tools;
- Educating and involving selecting officials more in the recruitment and selection process; and
- Replacing the rule of three with category rating.

Selected recent merit systems studies (beginning with most recent)

A Call to Action: Improving First-Level Supervision
Merit Systems Protection Board Annual Report for FY 2009
Prohibited Personnel Practices: A Study Retrospective
Fair and Equitable Treatment: Progress Made and Challenges Remaining
As Supervisors Retire: An Opportunity to Re-Shape Organizations
Job Simulations: Trying Out for a Federal Job
Addressing Poor Performers and the Law
Managing for Engagement: Communication, Connection, and Courage
The Federal Government: A Model Employer or a Work in Progress?
The Power of Federal Employee Engagement
Alternative Discipline: Creative Solutions for Agencies to Effectively Address Employee Misconduct
Federal Appointment Authorities: Cutting Through the Confusion

FY 2010 Merit Systems Studies Performance Results

Strategic Goal 2 To conduct studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from Prohibited Personnel Practices.	
Performance Goal 2.1 Conduct merit systems studies and recommend improvements to policy-makers and practitioners. **2.1.a** Number and scope of MSPB reports and *Issues of Merit* newsletters issued. **2.1.b** Studies or study recommendations referenced in policy papers, professional literature, legislation and the media.	✓
Performance Goal 2.2 Assess the practice of merit in the workplace. **2.2.a** Periodically conduct merit principles survey or other surveys to monitor and report on perceptions of merit in the workplace.	✓
Performance Goal 2.3 Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts. **2.3.a** Customer satisfaction with reports, newsletters, website and outreach efforts.	✓

Performance goal exceeded *Performance goal met* *Performance goal not met*

Performance Goals, Measures, and Results

Performance Goal 2.1: Conduct merit systems studies and recommend improvements to policy-makers and practitioners.

2.1.a: Number and scope of MSPB reports and *Issues of Merit* newsletters issued.

Performance Goal 2.1: Measure 2.1.a (Continued)

Results

FY 2006 Published 8 reports and 4 editions of the *Issues of Merit* newsletter. Report topics included: designing effective pay-for-performance compensation systems, managing contracting officer representatives (CORs) to achieve positive contract outcomes, reforming Federal hiring, the symposium on the practice of merit, the effect of *Van Wersch* and *McCormick* on the probationary period, study of initial appeals and settlements (internal report), the MSPB FY 2005 Annual Report and the MSPB FY 2005 PAR; completed reports on the 2005 Merit Principles Survey (MPS), baseline data for DHS, baseline data for the Department of Defense (DoD), and a draft of the MSPB Strategic Plan for FY 2007-2012.

FY 2007 Published a report on the results of the 2005 Merit Principles Survey and 4 editions of the *Issues of Merit* newsletter; completed a report on Federal entry-level new hires and four internal reports; published MSPB's FY 2006 Annual Report, FY 2006 PAR, FY 2007-2012 Strategic Plan, and FY 2007 (revised) - FY 2008 (final) Performance Plan; received Board Member approval for a new research agenda covering the 2008-2010 time period.

FY 2008 Published reports on hiring upper-level employees from outside the Federal Government, the use of various hiring authorities, Federal employee engagement, the use of alternative discipline in Federal agencies, a longitudinal analysis of prior Merit Principles Surveys, the MSPB FY 2007 Annual Report, and four editions of the *Issues of Merit* newsletter. Completed three internal reports including a report outlining MSPB Human Capital Survey results for the public that was placed on the MSPB website. Assessed the scope of study reports and selected research topics from the existing research agenda.

FY 2009 Completed reports on addressing poor performers in the Federal Government, the utility of job simulations in employee selection, an examination of how the role of the supervisor is changing, fair and equitable treatment in the Federal workforce, a summary report of the FY 2007 Merit Principles Survey results that focuses on performance management practices that drive employee engagement, and the FY 2008 MSPB Annual Report. Completed an internal report summarizing MSPB's Annual Employee Survey data, and published four editions of the *Issues of Merit* newsletter. Assessed the scope of study reports and selected research topics from the existing research agenda.

FY 2010 Completed four external merit systems studies including: *A Call to Action: Improving First-Level Supervision of Federal Employees; Prohibited Personnel Practices: A Study Retrospective; Making the Right Connections: Targeting the Best Competencies for Training;* and *Whistleblower Protections for Federal Employees.* Published the *FY 2009 MSPB Annual Report* and four editions of the *Issues of Merit* newsletter. Completed four internal studies, including evaluations of MSPB's annual employee survey results for FY 2009 and 2010. Developed a draft list of research agenda items and are preparing to present them to MSPB stakeholders and Board members.

Performance Goal 2.1: Measure 2.1.a (Continued)

Targets

FY 2010 Complete 6 reports and 4 editions of the newsletter; assess scope of studies and newsletters; develop a new research agenda for approval by the Board Members.

FY 2011 Complete 6 reports and 4 editions of the newsletter; assess scope of studies and newsletters; obtain approval and begin implementing a new research agenda.

2.1.b: Studies or study recommendations referenced in policy papers, professional literature, legislation, and the media.

Results

FY 2006 Used customer feedback survey cards in hard copy reports and an online version for web-based users to help assess usefulness and impact of studies; continued review of vacancy announcements including projected cost impacts; collected information about use of MSPB study findings and recommendations as reports are referenced in policy papers, professional literature, legislation, and the media.

FY 2007 Evaluated the feedback provided by customers through both report feedback cards and web-based surveys concerning study reports and the OPE newsletter; collected information concerning MSPB report findings and recommendations through references in the professional literature, legislation, and the media which included a presentation on referencing MSPB reports at the Annual Conference of the American Society for Public Administration.

FY 2008 Tracked references to findings and recommendations in the policy, professional literature, legislation, and the media. Following a 2006 Board decision and previous MSPB study reports, OPM strongly advised agencies against using the Outstanding Scholar and Bilingual/Bicultural hiring authorities. Citing the COR report, OMB set new standards for training and development of CORs. Following publication of two previous Board reports, OPM revised regulations regarding procedural and appeal rights of individuals serving a probationary or trial period. Testified by invitation before the Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on recruiting and hiring the next generation of Federal employees.

FY 2009 Tracked references to findings and recommendations in policy, professional literature, legislation, and the media. Following numerous MSPB studies that advocate better applicant recruitment, assessment, and communication, OPM included many of MSPB's recommendations in its end-to-end hiring process as well as instructions to agencies on how to improve job announcements and

Performance Goal 2.1: Measure 2.1.b (Continued)

hiring processes. Following the release of two employee engagement studies, numerous requests were received for more information about engagement from Federal agencies, Congress, oversight agencies such as OMB and GAO, good-government groups, and the media. Testified by invitation before the House Armed Services Readiness Subcommittee about government hiring practices and before the Defense Business Board about pay for performance. Findings and recommendations of studies were highlighted by numerous media outlets, including the *Washington Post*, *Federal Times*, *Government Executive*, Federal News Radio, and others.

FY 2010 Numerous longstanding MSPB policy recommendations were enacted in the President's 2010 hiring reform initiative, introduced through the *Presidential Memorandum—Improving the Federal Recruitment and Hiring Process*. These recommendations include making the application process less complex; improving communication with applicants; improving the quality of job announcements; improving the validity and reliability of applicant assessment tools; educating and involving selecting officials more in the recruitment and selection process; and replacing the rule of three with category rating.

MSPB reports have been referenced in numerous print and online sources, including The Washington Post, Government Executive Magazine, Federal Computer Weekly, Federal Times, IPMA's HR News, FEDManager, FedWeek, and the Federal Daily newsletter. Interviews of MSPB staff have also been conducted on Federal News Radio, Open Government Radio, and News Channel 8. Research has been cited by external stakeholders such as National Treasury Employees Union (NTEU) and National Federation of Federal Employees (NFFE), and cited in Congressional testimony. We provided presentations and other consultations to Federal agencies to improve their human resources practices, and met or worked with academia and public policy groups such as the Partnership for Public Service, National Academy of Public Administration (NAPA), National Association of School of Public Affairs and Administration (NASPAA), and various colleges and universities. Study reports and newsletters continue to be actively sought by our stakeholders as evidenced by over 105,500 accesses to eighty-five study reports, and over 19,000 accesses to fifty-eight different editions of the newsletter. Reviewed measures of studies impact in conjunction with developing the new strategic plan.

Targets

FY 2010 Continue to track and evaluate mechanisms for measuring the impact of studies and newsletters.

FY 2011 Continue to track and evaluate mechanisms for measuring the impact of studies and newsletters. Pilot the use of revolving content on the studies web page to improve outreach efforts.

Performance Goal 2.1: (Continued)

Summary of results for Performance Goal 2.1: This Performance Goal was **MET**. Five external studies (including the FY 2009 Annual Report) were completed, and an additional 4 internal studies were completed. A draft research agenda has been developed and we are committed to a transparent process for finalizing the new agenda. Merit Systems studies continue to be cited by wide range of stakeholders and policy-makers. Most significantly, the President's 2010 hiring reform initiative included numerous, longstanding MSPB policy recommendations. In FY 2011, the target will be completing six studies and issuing four editions of the *Issues of Merit* newsletter. We will also continue to track and evaluate methods for measuring the impact of studies and pilot the use of revolving content on our webpage.

Performance Goal 2.2: Assess the application of merit in the workplace.

2.2.a: Periodically conduct merit principles survey (MPS) or other surveys to monitor and report on perceptions of merit in the workplace.

Results

FY 2006 Completed three reports using data from the 2005 MPS including a baseline report on DHS and a baseline report on DoD; collected data from OPM's Central Personnel Data File (CPDF) on DHS and DoD to monitor the impact of personnel system changes; collaborated with the Senior Executive Association (SEA) on the annual survey requirement followed by SEA proposing legislation which included a requirement to use the MSPB MPS in alternate years to the OPM Human Capital Survey; began planning a survey to assess the practice of merit and Prohibited Personnel Practices related to equitable treatment.

FY 2007 Published a report on the FY 2005 MPS; began electronic administration of the FY 2007 MPS, which included assisting several agencies in meeting their statutory requirement for conducting an annual survey of their workforce; began electronic administration of a separate survey to investigate career advancement issues in the Federal workforce.

FY 2008 Completed the administration of the Governmentwide 2007 MPS which included assisting a number of agencies in meeting their statutory requirements for conducting an annual survey of their workforce by providing them with their survey results for posting on their agency websites; completed a report on longitudinal MPS results including those from the 2007 MPS; completed administration of the governmentwide career advancement survey and began analysis of the results; determined that planning should begin for a governmentwide administration of the next MPS to be administered in FY 2010.

Performance Goal 2.2: Measure 2.2.a (Continued)

FY 2009 Completed a report on the findings from the 2007 MPS, focusing on improving Federal performance management practices; completed the administration of a Governmentwide telework survey and began analysis of the results; administered surveys to Federal proposing and deciding officials of suspension and removal actions in nine agencies and completed a report on addressing poor performers using this data; completed a report on fair and equitable treatment using survey data from the 2007 career advancement survey; completed agency interrogatories regarding how agencies use qualification standards and job simulations; began planning for the MPS 2010 administration.

FY 2010 Successfully administered the 2010 MPS to over 70,000 Federal employees and supervisors to obtain their perspectives on PPPs, whistleblower protection issues, and other workplace issues that affect employees' abilities to carry out the missions of their agencies. Obtained a 60% response rate on the online survey. Published a retrospective study on the occurrence and perceptions of PPPs. Completed an initial draft of our report on telework and presented key findings from that study at the IPMA-HR annual conference.

Targets

FY 2010 Continue to assess the practice of merit and PPPs in agencies. Conduct a version of the Merit Principles Survey. Draft a report on the 2009 telecommuting survey.

FY 2011 Publish a study on PPPs from the MPS 2010 data. Draft an additional report on the 2010 Merit Principles Survey. Pilot MSPB's ability to host our own surveys through the administration of a study-focused Governmentwide survey.

Summary of results for Performance Goal 2.2: This Performance Goal was **MET**. We completed administration of the 2010 MPS to over 70,000 Federal employees and supervisors with a 60% response rate for the online version of the survey. We published a retrospective study on PPPs and completed a draft report on telework and presented key findings from that study at the IPMA-HR Annual Conference. In FY 2011, we plan to publish a study on PPPs from the 2010 MPS data, draft an additional report using this data, and pilot test our ability to host our own surveys.

Performance Goal 2.3: Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts.

2.3.a: Customer satisfaction with reports, newsletters, website, and outreach efforts.

Results

FY 2006 New measure in FY 2007.

Performance Goal 2.3: Measure 2.3.a (Continued)

FY 2007 Collected and analyzed feedback from customers concerning their satisfaction with MSPB reports, newsletters, our website, and outreach efforts using a variety of methods including discussions with stakeholders, responses received from feedback cards distributed with reports, and information obtained directly from users of the website. Used this information to inform the development of our research agenda for FY 2008-FY 2010, improve the quality, usefulness, and impact of our reports and newsletters, and completely redesign our website to make it more accessible and helpful to potential users.

FY 2008 Collected and analyzed feedback from customers about their satisfaction with MSPB reports, newsletters, the studies website, and outreach efforts using a variety of methods including discussions with stakeholders, responses received from feedback cards distributed with reports, outreach feedback, and information obtained directly from users of our website.

FY 2009 Collected and analyzed feedback from customers about their satisfaction with MSPB reports, newsletters, the studies website, and outreach efforts using a variety of methods including discussions with stakeholders, outreach feedback, and information obtained directly from users of our website. In addition, we began administering a survey of newsletter readers to obtain feedback on the quality, content, and utility of the *Issues of Merit*. Feedback about the newsletter was very positive.

FY 2010 Collected feedback from customers concerning their satisfaction with MSPB reports, newsletters, the studies website, and outreach efforts using a variety of methods including discussions with stakeholders, outreach feedback, and information obtained directly from users of our website. Used feedback to improve reports and outreach, and to improve our website including providing additional information in the form of rotating content on our web page on areas of interest to our stakeholders. Evaluated data from the *Issues of Merit* customer satisfaction survey and communicated strategies to respond to comments in our September issue of the newsletter so stakeholders could see the impact of their comments. Conducted extensive outreach to our stakeholders to obtain their input on MSPB's new research agenda, including CHCOs, HR Directors, employee groups and unions, Federal employees, supervisors and managers, and good government groups.

Targets

FY 2010 Use feedback on quality, usefulness, and impact of reports to maintain or improve the readability of reports, and make improvements to the MSPB website. Use feedback received from the *Issues of Merit* survey, as appropriate, to improve the newsletter. Evaluate feedback received from agency presentations and outreach efforts. Seek feedback from stakeholders to inform the development of the FY 2010-2013 research agenda.

Performance Goal 2.3: Measure 2.3.a (Continued)

Targets

FY 2011 Use feedback on quality, usefulness, and impact of reports to maintain or improve the readability of reports and newsletters, and make improvements to the MSPB website. Evaluate feedback received from agency presentations and outreach efforts.

Summary of results for Performance Goal 2.3: This Performance Goal was **MET**. We used stakeholder feedback to improve reports, newsletters, and the website including the addition of rotating content on our web page. We evaluated data from the *Issues of Merit* customer satisfaction survey and shared our plans to address the feedback in the newsletter. We conducted extensive outreach to obtain stakeholder input on our new research agenda and are committed to a transparent process to finalize the agenda. In FY 2011, we will continue to use customer feedback to improve our study products and outreach efforts.

Management Support and Organizational Excellence Performance

Strategic Goal 3: To achieve organizational excellence and strategically manage MSPB's human capital, information technology, and other internal systems and processes.

Performance Goals

3.1 Attract, develop, and retain a high-quality, diverse, and highly motivated workforce.
3.2 Effectively use information technology to enhance organizational performance and efficiency, and provide appropriate access to and dissemination of MSPB information.
3.3 Effective and efficient operation of financial, budget, and other support programs.

Resources

	FY 2010 (enacted)	FY 2011 (requested)
Budget $ (000)	$5,116	$5,206
% of total MSPB Resources	12%	12%

FY 2010 Organizational Excellence and Management Support Performance Results

Strategic Goal 3 -- To achieve organizational excellence and strategically manage MSPB's human capital, information technology and other internal systems and processes.				
Performance Goal 3.1 Attract, develop, and retain a high-quality, diverse and highly motivated workforce.				✔
3.1.a	Program managers agree that the right employees are in the right place to achieve results.			
3.1.b	MSPB managers and employees ensure that the agency's mission is enhanced by a diverse workforce.			
3.1.c	Customer satisfaction with internal human resources and Equal Employment Opportunity programs.			
3.1.d	Effectively implement human capital authorities and flexibilities.			
Performance Goal 3.2 Effectively use information technology to enhance organizational performance and efficiency, and provide access to and dissemination of MSPB information.				✔
3.2.a	Support e-Government objectives by increasing appeals and pleadings filed electronically. (Initial appeals and pleadings)	40% 28%	43% 36%	
3.2.b	Improve customer service by conforming with established IRM service level agreements.	86%	99%	
3.2.c	Measure success in enhancing organizational performance and efficiency through IRM customer satisfaction surveys.	85%	75%	
3.2.d	Comply with information management regulatory requirements.			
Performance Goal 3.3 Effective and efficient operation of financial, budget and other support programs.				✔
3.3.a	Maintain accurate and legally sound budget accounts and accounting ledgers.			
3.3.b	Customer satisfaction of employees with other support programs.			

✚ *Performance goal exceeded* ✔ *Performance goal met* ✘ *Performance goal not met*

Performance Goals, Measures, and Results

Performance Goal 3.1: Attract, develop, and retain a high-quality, diverse, and highly motivated workforce.

3.1.a: Program managers assure that the right employees are in the right place to achieve results.

Results

FY 2006 New measure in FY 2007.

FY 2007 The MSPB placed as the second "Best Places to Work in Government" in the small agency category; Office Directors focused on specific issues relevant to their offices; increased use of structured interviews resulted in a better comparative assessment of the qualifications of the best qualified candidates.

FY 2008 Implemented an exit interview questionnaire and refined vacancy announcements to be more user-friendly and better able to attract the right applicants for the targeted position.

FY 2009 Due to low employee turnover in FY 2009, one annual assessment was completed with no areas of concern referenced in the exit interview questionnaire. Also, the MSPB increased its use of electronic hiring software to improve the timeliness of the hiring process. The Executive Resources Board recommended and secured three training slots at the OPM Federal Executive Institute as part of MSPB's training program, including the Senior Management Fellows Program. A variety of health and wellness programs were provided for employees throughout the year.

FY 2010 As part of the hiring makeover project's emphasis on timely hiring, and to incorporate guidance in the President's Hiring Initiative, we created templates for user-friendly vacancy announcements, implemented applicant notification procedures at four points during the application process, and implemented electronic application processes for all MSPB vacancies. We continue to use exit interview questionnaires and consider other options to improve hiring timeliness.

Targets

FY 2010 Review assessment process based on results of hiring makeover project to include timely hiring process, user-friendly vacancy announcements, and exit interview questionnaire.

FY 2011 Implement hiring makeover recommendations related to achieving timely recruitment; establish future targets to improve recruiting timeliness.

Performance Goal 3.1: (Continued)

3.1.b: MSPB managers and employees ensure the agency's mission is enhanced by a diverse workforce.

Results

FY 2006-FY 2007 New measure in FY 2008.

FY 2008 Developed and implemented a Unity Day celebration and various special emphasis initiatives to improve inclusiveness, and respect for and appreciation of individual differences among employees; improved employee opportunities by notifying them about career advancement seminars and opportunities offered by affinity groups, and by working with managers to add inclusiveness in crediting plans and target vacancies toward minority populations; used data audits and other tools to assess effectiveness of diversity initiatives.

FY 2009 The delivery of Special Emphasis Observance Programs was enhanced with presentations from noted speakers on Federal workplace diversity issues such as generational differences and sexual orientation. Awareness and appreciation of diversity in its broadest context was promoted through these programs and other communications to all employees. Strategies were developed for achieving diverse applicant pools and for proposing training plans that will assist employees with achieving their best in accomplishing the agency's mission and assist managers and supervisors with managing a diverse workforce. Training and developmental opportunities were offered to employees, largely from affinity groups; a new collateral duty Disability Program Coordinator was recruited; an EEO and Diversity Training Policy was developed; and an expansion of the mission and goals of the Office of EEO to include a focus on diversity was proposed.

FY 2010 The delivery of Special Emphasis Observance Programs was enhanced with the annual Unity Day program and a presentation on "The Business Case for Diversity." The Office of EEO collaborated with the Training and Development Subcommittee to develop an enhanced training plan for all employees. The EEO and Diversity Training Policy was circulated for review and issued. Proposed options for diversity training for managers and supervisors were identified for testing. The MD-715 report was completed and submitted to EEOC. Recommendations were developed for recruiting and hiring qualified applicants from underrepresented groups. Agency turnover rates and employee survey results were reviewed to identify potential barriers to improving representation. We initiated reviews of the agency's reasonable accommodation policy and complaint processing procedures.

Performance Goal 3.1: Measure 3.1.b (Continued)

Targets

FY 2010 Update, develop, implement, and evaluate measurement goals or indicators (i.e., EEO policies, hiring and training practices, reasonable accommodations, climate surveys, exit surveys, special emphasis observance programs, representation turnover, turnover costs, participation in vendor fairs) for achieving diversity and inclusiveness in the broadest context (including language proficiency and cultural backgrounds) across all occupations and grade levels.

FY 2011 Improve representation in the MSPB workforce of at least one group that is below the participation rate as compared to that in the relevant civilian labor force. Review possible ways to measure knowledge and appreciation of individual differences.

3.1.c: Customer satisfaction with internal human resources (HR) and EEO programs.

Results

FY 2006 New measure in FY 2007.

FY 2007 Informal interviews with employees suggested a high level of satisfaction with HR programs; staffing actions handled by the APHIS servicing personnel office met or exceeded governmentwide standards; hired a new HR Director and detailed an employee to serve as the Acting EEO Director to replace the previous Director who transferred to another agency.

FY 2008 Administered internal HR and EEO customer satisfaction surveys. Convened a team of employees to recommend changes to MSPB's hiring process and prepared a report containing a number of recommended initiatives for the Chairman's review and comment.

FY 2009 Feedback received from senior management concerned communication regarding the year-end procurement process, which will be further addressed in FY 2010. The MSPB implemented a hiring makeover team to review hiring processes and procedures and make recommendations on options to our hiring process with a goal of more timely, efficient hiring procedures. The team is currently tracking the recruitment process from initial planning to onboard.

FY 2010 As part of the hiring makeover project's emphasis on timely hiring, and to incorporate guidance in the President's Hiring Initiative, we created templates for user-friendly vacancy announcements, implemented applicant notification procedures at four points during the application process, and implemented electronic application processes for all MSPB vacancies. A customer satisfaction survey was administered to internal customers of our HR program.

Performance Goal 3.1: Measure 3.1.c (Continued)

Targets

FY 2010 Complete hiring makeover project and make changes to agency hiring program based on analysis of project results.

FY 2011 Develop and implement an internal customer satisfaction survey for HR and EEO programs and services such as hiring, EEO programs and services, employee benefits, and employee development. Establish a baseline customer satisfaction levels and set future targets for improvement and use results to design future EEO programs, training, and events.

3.1.d: Effectively implement human capital authorities and flexibilities.

Results

FY 2006 New measure in FY 2007.

FY 2007 Forwarded employee OPFs to contractor for scanning and began using the electronic Official Personnel Folder (e-OPF) for all new employees; received provisional certification from OPM on our SES Performance Appraisal System; HR Director visited APHIS Service Center to discuss operational processes and opportunities for change.

FY 2008 Updated the interagency agreement between APHIS and MSPB to better reflect the service needs of the agency; received full certification of our SES Performance Management Plan from OPM, which was endorsed by OMB.

FY 2009 The e-OPF was implemented, which allows MSPB employees immediate access to their personnel information. Arranged an on-site pre-retirement seminar for MSPB employees, conducted two brown-bag lunch seminars on human resources topics, and detailed MSPB health and wellness initiatives in a report to OMB that was selected as a template for other agency submissions. No modification of the SES Performance Appraisal System was required due to a full certification evaluation of the current plan by OPM.

FY 2010 Received provisional certification of the SES Performance Management Plan. Results of the evaluation of the e-OPF program indicated the program is effective and provides quick access to data needed by employees to map career objectives. Continued to comply with other new and existing HR program requirements.

Performance Goal 3.1: Measure 3.1.d (Continued)

Targets

FY 2010 Continue to comply with new and existing program requirements; retain full certification of SES Performance Management Plan; evaluate first year of the e-OPF program

FY 2011 Review existing merit system study recommendations and develop a process for selecting appropriate recommendations for implementation.

Summary of Results for Performance Goal 3.1: This Performance Goals was **MET**. As part of the hiring makeover project's emphasis on timely hiring and to incorporate guidance in the President's Hiring Initiative, we created templates for user-friendly vacancy announcements, implemented applicant notification procedures at four points during the application process, and implemented electronic application processes for all MSPB vacancies. Managers and employees continue to ensure a healthy EEO program. The annual Unity Day program included a presentation on "The Business Case for Diversity." The Office of EEO collaborated with the Training and Development Subcommittee to develop an enhanced training plan for all employees. The EEO and Diversity Training Policy was circulated for review and issued. Agency turnover rates and employee survey results were reviewed to identify potential barriers to improving representation. We initiated reviews of the agency's reasonable accommodation policy and complaint processing procedures. A customer satisfaction survey was administered to internal customers of our human resources program. We received provisional certification of the SES Performance Management Plan and results of the evaluation of the e-OPF program indicated the program is effective and provides quick access to data needed by employees to map career objectives.

We have restructured the performance goals and measures for our human resources and EEO programs. The first measure of HR performance has been reworded to focus on ensuring hiring timeliness and a workforce with the right competencies. The FY 2011 target is to implement hiring makeover recommendations related to achieving timely recruitment and establish future targets to improve recruiting timeliness. The second measure of HR performance has been reworded to focus on diversity. Specifically, the measure includes improving the diversity of the MSPB workforce and increasing employee knowledge and appreciation of individual differences, including how diversity can positively affect agency results. The FY 2011 target is to improve representation in the MSPB workforce of at least one group that is below the participation rate as compared to that in the relevant civilian labor force, and to review indicators to measure knowledge and appreciation of individual differences. The third measure continues to focus on customer satisfaction with HR and EEO programs. In FY 2011, we will develop and implement an internal customer satisfaction survey for HR and EEO programs and services, establish baseline customer satisfaction levels, and set future targets. The measure for compliance with HR policies and procedures has been refocused to emphasize our commitment to modeling or practicing the recommendations we make in our merit systems study reports. In FY 2011, we will review study recommendations and develop a process for selecting appropriate recommendations for implementation.

Performance Goal 3.2: Effectively use information technology to enhance organizational performance and efficiency, and provide appropriate access to and dissemination of MSPB information.

3.2.a: Support e-Government objectives by increasing appeals and pleadings filed electronically.

Results

FY 2006 New measure in FY 2007.

FY 2007 29% of initial appeals were filed electronically through e-Appeal (1763/5991).

FY 2008 37% of initial appeals were filed electronically (2,175/5,891). E-Appeal was selected as a finalist for the FY 2008 Web Managers Best Practice Award and listed as one of the 10 great .GOV websites by Government Computer News magazine.

FY 2009 39% of initial appeals were filed electronically (2,546/6,586), and 28% of pleadings were filed electronically (11,156/40,276).

FY 2010 43% of initial appeals were filed electronically (2,963/6,890), and 36% of pleadings were filed electronically (15,397/42,252). Redesigned the MSPB public website including the addition of multimedia links and electronic MAP evaluation form; upgraded the intranet portal to support personalizing employee home pages. The electronic case file processing pilot continues.

Targets

FY 2010 40% or more of initial appeals are filed electronically and 28% or more of pleadings are submitted electronically.

FY 2011 40% or greater of initial appeals are filed electronically and 30% or greater of pleadings are submitted electronically.

3.2.b: Improve customer service by conforming with established IRM service level agreements (SLA).

Results

FY 2006 New measure in FY 2007.

FY 2007 88% of technical support tickets or requests were resolved in one business day.

FY 2008 87% of the 4,120 technical support tickets were resolved in one business day.

Performance Goal 3.2: Measure 3.2.b (Continued)

Results

FY 2009 88% of the 3,589 technical support tickets were resolved in one business day. In addition, 2,877 tickets were resolved from external customers.

FY 2010 98.9% of 3,668 technical support tickets were resolved within the service level agreement of one business day. Over 3,000 technical support tickets were resolved from external customers.

Targets

FY 2010 86% or more of tickets resolved within one business day.

FY 2011 86% or more of tickets resolved within one business day.

3.2.c: Measure success in enhancing organizational performance and efficiency through IRM customer satisfaction surveys.

Results

FY 2006 New measure in FY 2007

FY 2007 86% of the 64 MSPB staff who responded to the survey indicated they were satisfied or very satisfied with IRM meeting their needs.

FY 2008 89% of the 89 survey respondents were satisfied or very satisfied with IRM meeting their needs.

FY 2009 86% of the 116 survey respondents were satisfied or very satisfied with IRM meeting their needs.

FY 2010 75% of the 94 survey respondents were satisfied or very satisfied with IRM meeting their needs.

Targets

FY 2010 85% or more of staff who responded to the survey indicated they were satisfied or very satisfied with IRM meeting their needs.

FY 2011 85% or more of staff who responded to the survey indicated they were satisfied or very satisfied with IRM meeting their needs.

Performance Goal 3.2: (Continued)

3.2.d: Comply with information management regulatory requirements.

Results

FY 2006 New measure in FY 2007.

FY 2007 Federal Information Security Management Act (FISMA) compliance was reviewed by an outside contractor and the final FISMA report was submitted to OMB; 100% of MSPB employees completed annual security awareness training; remained in full compliance with FISMA, HSPD-12, and IPv6 (Internet Protocol Version 6).

FY 2008 Complied with FISMA including 100% of MSPB employees completing security awareness training, completion of FISMA security audit, and submission of annual FISMA report. Complied with requirements for e-Gov Act, IPv6, TIC (Trusted Internet Connections), Networx, and FDCC (Federal Desktop Core Configuration).

FY 2009 Began tracking FISMA Plan of Action and Milestones tasks on a weekly basis and continued to work with auditors on the FISMA report as the deadline was postponed by OMB due to new reporting requirements. To minimize vulnerabilities from further virus attacks, servers were established at Headquarters, the regions, and field offices to download and apply Microsoft patches, all PCs and servers were upgraded to the Symantec latest antivirus client version, and servers were programmed to push virus definition files to all PCs and servers on a daily basis. Potential disaster recovery sites were visited and we obtained a commitment from one site to host MSPB servers. Other activities included the Networx transition and its associated statement of work, TIC (Trusted Internet Connections), and DNSSEC (Domain Name Service Security).

FY 2010 Conformed with all information regulatory requirements including the Open Government Directive, posting data sets on data.gov, transitioning to Networx, responded to Data Center Consolidation Initiative, performed 508-comliance testing, submitted all FISMA reports on time through CyberScope, completed 19 of 26 POAMs (plan of action milestones) tasks. Completed projects to strengthen or improve firewall protection, virus scanning and protection, data security and availability, and increase the number of secure, remote connections to the network. All MSPB employees completed Annual Information Security Awareness training.

Targets

FY 2010 Comply with information management regulatory requirements.

FY 2011 Comply with information management regulatory requirements.

Performance Goal 3.2: (Continued)

Summary of results for performance goal 3.2: This Performance Goal was **MET**. Forty-three % of initial appeals were filed electronically, 8% more than the target of 40%. Thirty-six % of pleadings were filed electronically, 29% more than the target of 28%. Ninety-nine % of technical support tickets were resolved within one business day, 15% more than the target of 85%t. Seventy-five % of IRM customer satisfaction survey respondents were satisfied or very satisfied with IRM meeting their needs, 12% lower than the target of 85%. The MSPB met all information technology regulatory requirements including FISMA reporting and complying with the Open Government Directive. All MSPB employees completed of Information Security Awareness Training. The FY 2011 performance targets for the information security measures will remain at FY 2010 levels, except that percentage of pleadings filed electronically will be increased to 30% or more.

Performance Goal 3.3: Effective and efficient operation of financial, budget and other support programs.

3.3.a: Maintain accurate and legally sound budget accounts and accountings ledgers.

FY 2006 New measure in FY 2007.

FY 2007 Achieved unqualified opinion on the FY 2006 financial audit; maintained accurate, up-to-date budget and accounting ledgers; began update of internal Financial Management Manual.

FY 2008 Achieved unqualified opinion on the FY 2007 financial audit.

FY 2009 Achieved unqualified opinion on the FY 2008 financial audit.

FY 2010 Achieved unqualified opinion on the FY 2009 financial audit.

Targets

FY 2010 Achieve unqualified opinion on the annual financial audit.

FY 2011 Achieve unqualified opinion on the annual financial audit.

3.3.b: Customer satisfaction of employees with other support programs (i.e., payroll, travel, printing, and procurement).

Results

FY 2006 New measure in FY 2007.

Performance Goal 3.3: Measure 3.3.b (Continued)

Results

FY 2007 Used customer feedback to review and update support program manuals; issued new procurement manual; began update of Time and Attendance; hired new travel coordinator and a second employee as a procurement specialist.

FY 2008 Completed an internal customer satisfaction survey for other management programs and an additional survey of MSPB Administrative Management staff.

FY 2009 Customer satisfaction increased by 10% for most support programs except in one area in procurement regarding issues with spending during the fourth quarter. These issues will be addressed in the next fiscal year. The MSPB began pilot-testing a new electronic purchase requisition system, which will provide a more efficient procurement process and better tracking of orders from inception of order to receipt of item. Agency video conferencing equipment was updated to include Internet Protocol access, which will allow MSPB to connect to sites that were previously unavailable.

FY 2010 The updated customer satisfaction survey of internal customers of our management programs was initiated. The electronic requisition system was pilot-tested, refined, and successfully deployed.

Targets

FY 2010 Develop and administer an updated customer satisfaction survey; initiate an electronic procurement requisition system.

FY 2011 Finalize and implement an internal customer satisfaction survey for administrative functions; establish baseline customer satisfaction levels and set future targets for improvement.

Summary of results for performance goal 3.3: This Performance Goal was **MET**. We received an unqualified opinion on the annual financial audit for the eighth straight year. The customer satisfaction survey of internal customers of our management programs was initiated. We successfully developed and deployed the e-Requisition system and we increased our physical security as a result of threats and vulnerabilities that were identified. In FY 2011, we will finalize the customer satisfaction survey and establish baseline customer satisfaction levels and future targets for improvement.

U.S. MERIT SYSTEMS PROTECTION BOARD
Financial and Administrative Management
1615 M Street, NW
Washington, DC, DC 20036

Phone: (202) 653-6772, ext. 1410; Fax: (202) 653-7831; E-Mail: ernest.cameron@mspb.gov

Message from the Chief Financial Officer

I am pleased to present the U.S. Merit Systems Protection Board (MSPB) financial statements for fiscal year 2010 and to report that the MSPB has earned an unqualified opinion on its FY 2010 consolidated financial statements. I am also particularly pleased to report that, once again, under the leadership of our Chairman, Susan Tsui Grundmann, no material weaknesses were identified in the auditor's report on internal controls. We are proud of our accomplishments in receiving this unqualified opinion as it validates our efforts in preserving the integrity of our financial reporting.

The MSPB has partnered with the Department of the Treasury Bureau of Public Debt (BPD) in Parkersburg, West Virginia since 1992. The BPD, designated by the Office of Management and Budget as a Center of Excellence, is responsible for handling our administrative payments and preparing our financial statements. Through its franchise operation, BPD has provided us with timely and complete reports to satisfy our day-to-day operating needs as well as the reporting requirements for Congress, our auditors, and other external reviewing organizations.

This working relationship between MSPB and BPD has facilitated the agency's compliance with all external reporting requirements. The timeliness and completeness of the reports allow us to operate more efficiently and to identify and correct any potential problems quickly. Reports and communications between MSPB and BPD are all virtually electronic, in compliance with the President's Management Agenda initiative to increase the use of e-government applications.

We take our financial accountability seriously and are committed to strengthening our financial performance in accordance with the Presidential Management Agenda initiative.
While we are proud of our accomplishment of receiving unqualified opinions for the past eight years, we are committed to continue our work on improving our financial management performance during the coming years while efficiently accomplishing the mission of MSPB – to protect Federal merit systems and the rights of individuals within those systems.

Ernest A. Cameron

Ernest A. Cameron,
Chief Financial Officer
November 12, 2010

Letter to the Auditor on Management Controls

U.S. MERIT SYSTEMS PROTECTION BOARD

1615 M Street, NW
Washington, DC, DC 20036

Phone: (202) 653-7263; Fax: (202) 653-7831

November 12, 2010

Mr. Tyrone Brown, CPA
Managing Member
Brown & Company CPAs, PLLC
1101 Mercantile Lane, Suite 122
Largo, MD 20774

Dear Mr. Brown:

This letter is written in reference to your audit of the U.S. Merit Systems Protection Board's Principal Statements (also referred to as "financial statements") as of and for the year ending September 30, 2010. The purposes of the audit are to: (1) express an opinion as to whether the Principal Statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America, and (2) report whether the agency's financial management systems substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level as of September 30, 2010.

Certain representations in this letter are described as being limited to matters that are material. For purposes of this letter, matters are considered material if they involve $224,000 or more. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following representations were made during your audit, and pertain to the periods covered by the financial statements:

1. We are responsible for the fair presentation of the Principal Statements and Required Supplementary Stewardship Information in conformity with accounting principles generally accepted in the United States of America. We are also responsible for the preparation of the Management Discussion & Analysis (MDA).

2. The financial statements are fairly presented in conformity with accounting principles generally accepted in the United States of America. The MD&A is fairly presented and consistent with the financial statements.

3. We have made available:

   a. financial records and related data;

   b. where applicable, Board of Directors minutes or summaries of actions of recent meetings for which minutes have not been prepared; and

   c. communications from the Office of Management and Budget (OMB) concerning noncompliance with or deficiencies in financial reporting practices.

4. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements or disclosed in the notes to the financial statements.

5. The U.S. Merit Systems Protection Board has satisfactory title to all owned assets, including stewardship property, plant, and equipment; such assets have no liens or encumbrances, nor have any assets been pledged.

6. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.

7. Guarantees under which the U.S. Merit Systems Protection Board is contingently liable have been properly reported or disclosed.

8. Related-party transactions and related receivables or payables, including assessments, loans, transfers, and guarantees have been appropriately recorded and disclosed.

9. All intra-entity transactions and activities have been appropriately identified and eliminated for financial reporting purposes, unless otherwise noted. All intra-governmental transactions and balances have been appropriately recorded, reported, and disclosed. We have reconciled intra-governmental transactions and balances with the Federal entity providing the goods or services.

10. There are no:

    a. violations or possible violations of laws and regulations whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency;

    b. unasserted claims or assessments that are probable of assertion and must be disclosed, that have not been disclosed; or

    c. material liabilities or gain or loss contingencies that are required to be accrued or disclosed, that have not been disclosed.

11. Management acknowledges its responsibility for the design and implementation of programs and controls to prevent and detect fraud. We confirm that management has no:

    a. knowledge of any fraud or suspected fraud affecting the organization involving management, employees who have significant roles in internal control, and others, where the fraud could have a material effect on the financial statements;

    b. knowledge of any allegations of fraud or suspected fraud affecting the organization received in communications from employees, former employees, analysts, regulators, short-sellers, or others.

12. Pursuant to the Federal Mangers' Financial Integrity Act, we have assessed the effectiveness of the U.S. Merit Systems Protection Board's internal control in achieving the following objectives:

    a. reliability of financial reporting – transactions are properly recorded, processed, and summarized to permit the preparation of the Principle Statements and Required Supplementary Stewardship Information in accordance with accounting standards generally accepted in the United States of America, and that assets are safeguarded against loss from unauthorized acquisition, use, or disposition;

    b. compliance with applicable laws and regulations – transactions are executed in accordance with: (i) laws governing the use of budget authority and other laws and regulations that could have a direct and material effect on the financial statements, and (ii) any other laws, regulations, and government wide policies identified by the Office of Management and Budget (OMB) in Appendix C of OMB's Audit Bulletin; and

    c. reliability of performance reporting – transactions and other data that support reported performance measures are properly recorded, processed, and summarized to permit the preparation of performance information in accordance with criteria stated by management.

13. We are responsible for implementing and maintaining financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger (SGL) at the transaction level.

14. We have assessed the financial management systems to determine whether they comply substantially with these Federal management systems requirements. Our assessment was based on guidance issued by OMB.

15. The financial management systems complied substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the SGL at the transaction level as of September 30, 2010.

16. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

17. We are responsible for the U.S. Merit Systems Protection Board's compliance with applicable laws and regulations.

18. We have identified and disclosed to you all laws and regulations that have a direct and material effect on the determination of financial statement amounts.

19. There are no uncorrected financial statement misstatements, as we have adjusted the financial statements for all known and likely misstatements you raised.

20. No events have occurred subsequent to the date of the statement of financial position that would require adjustment to, or disclosure in, the financial statements.

21. No material events or transactions have occurred subsequent to September 30, 2010 that have not been properly recorded in the financial statements and required supplementary stewardship information or disclosed in the notes thereto.

22. We have used the materiality threshold of $224,000 for reporting items in this management representation letter. Items below this threshold would not be considered exceptions or reported as such in the representation letter.

23. The information presented on the agency's Statement of Budgetary Resources agrees with the information submitted on the agency's year-end Reports on Budget Executive and Budgetary Resources (SF133). This information will be used as input for the fiscal year 2010 actual column of the Program and Financing Schedules reported in the fiscal year 2010 Budget of the U.S. Government. Such information is supported by the related financial records and related data.

Thank you for this opportunity to respond. My staff and I will be pleased to answer any questions you may have and to provide any additional information you may require.

Susan Tsui Grundmann
Chairman

Ernest A. Cameron
Chief Financial Officer

Independent Auditor's Report on the Financial Statements

BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

U.S. Merit Systems Protection Board
Washington, D.C.

We have audited the accompanying balance sheet of the U.S. Merit Systems Protection Board (MSPB) as of September 30, 2010 and 2009, and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of MSPB's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 07-04 as amended, require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

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

In accordance with *U.S. Government Auditing Standards* and OMB Bulletin No. 07-04 as amended, we have also issued reports dated November 12, 2010 on our consideration of the MSPB internal control over financial reporting and its compliance with provisions of laws and regulations. Those reports are an integral part of an audit performed in accordance with *U.S. Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The MSPB's Management's Discussion & Analysis contains a wide range of information, some of which is not directly related to the financial statements. We do not express an opinion on this information. However, we compared this information for consistency with the financial statements and discussed the methods of measurement and presentation with MSPB officials. Based on this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or OMB guidance.

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

Brown & Company

Largo, Maryland
November 12, 2010

LARGO
1101 MERCANTILE LANE, SUITE 122
LARGO, MD 20774
(240) 492-1400 • FAX: (301) 773-2090
mail@brownco-cpas.com

RICHMOND
1504 SANTA ROSA ROAD, SUITE 107
RICHMOND, VA 23229
(804) 288-2006 • FAX: (804) 288-2233
tdavis@brownco-cpas.com

Independent Auditor's Report on Internal Controls

BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT
ON INTERNAL CONTROL OVER FINANCIAL REPORTING

U.S. Merit Systems Protection Board
Washington, D.C.

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2010 and have issued our report thereon dated November 12, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audit, we considered the MSPB's internal control over financial reporting by obtaining an understanding of the MSPB's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04 as amended. The objective of our audit was not to provide an opinion on internal control and therefore, we do not express an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be a material weakness or significant deficiency. Under standards issued by the American Institute of Certified Public Accountants and OMB Bulletin No. 07-04 as amended, a material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency in internal control, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be a material weaknesses as defined above.

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

Brown & Company

Largo, Maryland
November 12, 2010

LARGO
1101 MERCANTILE LANE, SUITE 122
LARGO, MD 20774
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Independent Auditor's Report on Compliance with Laws and Regulations

BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

U.S. Merit Systems Protection Board
Washington, D.C.

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2010, and have issued our report thereon dated November 12, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements*.

The management of the MSPB is responsible for complying with laws and regulations applicable to the MSPB. As part of obtaining reasonable assurance about whether the MSPB's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04 as amended. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the MSPB.

The results of our tests of compliance disclosed no reportable instances of noncompliance with laws and regulations discussed in the preceding paragraph that are required to be reported under *U.S. Government Auditing Standards* or OMB Bulletin No. 07-04 as amended.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit, and, accordingly, we do not express such an opinion. However, we noted no noncompliance with laws and regulations, which could have a direct and material effect on the determination of financial statement amounts.

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

Brown & Company

Largo, Maryland
November 12, 2010

LARGO
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LARGO, MD 20774
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mail@brownco-cpas.com

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(804) 288-2006 • FAX: (804) 288-2233
tdavis@brownco-cpas.com

Audited Financial Statements

U. S. MERIT SYSTEMS PROTECTION BOARD
BALANCE SHEET
AS OF SEPTEMBER 30, 2010 AND 2009
(In Dollars)

		2010		2009
Assets:				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	8,279,100	$	7,046,543
Accounts Receivable (Note 3)		910		3,566
Total Intragovernmental		8,280,010		7,050,109
Accounts Receivable, Net (Note 3)		1,924		2,133
Property, Equipment, and Software, Net (Note 4)		227,733		363,296
Total Assets	$	8,509,667	$	7,415,538
Liabilities (Note 5):				
Intragovernmental				
Accounts Payable	$	68,711	$	44,954
Other (Note 7)		451,258		385,661
Total Intragovernmental		519,969		430,615
Accounts Payable		637,544		302,674
Federal Employee and Veterans' Benefits (Note 6)		621,682		556,448
Other (Note 7)		3,951,337		3,676,919
Total Liabilities	$	5,730,532	$	4,966,656
Net Position:				
Unexpended Appropriations - Other Funds	$	5,805,644	$	5,189,555
Cumulative Results of Operations - Other Funds		(3,026,509)		(2,740,673)
Total Net Position	$	2,779,135	$	2,448,882
Total Liabilities and Net Position	$	8,509,667	$	7,415,538

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

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

	2010	2009
Program Costs (Note 10):		
Adjudication:		
Gross Costs	$ 37,621,216	$ 36,901,074
Less: Earned Revenue	(12,175)	(8,725)
Net Program Costs	$ 37,609,041	$ 36,892,349
Management Support:		
Gross Costs	$ 4,775,546	$ 4,802,539
Net Program Costs	$ 4,775,546	$ 4,802,539
Merit Systems Studies:		
Gross Costs	$ 2,090,593	$ 1,926,510
Net Program Costs	$ 2,090,593	$ 1,926,510
Net Cost of Operations	$ 44,475,180	$ 43,621,398

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

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

	2010	2009
Cumulative Results of Operations:		
Beginning Balances	$ (2,740,673)	$ (1,615,983)
Budgetary Financing Sources:		
Appropriations Used	38,976,771	37,836,123
Transfers In/Out Without Reimbursement	2,579,000	2,579,000
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources (Note 11)	2,633,573	2,081,585
Total Financing Sources	44,189,344	42,496,708
Net Cost of Operations	(44,475,180)	(43,621,398)
Net Change	(285,836)	(1,124,690)
Cumulative Results of Operations	$ (3,026,509)	$ (2,740,673)
Unexpended Appropriations:		
Beginning Balances	$ 5,189,555	$ 4,807,211
Budgetary Financing Sources:		
Appropriations Received	40,339,000	38,811,000
Other Adjustments	(746,140)	(592,533)
Appropriations Used	(38,976,771)	(37,836,123)
Total Budgetary Financing Sources	616,089	382,344
Total Unexpended Appropriations	$ 5,805,644	$ 5,189,555
Net Position	$ 2,779,135	$ 2,448,882

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

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

		2010		2009
Budgetary Resources:				
Unobligated Balance:				
Unobligated Balance Brought Forward, October 1	$	2,460,381	$	2,064,072
Recoveries of Prior Year Unpaid Obligations		230,820		613,845
Budget Authority				
Appropriation		40,339,000		38,811,000
Spending Authority From Offsetting Collections				
Earned				
Collected		14,831		5,159
Change In Receivables From Federal Sources		(2,656)		3,566
Expenditure Transfers From Trust Funds		2,579,000		2,579,000
Subtotal		42,930,175		41,398,725
Permanently Not Available		(746,140)		(592,533)
Total Budgetary Resources	$	44,875,236	$	43,484,109
Status of Budgetary Resources:				
Obligations Incurred (Note 13)				
Direct	$	39,283,129	$	38,436,003
Reimbursable		2,591,175		2,587,725
Subtotal		41,874,304		41,023,728
Unobligated Balance				
Apportioned		1,145,989		554,686
Unobligated Balance Not Available		1,854,943		1,905,695
Total Status of Budgetary Resources	$	44,875,236	$	43,484,109
Change in Obligated Balance:				
Obligated Balance, Net				
Unpaid Obligations, Brought Forward, October 1	$	4,589,728	$	5,080,089
Uncollected Customer Payments From				
Federal Sources, Brought Forward, October 1		(3,566)		-
Total Unpaid Obligated Balance, Net		4,586,162		5,080,089
Obligations Incurred Net		41,874,304		41,023,728
Gross Outlays		(40,954,134)		(40,900,244)
Recoveries of Prior Year Unpaid				
Obligations, Actual		(230,820)		(613,845)
Change In Uncollected Customer Payments				
From Federal Sources		2,656		(3,566)
		5,278,168		4,586,162
Obligated Balance, Net, End of Period				
Unpaid Obligations		5,279,078		4,589,728
Uncollected Customer Payments From				
Federal Sources		(910)		(3,566)
Total, Unpaid Obligated Balance, Net, End of Period	$	5,278,168	$	4,586,162
Net Outlays:				
Gross Outlays	$	40,954,134	$	40,900,244
Offsetting Collections		(2,593,831)		(2,584,159)
Net Outlays	$	38,360,303	$	38,316,085

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

U.S. MERIT SYSTEMS PROTECTION BOARD
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The U.S. Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency in the Executive branch that serves as the guardian of federal merit systems. The Board was established by the Civil Service Reform Act of 1978 (CSRA) with a mission of ensuring that employees are protected against abuses by agency management, that Executive branch agencies make employment decisions in accordance with the merit systems principles, and that federal merit systems are kept free of Prohibited Personnel Practices. The MSPB reporting entity is comprised of General Funds and General Miscellaneous Receipts.

General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues.

General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The MSPB has rights and ownership of all assets reported in these financial statements. The MSPB does not possess any 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 the status and availability of budgetary resources of the MSPB. The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994 and the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of the MSPB in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, *Financial Reporting Requirements* and the MSPB 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 the MSPB's use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit the MSPB to incur obligations for specified purposes. In fiscal years 2010 and 2009, the MSPB was accountable for general fund appropriations. The MSPB recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. 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. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

E. Revenues & Other Financing Sources

Congress enacts annual, multi-year, and no-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.

The MSPB recognizes as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on our behalf by the Office of Personnel Management (OPM).

F. Taxes

The MSPB, 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.

G. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. The MSPB does not maintain cash in commercial bank accounts or foreign currency balances. Foreign currency payments are made either by Treasury or the Department of State and are reported by the MSPB in the U.S. dollar equivalents.

H. Accounts Receivable

Accounts receivable consists of amounts owed to the MSPB by other Federal agencies and the general 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, 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.

I. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are

depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. The MSPB's capitalization threshold is $50,000 for individual purchases and $500,000 for bulk purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software.

Leasehold improvements are depreciated over the period of the lease. The useful life classifications for all other capitalized assets are as follows:

Description	Useful Life (years)
Office Equipment	10
Software	5

J. 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.

K. Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by the MSPB as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation or other funding. Liabilities for which an appropriation has not been enacted or other funds received are, therefore, classified as not covered by budgetary resources. There is no certainty that the appropriation will be enacted. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

Accounts payable consists primarily of amounts owed to other Federal agencies and the public for contracts for goods or services, such as leases, utilities, telecommunications and consulting and support services.

M. 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. 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. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to OPM upon the retirement of that individual. Credit is given for

sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees effective at 50% beginning FY2010 and 100% in 2014.

N. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by the MSPB employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the MSPB terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. 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.

O. Retirement Plans

The MSPB employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of the MSPB matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. FERS offers a savings plan to which the MSPB automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, the MSPB 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, the MSPB remits the employer's share of the required contribution.

The MSPB recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. 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 the MSPB for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. The MSPB recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

The MSPB 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.

P. Other Post-Employment Benefits

The MSPB employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGLIP) may continue to participate in these programs after their retirement. The OPM has provided the MSPB with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The MSPB recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by the MSPB through the recognition of an imputed financing source.

Q. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

R. 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. The MSPB recognized imputed costs and financing sources in fiscal years 2010 and 2009 to the extent directed by OMB.

S. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. The MSPB recognizes contingent liabilities in the accompanying balance sheet and statement of net cost when it is both probable and can be reasonably estimated. The MSPB 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 the MSPB for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made.

T. 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.

NOTE 2. FUND BALANCE WITH TREASURY

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

	2010	2009
Fund Balances:		
Appropriated Funds	$ 8,279,100	$ 7,046,543
Total	$ 8,279,100	$ 7,046,543
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 1,145,989	$ 554,686
Unavailable	1,854,943	1,905,695
Obligated Balance Not Yet Disbursed	5,278,168	4,586,162
Total	$ 8,279,100	$ 7,046,543

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2010 and 2009, were as follows:

	2010	2009
Intragovernmental		
Accounts Receivable	$ 910	$ 3,566
With the Public		
Employee Receivable	1,924	2,133
Total Accounts Receivable	$ 2,834	$ 5,699

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2010 and 2009.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Schedule of Property, Equipment, and Software as of September 30, 2010

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 1,702,413	$ 1,474,680	$ 227,733
Furniture & Equipment	73,776	73,776	-
Software	9,415,576	9,415,576	-
Total	$ 11,191,765	$ 10,964,032	$ 227,733

Schedule of Property, Equipment, and Software as of September 30, 2009

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 1,702,413	$ 1,341,217	$ 361,196
Furniture & Equipment	73,776	73,776	-
Software	9,415,576	9,413,476	2,100
Total	$ 11,191,765	$ 10,828,469	$ 363,296

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the MSPB as of September 30, 2010 and 2009, include liabilities not covered by budgetary resources. 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.

	2010	2009
Intragovernmental – FECA	$ 147,544	$ 136,718
Intragovernmental – Unemployment Insurance	12,184	-
Unfunded Leave	2,474,756	2,412,935
Actuarial FECA	621,682	556,448
Total Liabilities Not Covered by Budgetary Resources	$ 3,256,166	$ 3,106,101
Total Liabilities Covered by Budgetary Resources	2,474,366	1,860,555
Total Liabilities	$ 5,730,532	$ 4,966,656

FECA and the Unemployment Insurance liabilities represent the unfunded liability for actual workers compensation claims and unemployment benefits paid on the MSPB's behalf and payable to the DOL.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual 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.

NOTE 6. ACTUARIAL FECA LIABILITY

FECA provides income and medical cost protection to covered federal civilian employees harmed on the job or who have contracted an occupational disease, and dependents of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits under FECA for the MSPB's employees are administered by the DOL and ultimately paid by the MSPB when funding becomes available.

The MSPB bases its estimate for FECA actuarial liability on the DOL's FECA model. The model considers the average amount of benefit payments incurred by the MSPB for the past three fiscal years, multiplied by the medical and compensation liability to benefits paid (LBP) ratio for the whole FECA program. For the fiscal years ending September 30, 2010 and 2009, the MSPB uses the overall average percentages of the LBP ratios to calculate the $621,682 and $556,448 FECA actuarial liabilities for those years, respectively.

NOTE 7. OTHER LIABILITIES

All other liabilities are considered current liabilities.

	2010	2009
Intragovernmental Liabilities		
FECA Liability	$ 147,544	$ 136,718
Unemployment Insurance Liability	12,184	-
Payroll Taxes Payable	291,530	248,943
Total Intragovernmental Liabilities	$ 451,258	$ 385,661
With the Public		
Payroll Taxes Payable	$ 44,873	$ 38,212
Accrued Funded Payroll and Leave	1,431,708	1,225,772
Unfunded Leave	2,474,756	2,412,935
Total Public Liabilities	$ 3,951,337	$ 3,676,919

NOTE 8. LEASES

Operating Leases

The MSPB occupies office space or warehouse space at four locations with lease agreements that are accounted for as operating leases. The first lease for office space (MSPB Headquarters) began on June 1, 2000 and expired on May 31, 2010. MSPB Headquarters is currently under a Stand Still Agreement with no increase in cost in its present location for 120 days. The agency pays annual rent of $1,504,295, increased by 3% per annum beginning with the first anniversary of the lease commencement date. There was an additional $2.50 per rentable square foot (RSF) increase in the escalated square foot rate in the beginning of the sixth lease year. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The second lease for office space (Washington Regional Office (WRO)) began on September 15, 2000 and expired on September 8, 2010. The agency expects to be under a Stand Still Agreement until December 1, 2010 with no increase in rent at the WRO location. The agency pays annual rent of

$152,216, increased annually by 2.5% of the prior year's adjusted annual rent beginning with the first anniversary of the lease commencement date, except in year six. In year six (in lieu of the 2.5% increase), there was a $1.50 increase per RSF over the adjusted annual rent per RSF paid in the previous twelve months. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The third agreement (Denver Field Office) began on November 1, 2001 and expires on December 31, 2011. The agency pays annual rent of $98,802, increased each year by 2% of the prior year's adjusted annual rent beginning with the first anniversary of the lease commencement date. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The fourth lease (Washington, DC warehouse) began on April 1, 2003 and expires on March 31, 2013. The agency pays annual rent of $22,800, increased each year by 4% beginning with the first anniversary of the lease commencement date. The MSPB also makes annual lump sum payments to cover its share of increases in real estate taxes over taxes paid for the calendar year in which its Headquarters and WRO leases commenced (base year).

Fiscal Year	Building
2011	$ 154,059
2012	63,284
2013	16,226
Total Future Payments	$ 233,569

The operating lease amount does not include estimated payments for leases with annual renewal options.

Note: Future minimum lease payments are based on estimated Cost of Living Index adjustments.

NOTE 9. CONTINGENT LIABILITIES

The MSPB records commitments and contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability has been estimated, including certain judgments that have been issued against the agency. As of the end of the period beginning on October 1, 2009, and ending on September 30, 2010, there was one case pending in the U.S. District Court for the District of Columbia. An unfavorable outcome is reasonably possible. An estimated amount or range of potential loss would be $0-$300,000, plus attorney fees. There were no contingent liabilities as of September 30, 2010.

NOTE 10. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and intragovernmental exchange revenue 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 and revenue are summarized as follows:

	2010	2009
Adjudication		
Intragovernmental Costs	$ 9,230,516	$ 8,758,513
Public Costs	28,390,700	28,142,561
Total Program Costs	37,621,216	36,901,074
Intragovernmental Earned Revenue	(12,175)	(8,725)
Net Program Costs	$ 37,609,041	$ 36,892,349
Management Support		
Intragovernmental Costs	$ 1,059,761	$ 1,012,464
Public Costs	3,715,785	3,790,075
Net Program Costs	$ 4,775,546	$ 4,802,539
Merit Systems Studies		
Intragovernmental Costs	$ 335,007	$ 300,424
Public Costs	1,755,586	1,626,086
Net Program Costs	$ 2,090,593	$ 1,926,510
Total Intragovernmental costs	$ 10,625,284	$ 10,071,401
Total Public costs	33,862,071	33,558,722
Total Costs	44,487,355	43,630,123
Total Intragovernmental Earned Revenue	(12,175)	(8,725)
Total Net Cost	$ 44,475,180	$ 43,621,398

NOTE 11. IMPUTED FINANCING SOURCES

The MSPB 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, OPM. Some amounts paid from the U.S. Treasury's Judgment Fund in settlement of claims or court assessments against the MSPB are also recognized as imputed financing. For the fiscal years ended September 30, 2010 and 2009, respectively, imputed financing was as follows:

NOTE 12. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

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

NOTE 13. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

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

	2010	2009
Direct Obligations, Category A	$ 39,283,129	$ 38,436,003
Reimbursable Obligations, Category A	2,591,175	2,587,725
Total Obligations Incurred	$ 41,874,304	$ 41,023,728

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 14. UNDELIVERED ORDERS AT THE END OF THE PERIOD

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 fiscal years ended September 30, 2010 and 2009, undelivered orders amounted to $2,804,712 and $2,729,174, respectively.

NOTE 15. CUSTODIAL ACTIVITY

The MSPB's custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are neither primary to the mission of the MSPB nor material to the overall financial statements. The MSPB's total custodial collections are $338 and $4,247 for the years ended September 30, 2010, and 2009, respectively.

NOTE 16. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

The MSPB has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2010	2009
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$41,874,304	$41,023,728
Spending Authority From Offsetting Collections And Recoveries	(2,821,995)	(3,201,570)
Net Obligations	39,052,309	37,822,158
Other Resources		
Imputed Financing From Costs Absorbed By Others	2,633,573	2,081,585
Total Resources Used to Finance Activities	41,685,882	39,903,743
Resources Used to Finance Items Not Part of the Net Cost of Operations	2,503,671	2,594,011
Total Resources Used to Finance the Net Cost of Operations	44,189,553	42,497,754
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	285,627	1,123,644
Net Cost of Operations	$44,475,180	$43,621,398

Appendix: Abbreviations and Acronyms

AJ	Administrative Judge
ALJ	MSPB Office of Administrative Law Judge
APHIS	U.S. Department of Agriculture Animal and Plant Health Inspection Service
CAA	Congressional Accountability Act
CPDF	OPM's Central Personnel Data File
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
e-OPF	Electronic Official Personnel Folder
FAM	MSPB Office of Financial and Administrative Management
FISMA	Federal Information Security Management Act
FY	Fiscal Year
GPRA	Government Performance and Results Act
HR	Human Resources
IPv6	Internet Protocol Version 6
IRM	MSPB Office of Information Resources Management
MAP	Mediation Appeals Program
MOU	Memorandum of Understanding
MPS	Merit Principles Survey
MSPB	Merit Systems Protection Board
OAC	MSPB Office of Appeals Counsel
OCB	MSPB Office of the Clerk of the Board
OGC	MSPB Office of General Counsel
OMB	Office of Management and Budget
OPE	MSPB Office of Policy and Evaluation
OPF	Official Personnel Folder
OPM	Office of Personnel Management
ORO	MSPB Office of Regional Operations
PAR	Performance and Accountability Report
RIF	Reduction in Force
SES	Senior Executive Service