United States
Merit Systems Protection Board

Performance and Accountability Report
Fiscal Year 2004

November 15, 2004

Forward

The Merit Systems Protection Board (MSPB) presents our Performance and Accountability Report (PAR) for FY 2004. 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 report section of the PAR also includes the annual report on internal controls required by the Federal Managers' Financial Integrity Act (FMFIA).

The PAR has been prepared in accord with guidance provided by the Office of Management and Budget and other sources. The MSPB PAR for FY 2004 was prepared by Government employees except for the audit that was conducted by independent auditors. MSPB will duplicate and bind copies of the PAR for FY 2004 sufficient for the November 15, 2004 distribution to the President, the Office of Management and Budget (OMB), and Congress and will make the PAR available in electronic form on the MSPB website (www.mspb.gov). The PAR will be printed at a later date, and copies 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:

Merit Systems Protection Board
ATTN: Comments on the PAR for FY 2004
1615 M St. NW
Washington, DC 20419

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

TABLE OF CONTENTS

Management Discussion and Analysis 2
A Message from the Acting Chairman 2
About the Merit Systems Protection Board 4
Performance Goals and Results 7
Financial Statements 8
Systems, Controls, and Legal Compliance 10
Trends and Issues 11

Performance Report 14
Adjudication Performance Results 14
Merit Systems Studies Performance Results 22
Management Support Performance Results 29

Financial Report 37
A Message from the Chief Financial Officer 37
Independent Auditor's Report on Financial Statements 38
Audited Financial Statements 39
Independent Auditor's Report on Internal Control over Financial Reporting 54
Independent Auditor's Report on Compliance with Laws and Regulations 55
Letter to the Auditor on Management Controls 56

Appendix A: Abbreviations and Acronyms 59

The Merit Systems Protection Board
Performance and Accountability Report
For Fiscal Year 2004

Management Discussion and Analysis

A Message from the Acting Chairman

It is my honor to submit the Merit Systems Protection Board's (MSPB) Performance and Accountability Report (PAR) for FY 2004. The accomplishments presented here are the result of the expertise and dedication of our employees, with whom Ms. Marshall and I are proud to serve. I am pleased to report that we successfully accomplished all FY 2004 performance goals except for one performance goal purposefully postponed until FY 2005. In addition, the Board received a clean audit of its financial statements for FY 2004.

This year is particularly rewarding for us as we celebrate our 25th year of operation, and the 26th anniversary of the Civil Service Reform Act (CSRA). We began operations in 1979, following creation by the CSRA in 1978. During these past 25 years, we have been honored to serve as the independent bipartisan protector of the merit systems under which Federal employees work. The Board's role in protecting the merit systems is essential to ensuring the American people that their civil servants are well qualified to perform their work and able to serve the public free from management abuse and partisan political pressure. The Board has two statutory missions – to provide the over 1.8 million Federal employees the opportunity for independent adjudication of appeals of personnel actions; and to conduct studies of the civil service to ensure that employees are managed in accord with the merit principles and free from prohibited personnel practices. Over this 25-year time period, the Board handled over 200,000 initial appeals and 35,000 petitions for review (PFR), and published approximately 95 merit systems reports. We will continue to provide independent bipartisan protection of the merit systems as agencies, such as the Departments of Homeland Security (DHS) and Defense (DOD), develop and implement their own unique human capital management systems to meet their 21st Century human resources needs.

FY 2004 was a very successful year for the MSPB. In particular, this past year we took several actions, including implementation of several new electronic case processing and filing capabilities and the reorganization of our field offices, to improve our efficiency in processing appeals. The technological changes will help improve our timeliness and make filing an appeal and communicating with the Board easier for appellants and agencies. We also completed and approved six merit systems studies and four issues of our *Issues of Merit* newsletter. The topics of these reports ranged from a review of automated hiring initiatives to a report on what is on the minds of stakeholders in Federal human resources management. Our management support functions were also very successful this year. We developed new, more flexible human resources management policies, upgraded our computer equipment, and continued to manage our financial resources in accord with applicable laws, resulting in a clean audit for the second successive year. These issues are addressed in more detail in the following sections of this report.

FY 2004 was also a time of continued change in Federal human resources with more and more agencies seeking legislative authority to operate their own human resources management systems. Having a full complement of Board members is critical to our role in protecting merit in these times of civil service change. Adjudicating cases based on the specific requirements of an increasing variety of alternative personnel systems will result in new legal precedents that will guide future cases as well as provide valuable information to agencies on employee management. It is important that a full Board of three confirmed Board members reviews and decides these potentially precedent-setting cases. Ensuring the public that our civil service operates in a merit-based environment demands no less than the full three-person, bipartisan Board. History has shown that independent, bipartisan review of employee disputes and unbiased studies of the merit systems are necessary to ensure the health of our civil service. The Board has not had a full complement of permanent Board members since March 1, 2000. Given the continued rate of agencies seeking to develop and implement their own merit-based systems, it is important that the Board's vacancies be filled in FY 2005.

Finally, I am pleased to provide a variety of legally required assurances regarding our performance and financial data, management controls and financial systems. In accord with law and OMB guidance, I have determined that the performance and financial data included in this report are complete and reliable. All data reported were obtained from final FY 2004 statistical reports from the agency's case management system, final FY 2004 financial reports and reports submitted by the agency's program managers. There are no material inadequacies or non-conformances in either the completeness or reliability of the performance or financial data. In addition, following an assessment of MSPB's comprehensive management control program, I am pleased to 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,

Neil A. G. McPhie
Acting Chairman

November 15, 2004

About the Merit Systems Protection Board

Agency Mission

The Merit Systems Protection Board (MSPB or the Board) is an independent quasi-judicial agency established to protect Federal merit systems against partisan political and other prohibited personnel practices. The Board carries out its statutory mission principally by:

- Adjudicating employee appeals of personnel actions over which the Board has jurisdiction, such as removals, suspensions, furloughs, and demotions;
- Adjudicating appeals of administrative decisions affecting an individual's rights or benefits under the Civil Service Retirement System or the Federal Employees' Retirement System;
- Adjudicating employee complaints filed under the Whistleblower Protection Act (WPA), the Uniformed Services Employment & Reemployment Rights Act (USERRA), and the Veterans Employment Opportunities Act (VEOA);
- Adjudicating cases brought by the Special Counsel, principally complaints of prohibited personnel practices and Hatch Act violations;
- Adjudicating requests to review regulations of the Office of Personnel Management (OPM) that allegedly require or have required the commission of a prohibited personnel practice—or reviewing such regulations on the Board's own motion;
- Ordering compliance with final Board orders where appropriate; and
- Conducting studies of the Federal civil service and other merit systems in the Executive Branch to ensure that they are free from prohibited personnel practices and reviewing the significant actions of the Office of Personnel Management to determine whether such actions are in accord with the merit system principles.

Board Organization

The **Board Members** adjudicate the cases brought to the Board. The **Chairman**, by statute, is the chief executive and administrative officer of the Board. Office heads report to the Chairman through the Chief of Staff.

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 administrative law judges, MSPB employee appeals, and other cases assigned by the Board. (The functions of this office are currently performed by administrative law judges at the National Labor Relations Board under an interagency agreement.)

The **Office of Appeals Counsel (OAC)** conducts legal research and prepares proposed decisions for the Board in cases where a party petitions for review of a judge's initial decision and in most other cases decided by the Board. The office conducts the Board's petition for review settlement program, 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 (OCB)** receives and processes cases filed at Board headquarters, rules on certain procedural matters, and issues the Board's decisions and orders. The office serves as the Board's public information center, coordinates media relations, produces public information publications, operates the Board'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 the Board's records and directives systems, legal research programs, and the Government in the Sunshine Act program.

The **Office of Equal Employment Opportunity (EEO)** plans, implements, and evaluates the Board's equal employment opportunity programs. It processes complaints of alleged discrimination and furnishes advice and assistance on affirmative action initiatives to the Board's managers and supervisors

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

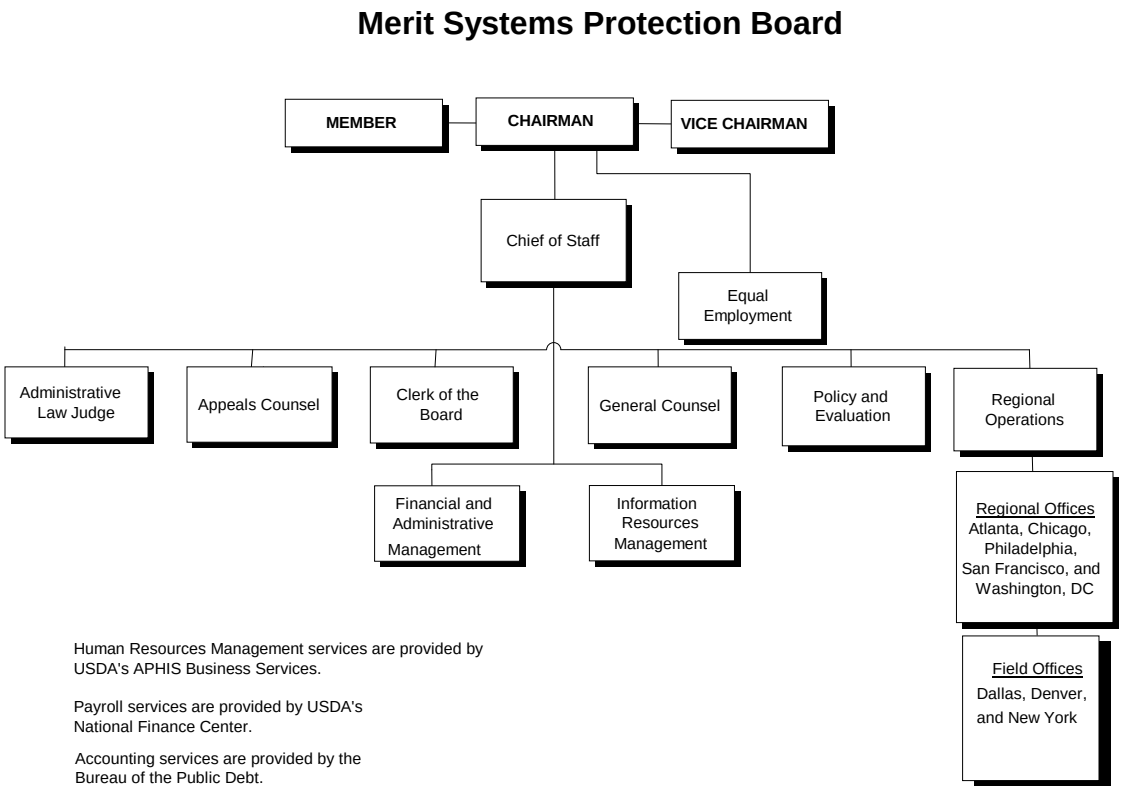
The **Office of the General Counsel (OGC)**, as legal counsel to the Board, provides advice to the Board and MSPB offices on matters of law arising in day-to-day operations. The office represents the Board in litigation, prepares proposed decisions for the Board on assigned cases, and coordinates the Board's legislative policy and congressional relations functions. The office also drafts regulations, conducts the Board's ethics program, and plans and directs audits and investigations.

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

The **Office of Policy and Evaluation (OPE)** carries out the Board's statutory responsibility to conduct special studies of the civil service and other merit systems. Reports of these studies are directed to the President and the Congress and are distributed to a national audience. The office responds to requests from Federal agencies for information, advice, and assistance on issues that have been the subject of Board studies. OPE also conducts special projects for the Board and has responsibility for preparing the Board's reports required by the Government Performance and Results Act (GPRA). The office also provides oversight of the agency's human resources management function and administers the cross-servicing agreement with the U.S. Department of Agriculture's APHIS Business Services for human resources management services.

The **Office of Regional Operations (ORO)** oversees the eight MSPB regional and field offices, which receive and process appeals and related cases. Administrative judges in the regional and field offices are responsible for adjudicating assigned cases and for issuing fair and well-reasoned initial decisions.

Organization Chart



Performance Goals and Results

The MSPB Performance Plan for FY 2004-FY 2005 consisted of 27 performance goals under the three strategic goals described in the agency's Strategic Plan for FY 2004-FY 2009. The MSPB met or substantially met 26 of these goals—for a success rate of 96 percent. One goal, the administration of our merit principles survey, was intentionally postponed.

Strategic Plan Goal 1, Adjudication – MSPB met or substantially met all of the 13 performance goals under the adjudication strategic goal. The Board continues to issue high quality decisions as evidenced by the percentage of cases left unchanged by the U.S. Court of Appeals for the Federal Circuit. We continue to meet our goal for processing initial appeals in the regions in less than 100 days. We improved our case processing at headquarters and for the first time in three years achieved our goal for the number of cases at headquarters for more than 300 days. We continue to meet or exceed our goals for settlement of initial appeals and PFRs. We made our pilot mediation program permanent to provide parties with another useful option to resolve cases. We successfully implemented our updated internal case processing system that will help us more effectively and efficiently track cases. And, we implemented both Phase I and Phase II of our electronic appeals system -- e-Appeal. These web-based systems make it is easier for appellants and agencies to submit appeals and other case materials and make communication more efficient among MSPB, appellants and agencies.

Strategic Plan Goal 2, Merit Systems Studies – MSPB met or substantially met all but one of the six performance goals under this strategic goal. Based on the results of our customer satisfaction survey, our customers continue to report that our merit systems studies and newsletters have a positive impact on the Federal merit systems and on human resources management. We completed six merit systems studies and four issues of the Merit Systems newsletter, *Issues of Merit*. We continued our review of alternative merit systems and our efforts to share our analyses and recommendations with managers and human resources professionals. We also collected baseline data for use in assessing the operation of merit in alternative human resources management systems. Performance goal 2.2.1, conducting the next merit principles survey, was not met. We postponed administration of the survey until FY 2005 at the request of the Office of Personnel Management to avoid overlap and confusion with its Human Capital Survey.

Strategic Plan Goal 3, Management Support – MSPB met or substantially met all eight of the performance goals under this strategic goal. We successfully completed a reorganization of our regional and field office structure to more effectively handle the geographic shifts in cases filed with the Board. Several of our human resources policies and procedures have been updated and are awaiting approval by the Acting Chairman. We also received a clean audit on all of our financial statements.

In the FY 2004 Performance Report section of this report, the performance goals for FY 2004 are those described in the MSPB Performance Budget Justification for Fiscal 2005 submitted to the Congress on February 2, 2004. The performance goals for FY 2005, as described in this report, reflect revisions in certain goals that the MSPB made at the beginning of the current fiscal year. Further revisions may be made as the agency develops its Revised Final Performance Plan for FY 2005, which must be completed by December 31, 2004.

Financial Statements

As of September 30, 2004, the financial condition of the Merit Systems Protection Board was sound with respect to having sufficient funds to meet program needs and adequate control of these funds to ensure that obligations did not exceed budget authority. The MSPB prepared its financial statements in accordance with accounting standards codified in Statements of Federal Financial Accounting Standards and Office of Management and Budget (OMB) Bulletin No. 01-09, Form and Content of Agency Financial Statements.

The Program and Financing Schedule shows the dollar and full-time-equivalent (FTE) resources devoted to each of the three MSPB missions. It shows actual spending for fiscal years 2003 and 2004, and projected spending for fiscal 2005.

Summary by Budget Activity
(Dollars In Thousands)

	2003		2004		2005 (projected)	
Function	**FTE**	**AMT**	**FTE**	**AMT**	**FTE**	**AMT**
Adjudication	185	27,021	183	27,628	192	29,713
Merit System Studies	10	1,406	10	1,333	10	1,530
Management Support	27	3,240	27	3,405	26	3,434
Total Appropriated	223	31,667	220	32,366	228	34,677
Trust Fund Limitation	*	2,609		2,611	-	2,626
Total Available	223	34,276	220	34,977	228	37,303

In FY 2004, approximately 86 percent of the agency's resources were spent on the adjudication function, which processes the approximately 8,500 appeals and PFRs the agency receives each year. Approximately 4 percent of our resources were devoted to the merit system study function that conducts studies of the Federal civil service and other merit systems and makes recommendations for improvements. Approximately 10 percent of our resources were spent on management support, which provides the necessary administrative support to the agency as well as the development and implementation of information technology improvements, such as the President's management agenda item on e-Government.

For the last several years, MSPB has received funding increases to cover built-in cost increases for expenses such as pay raises. This has allowed the agency to maintain a sufficient staffing level to adjudicate the appeals received in a timely fashion and to continue issuing important and timely

studies on the health of the Federal civil service system. Depending on the changes that will be implemented in the new human resources management systems in DHS and the DOD, MSPB may need a different level of funding in future years.

The balance sheet shows an increase in general property, plant, and equipment assets because MSPB has implemented a number of IT software improvements, including the increased capability for parties to file appeals and communicate electronically with the MSPB. The MSPB has also implemented new information technology software that allows MSPB's administrative judges and others to more efficiently process and file the case documents electronically.

Systems, Controls, and Legal Compliance

Federal Managers' Financial Integrity Act

In accordance with the Federal Managers' Financial Integrity Act (FMFIA or the Act), the Merit Systems Protection Board has an internal management control system, which helps provide assurance that (1) obligations and costs comply with applicable law; (2) assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and (3) revenues and expenditures are properly recorded and accounted for. The Act also requires assurance that funds are being used in accordance with the agency's mission and that they are achieving their intended results; that resources are protected from waste, fraud and mismanagement, and that laws and regulations are followed. This Act encompasses program, operational and administrative areas, as well as accounting and financial management. The Act requires the Chairman to provide an assurance statement on the adequacy of management controls and conformance of financial systems with government-wide standards. The Chairman's assurance statement is contained in the transmittal letter.

During FY 2004, the MSPB continued its agreement with the Bureau of the Public Debt (BPD) for that agency to process financial transactions, make administrative payments, and prepare various financial reports required by the Department of the Treasury and the OMB. This agreement continued into and through FY 2004. The BPD uses the latest financial software and other software for processing travel and other expenses. This financial review arrangement promotes the accuracy and timeliness of MSPB's financial records.

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 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.

Trends and Issues

There are several external and internal issues affecting the Board's ability to work effectively and efficiently to carry out its duty to protect the Federal merit systems. The two most significant issues are the continued trend for agencies to establish their own unique human resources management systems, and the continued impact of Board member vacancies.

Increasing Number of Agency-Unique Human Resource Management Systems

In the past year, the most significant external trend affecting the Merit Systems Protection Board—and the Federal civil service generally—was the continuing increase in the number of Cabinet departments that have received statutory authority to establish their own unique human resources management systems. This trend began in the early to mid 1990's with the implementation of several "Demonstration Projects" primarily in the DOD Laboratories. This was followed by legislated authorities granted to the Federal Aviation Administration (FAA), the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC), and DHS to modify or establish new human resources management systems. In the last year, the DOD, the Government Accountability Office (GAO) and the National Aeronautics and Space Administration (NASA) obtained statutory authority to establish unique human resources systems for their employees. [1] In September of this year, the Federal Deposit Insurance Corporation (FDIC) submitted a legislative proposal to Congress seeking many of the same personnel flexibilities granted to DHS, including the authority to establish its own employee appeals system.

When these latest systems are implemented, almost 1 million Federal employees – well over half of the Federal workforce -- will be managed under more flexible authorities than those in the traditional system generally codified in Title 5 of the U.S. Code.

Most of the agency-specific personnel flexibilities enacted in recent years have concentrated on giving exemptions from traditional Title 5 rules governing hiring, classification, and pay. With the exception of the FAA, and prior to the recent statutory authorities granted to DHS and DOD, employees in agencies that obtained personnel flexibilities did not lose their right to appeal major adverse personnel actions to the MSPB. Even in the FAA, Congress restored the lost MSPB appeal rights just four years later. However, under the DOD and DHS statutes, each agency is free to establish its own internal appeals process without the same access to review by MSPB.

DHS has issued proposed regulations that provide its employees a right of appeal to Board administrative judges. The regulations also permit DHS employees to file petitions for review of AJ decisions to the full Board. Therefore, at this time we do not anticipate any impact on the Board's caseload as a result of the new DHS human resources management system. It is anticipated that DHS will issue interim regulations by the end of CY 2004.

---

[1] It should be noted that the Board has no jurisdiction to hear appeals from GAO employees. In addition, the GAO Human Capital Reform Act of 2003 (P.L. No. 108-271,) renamed the General Accounting Office the Government Accountability Office.

The DOD statute retains its employees' rights to petition the full Board for outside, independent review of an employee appeal decision issued in a DOD internal appeals system. However, if DOD creates its own internal first level appeals system rather than providing for an initial appeal to MSPB, the number of PFRs filed with the Board by DOD employees could increase because it would be their first opportunity to receive independent outside review of their cases. In addition, the Board has a very successful settlement program for initial appeals. If there are fewer settlements of initial appeals in an internal DOD system than achieved by MSPB judges, a greater rate of petitions for Board review could result. Should the headquarters workload increase as a result of the appellate review authority for DOD appeals, the Board may need to increase the resources at headquarters to ensure timely processing. Because the proposed regulations for DOD appeals have not yet been published, it is impossible to determine what the final impact of this law on MSPB will be. We expect that DOD will announce a decision on whether to use MSPB for its initial appeals by the end of calendar 2004, when it plans to issue proposed regulations.

The laws authorizing both the DHS and DOD personnel systems also make certain provisions of traditional Title 5 law non-waivable and do not authorize waiver of provisions in any other title of the United States Code. Therefore, it appears that the Board would retain jurisdiction over certain types of appeals even if each department establishes an internal appeals process. Such appeals include: individual right of action appeals filed by whistleblowers who have exhausted the procedures of the Office of Special Counsel; Veterans Employment Opportunities Act appeals filed by preference eligibles who have exhausted the procedures of the Department of Labor; appeals filed under the Uniformed Services Employment and Reemployment Rights Act; and appeals of administrative decisions that affect an employee's rights or benefits under the Civil Service Retirement System or the Federal Employees Retirement System.

The increasing number of employees who will be managed under new, non-traditional human resources management systems will also impact the Board's other statutory mission to conduct studies of the merit systems. The DHS and DOD human resources management authorities, like the flexibilities granted to other agencies in recent years, provide that the Title 5 provisions governing merit system principles and prohibited personnel practices may not be waived, modified, or otherwise affected. Therefore, as agency-specific merit systems spread in the Federal Government, there will be an even greater need for MSPB to conduct studies of the operation of these new management systems to ensure that they are operating in accordance with merit system principles and free from prohibited personnel practices.

Most observers agree that other agencies will soon seek, and perhaps obtain, the same kinds of management flexibilities that DOD, DHS, and others have already gained. The challenge for the Board is to preserve its role as chief protector of Federal merit systems, including those new systems being developed to meet the needs of the 21st Century civil service. The Board will maintain that role to the extent that Congress provides for it or to the extent that agencies with flexibilities elect to remain in the MSPB appeals system.

Board membership

Having a full complement of Board members is critical to our role in protecting merit, especially in these times of civil service change. Adjudicating cases based on the specific requirements of an increasing variety of alternative human resource management systems will result in new legal precedents to guide future cases as well as provide valuable lessons to agencies in managing their

employees in accord with merit. It is important that a full Board of three confirmed Board members review and decide these potential precedent-setting cases. When the Board has a full complement of three members, cases at headquarters are closed by a unanimous vote or a majority vote of the Board. When the Board has only two members, there is a quorum, but no majority is possible unless both members agree. If the two members cannot agree, the Board's regulations permit the issuance of a "split-vote" order which makes an initial decision under review final but not precedential. When the Board has only one member, as it did for almost two months during FY 2003, no decisions can be issued.

A full, independent, bipartisan Board is necessary to assure the public that our civil service operates in a merit-based environment free from abuse. History has shown that independent, bipartisan review of employee disputes and unbiased studies of the merit systems are necessary to ensure the health of our civil service. The Board has not had a full complement of permanent Board members since March 1, 2000. Currently, Neil A.G. McPhie, the designated Vice Chairman of the Board, is serving under a recess appointment made in April 2003 that will expire at the end of the current session of Congress. The term of the current Board Member, Susanne T. Marshall, ended on March 1, 2004. However, she can continue to hold this position for up to one additional year, or until her successor is appointed, whichever occurs first. Her position will be vacant upon her departure or at the latest on March 1, 2005 if no successor is named. In April 2004, Mr. McPhie's nomination for Chairman and that of Barbara Sapin as Member were submitted to the Senate for confirmation. His nomination to be a Member is also pending before the full Senate. The position for which Ms. Sapin was nominated has been vacant since December 2001. Given the importance of our merit system and the increasing number of agencies seeking to develop and implement their own merit-based systems, it is important that the Board's vacancies be resolved in FY 2005.

Performance Report

Adjudication Performance Results

Summary

Strategic Goal 1: To provide fair, timely, and efficient adjudication of cases filed with the Board and to make effective use of alternative methods of dispute resolution in Board proceedings

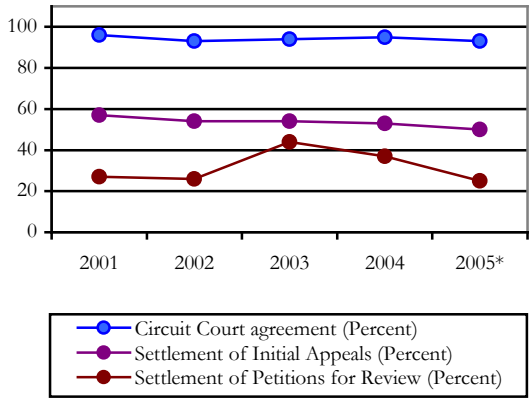
Objectives

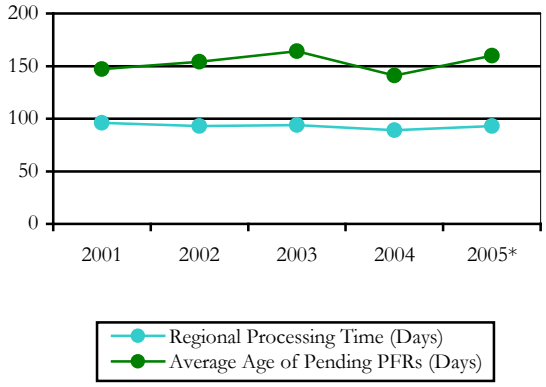
1.1 Issue high quality decisions
1.2 Issue timely decisions at both the regional office and Board headquarters levels
1.3 Continue alternative dispute resolution (ADR) procedures in MSPB proceedings at both the regional office and Board headquarters levels
1.4 Hold increase in average case processing cost to no more than the percentage increase in operating costs, adjusted for the change in the number of decisions issued
1.5 Implement an integrated, streamlined electronic case processing system that allows appellants and agencies to file and receive documents electronically
1.6 Obtain customer input regarding the adjudicatory process

Resources

	FY 2004	FY 2005 (requested)
$ (000)	$30,239	$32,339
% Resources	86	87

Selected Results





* Target goal

Performance Goals and Results

Objective 1: Issue high quality decisions

Performance Goal 1.1.1 - Maintain/reduce low percentage of cases decided by the Board on petition for review (PFR) that are reversed and/or remanded to MSPB judges for a new decision

Results		Targets	
FY 2001	13 %	**FY 2004**	10 % or less
FY 2002	8 %	**FY 2005**	10 % or less
FY 2003	11 %		
FY 2004	6%		

This goal was MET. The results achieved for FY 2004 were below the target level. The target reflects an approximate level and from year to year the actual result vary. Therefore, the target for FY 2005 remains at 10%.

Performance Goal 1.1.2 - Maintain/reduce low percentage of proposed decisions submitted by headquarters legal offices to the Board that are returned for rewrite

Results		Targets	
FY 2001	15 %	**FY 2004**	12 % or less
FY 2002	8 %	**FY 2005**	12 % or less
FY 2003	6 %		
FY 2004	3 %		

This goal was MET. The results achieved for FY 2004 were below the target level. The target reflects an approximate level and from year to year the actual results vary. Therefore, the target for FY 2005 remains at 12%.

Performance Goal 1.1.3 - Maintain high percentage of Board 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 2001	96 %	**FY 2004**	93 % or greater
FY 2002	93 %	**FY 2005**	93 % or greater
FY 2003	94 %		
FY 2004	95 %		

This goal was MET. The percentage of final Board decisions that remained unchanged (decision affirmed or case dismissed) on review by the U.S. Court of Appeals for the Federal Circuit in FY 2004 was within the historical range of 93 to 96 percent and reflects normal year-to-year variations. Therefore, the goal for FY 2005 will remain at 93% or higher.

Objective 2: Issue timely decisions at both the regional office and Board headquarters levels

Performance Goal 1.2.1 - Maintain average case processing time for initial decisions issued in regional offices

Results

		FY 2004	100 days or less
FY 2001	92 days	**FY 2005**	100 days or less
FY 2002	96 days		
FY 2003	94 days		
FY 2004	89 days		

This goal was MET. The average case processing time for initial decisions issued in the regional offices in FY 2004 is slightly less than the processing times obtained in recent years. The goal for FY 2005 remains at 100 days or less, assuming the relative stability in case receipts and regional office staffing.

Performance Goal 1.2.2 - Reduce average age of pending PFRs at Board headquarters

Results		**Target**	
FY 2001	147 days	**FY 2004**	175 days or less
FY 2002	154 days	**FY 2005**	160 days or less
FY 2003	164 days		
FY 2004	141 days		

This goal was MET. The actual average age of PFRs for FY 2004 is the lowest in the last four years, reduced by 14% since FY 2003, and 19% lower than our goal. We have reduced the goal for FY 2005 to reflect our intent to continue to reduce the age of headquarters cases.

Performance Goal 1.2.3 - Reduce number of cases pending at headquarters for more than 300 days

Results		**Targets**	
FY 2001	45 cases	**FY 2004**	46 or fewer
FY 2002	61 cases	**FY 2005**	46 or fewer
FY 2003	73 cases		
FY 2004	33 cases		

This goal was MET. All headquarters offices worked in concert to reduce the backlog of older cases pending at the Board, resulting in the Board meeting this goal for the first time in three years. However, given the variability in the number of cases over 300 days over the last four years, the target for FY 2005 will remain at 46 cases.

Objective 2: (continued)

Performance Goal 1.2.4 - Continue initiative to improve case processing timeliness at the regional and headquarters levels by streamlining adjudicatory regulations and internal procedural guidance

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 Reviewed adjudicatory regulations to determine where case processing could be streamlined; final regulations published in *Federal Register* on September 18, 2003; added a FY 2004 goal to continue this initiative
FY 2004 Completed a draft outline of HQ case processing procedures (i.e., a comprehensive electronic HQ Handbook similar to the AJ Handbook) as a reference document and to be used as a briefing and orientation document with completion scheduled for FY 2005; reviewed comments received on the Board's interim streamlining regulations and drafted separate regulations to conform with the DHS regulations published on 2/20/04; began tracking select cases to be automatically refiled and began recording hearings on compact digital (CD) media to improve timeliness and efficiency; established a uniform procedure for processing incomplete appeals

Targets

FY 2004 Continue to review adjudicatory regulations and internal procedural guidance and make appropriate revisions; obtain internal feedback on the adjudicatory process and implement suggestions, as appropriate
FY 2005 Draft regulations to process DHS cases after interim DHS regulations are issued; evaluate current MSPB regulations and further streamline the appeals process for non-DHS appeals where possible

This goal was MET. We will continue to review our regulations and internal procedures to make adjustments or prepare reference materials that will improve our effectiveness and efficiency. In FY 2005, we will pay particular attention to the new regulations implemented by DHS and DOD to ensure our regulations are compatible. Revisions to regulations will be made and presented to senior staff following the publication of interim DHS regulations which are expected in the fall of 2004.

Objective 3: Continue alternative dispute resolution (ADR) procedures in MSPB proceedings at both the regional office and Board headquarters levels

Performance Goal 1.3.1 - Maintain rate of settlement of appeals that are not dismissed at 50 % or higher

Results		**Targets**	
FY 2001	57 %	**FY 2004**	50 % or higher
FY 2002	54 %	**FY 2005**	50 % or higher
FY 2003	54 %		
FY 2004	53 %		

This goal was MET. The settlement rate for appeals that were not dismissed in FY 2004 falls within the expected range. The goal for FY 2005 is maintained at 50% or higher.

Performance Goal 1.3.2 - Maintain rate of settlement of cases selected for the PFR Settlement Program at 25 % or higher

Results		**Targets**	
FY 2001	27 %	**FY 2004**	25 % or higher
FY 2002	26 %	**FY 2005**	25 % or higher
FY 2003	44 %		
FY 2004	37 %		

This goal was MET. The settlement rate for petitions for review (PFRs) selected for the PFR Settlement Program at headquarters in FY 2004 was at approximately the same level as that in FY 2003. This was attributable in part to the greater selectivity in screening PFR cases for this settlement program. It is still uncertain if this high level can be sustained, so the rate for FY 2005 is maintained at 25% or higher.

Objective 3: (continued)

Performance Goal 1.3.3 - Implement pilot program to test use of mediation in resolving appeals

Results

FY 2001 Selected contractor for mediation training and development of an ADR program, conducted mediation training
FY 2002 Worked with contractor to develop Mediation Appeals Project; selected and trained mediators who conducted co-mediations with contractor
FY 2003 Trained 15 mediators; 50 percent of completed co-mediations resulted in settlement of the appeal; responsibility for MAP transferred to Regional Directors of Atlanta RO and Central, RO; initial evaluation of MAP completed
FY 2004 Made the MAP permanent and developed final procedures, notices and orders, etc; assigned the large number of trained mediators in the Washington area in a cost-effective way; trained additional mediators; expanded the program to the Northeastern Region; successfully mediated a total of 23 cases

Targets

FY 2004 Based on evaluation of results of the Mediation Appeals Program pilot determine whether the program should be continued, modified, or terminated
FY 2005 Continue the MAP with a target to increase the number of appeals 5-10% over the 23 mediated in FY 2004; expand mediation program to include all regional and field offices

This goal was MET. The MAP was successfully expanded and was made permanent by the Acting Chairman. We will begin to measure this program using numeric targets with a target for FY 2005 set at an increase in cases of 5-10% over the 23 cases (the number of cases had been originally approximated at 20) mediated in FY 2004. In FY 2005 we will also extend the MAP further.

Objective 4: Hold increase in average case processing cost to no more than the percentage increase in operating costs, adjusted for the change in the number of decisions issued

Performance Goal 1.4.1 - Hold increase in overall average case processing cost to no more than the percentage increase in operating costs, adjusted for the changes in the number of decisions issued

Results		**Targets**	
FY 2001	$2,820 (Adjusted)	**FY 2004**	$2,731 adjusted for the changes in the number of decisions issued
FY 2002	$2,821 (Adjusted)		
FY 2003	$2,731 (Adjusted)	**FY 2005**	$2,701 adjusted for the changes in the number of decisions issued
FY 2004	$2,701 (Adjusted)		

This goal was MET. The average case processing cost for FY 2004 – adjusted for year-to-year variations in the number of cases processed and to amortize the cost of electronic case processing system – was about $30 less than in FY 2003. As in past years, the success of the Board's settlement programs was a significant factor in containing case processing costs. The goal for FY 2005 calls for continuing to hold the increase in the average case processing cost to no more than the percentage increase in operating costs that most affect case processing – salaries, benefits, travel expenses, and the cost of court reporting services – adjusted for year-to-year variations in the number of cases processed and to amortize the cost of the electronic case processing system.

Objective 5: Implement an integrated, streamlined electronic case processing system that allows appellants and agencies to file and receive documents electronically

Performance Goal 1.5.1 - Develop integrated electronic case processing system that offers electronic access to customers as required by the Government Paperwork Elimination Act (GPEA) and streamlines internal case processing in accordance with MSPB's long-term Strategic IT Plan

Results

FY 2001 Finalized CMS design including interfaces with Docs Open, Hot Docs, and Lotus Notes; implemented fill-in versions of Appeal Form and PFR Form; began revising Appeal Form to provide basis for electronic filing application

FY 2002 Continued development and testing of CMS; revised Appeals form and wrote the statement of work to create Appeal Forms Package

FY 2003 Signed new fixed-price contract for completion of Law Manager; developed and launched e-Appeal; published electronic filing regulations in *Federal Register* to meet GPEA deadline of Oct. 21, 2003

FY 2004 Successfully implemented the new case management system (CMS/LM which uses Law Manager software) in February; tracking of Law Manager improvement projects is ongoing; about 1000 appeals were submitted using procedures established in phase I of e-Appeal; e-Appeal Phase II including additional filings by parties and electronic publishing of MSPB orders and decisions through electronic distribution directly to the parties was implemented in September

Targets

FY 2004 Continue implementation of electronic case processing system by: (1) implementing Law Manager as the new case management system and making enhancements based on user experiences; (2) enhancing e-Appeal to include additional filings by parties and electronic publishing of MSPB orders and decisions through electronic distribution directly to the parties

FY 2005 Continue to enhance all components of the electronic case processing system as MSPB requirements change and technology improves; establish a pilot project with a select group of agencies for submitting agency appeal documents in electronic form

This goal was MET. The new automated case processing system CMS/LM which uses Law Manager software was successfully implemented in February of 2004. E-Appeal, phase I was a popular program with approximately 1000 electronic appeals filed in its first year. Phase II of E-Appeal was implemented in September of 2004. Phase II also gives appellants a system to upload filings as attachments and provides for same-day electronic distribution of filings, orders and decisions. The system also notifies the appropriate MSPB office and automatically files submitted filings in the Board's Document Management System (DMS). The Law Manager and e-Appeal programs will improve the Board's efficiency in handling appeals and make it easier for appellants to file appeals and communicate with the Board. In FY 2005 we will continue to maintain and enhance these systems. The FY 2005 goal for a pilot program to scan paper documents has been clarified to focus on electronic submission of documents by agencies.

Objective 6: Obtain customer input regarding the adjudicatory process

Performance Goal 1.6.1 - Continue to evaluate and implement, as appropriate, suggestions received from customer surveys and informal feedback regarding the adjudicatory process

Results

FY 2001 Published results of survey on experience with bench decisions and video hearings; bench decisions and video hearings incorporated into MSPB adjudicatory procedures

FY 2002 Conducted survey of customers of new video explaining MSPB appeals process; report on findings prepared by OPE and reviewed by ORO

FY 2003 ORO and regional/field office staff received and discussed feedback from outreach events, Federal Executive Boards, Small Agency Council, and bar organizations; practitioners made presentations and responded to questions at legal conference; "best practices" session held at legal conference; ORO continued developing "best practices" guidance

FY 2004 Received many, mostly favorable comments regarding the e-Appeal system implemented in October 2003; developed and electronically administered a survey of agency representatives in the adjudicatory process with a response rate of 49%; analyzed survey data and provided recommendations in a final report; began implementing suggestions as appropriate; began plans to expand such surveys to other adjudicatory customers and to collect data on the settlement process

Targets

FY 2004 Conduct customer survey of agency representatives in appeals to MSPB to determine their views regarding the adjudicatory process; evaluate results; implement suggestions as appropriate; develop tools or procedures to obtain feedback from a variety of adjudicatory customers

FY 2005 Continue to conduct customer surveys and obtain informal feedback; implement suggestions as appropriate

This goal was MET. The Board offices worked together to conduct the first electronic survey of agency representatives in the adjudicatory process. The response rate of 49% was excellent. The results and recommendations will be useful as we continue to ensure that our regulations and procedures are even more user friendly. In FY 2005, we will continue our efforts to collect customer satisfaction information from our adjudicatory customers and implement suggestions as appropriate.

Merit Systems Studies Performance Results

Summary

Strategic Goal 2: To 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

Objectives

2.1. Assess and support effective and efficient merit systems and human capital management laws, regulations and policies and provide information for improvements and corrections to policymakers

2.2. Support effective and efficient implementation and practice of human capital management laws, regulations and policies that ensure the workforce is managed under the merit system and free from prohibited personnel practices

Resources

	FY 2004	FY 2005 (requested)
$ (000)	$1,333	$1,530
% Resources	4	4

Selected Results

Significant Recommendations
Reduce HR rules and prescriptive procedures and increase flexibility
Reform the employment and hiring systems
Replace "Rule of 3" with categorical grouping
Improve assessment and selection practices

Most requested past studies
Sexual Harassment in the Federal Workplace: Is it a Problem?
A Question of Equity: Women and the Glass Ceiling in the Federal Government
Fair and Equitable Treatment: A Progress Report on Minority Employment in the Federal Government
Achieving a Representative Federal Workforce: Addressing the Barriers to Hispanic Participation

Select recent studies
Making the Public Service Work: Recommendations for Change
Perspectives – The Federal Selection Interview: Unrealized Potential
Help Wanted: A Review of Federal Vacancy Announcements
The Federal Workforce for the 21st Century: Results of the Merit Principles Survey 2000
What's on the Minds of Federal Human Capital Stakeholders?
Merit Systems Protection Board Annual Report FY 2003
Identifying Talent through Technology: Automated Hiring Systems in Federal Agencies
Managing Federal Recruitment: Issues, Insights, and Illustrations

Performance Goals and Results

Objective 1: Assess and support effective and efficient merit systems and human capital management laws, regulations and policies and provide information for improvements and corrections to policymakers

Performance Goal 2.1.1 - Evaluate the impact of studies, newsletters and other products through feedback from stakeholder surveys, tracking use of recommendations or references in studies, policy papers, professional literature, legislation and the media

Results

FY 2001 Citations and references to MSPB studies and recommendations by Congress, GAO, NAPA, the professional literature, the media, and other credible sources indicated that MSPB studies continue to have large and positive impact

FY 2002 Customer satisfaction survey results and research citations indicated substantial positive impact; sent selected reports and summary report to Volcker Commission on civil service reform

FY 2003 Received numerous references to and favorable reviews of reports; OPE staff made several invited presentations; vacancy announcement study used in testimony before Congress; QuickHire requested permission to reprint report on vacancy announcements at their expense; MSPB reports contributed to enactment of legislation allowing agencies to use category rating instead of "rule of three"

FY 2004 Conducted a survey of stakeholders of the Board's merit systems studies and newsletters with results indicating that respondents continue to hold publications in high regard; continued to track the impact of studies on human resources management and merit systems policies and on the practice of merit in the workplace; reviewed possible measures of impact and identified several measures to be pilot tested

Targets

FY 2004 Review alternative measures of the impact of studies; conduct formal survey that repeats key questions of earlier stakeholder surveys; monitor report recommendations that are used or cited by stakeholders in studies, policy papers, professional literature, legislation and the media

FY 2005 Pilot test select alternative measures for evaluating impact of studies

This goal was MET. The merit systems studies customer satisfaction survey indicated that studies customers continued to report that study topics were timely and relevant and that documents were well-analyzed and written. We have adjusted our goal for FY 2005 to first pilot test selected measures of impact. Measures may be implemented based on the results of our pilot testing.

Objective 1: (continued)

Performance Goal 2.1.2 - Conduct studies of merit systems and human resources management matters in the Federal Government and issue reports of findings and recommendations for action, where appropriate

Results

FY 2001 Conducted merit systems studies, issued 1 report and 4 editions of newsletter (3 additional major study reports were completed and submitted to the Board for approval); responded to 250 requests for data, advisory assistance and information

FY 2002 Conducted merit systems studies, issued 4 reports and 4 editions of newsletter; responded to requests for data, advisory assistance and information

FY 2003 Conducted merit systems studies, issued 3 reports and 3 editions of newsletter; developed comprehensive research agenda; conducted less intensive studies on various topics; made presentations to the Department of Homeland Security personnel system design team; established regular transmissions from OPM's Central Personnel Data File (CPDF); strengthened collaboration with other research organizations

FY 2004 Reviewed and adjusted research agenda; completed six reports including topics such as what is on the minds of Federal HR stakeholders, automated staffing, recruitment, the MSPB FY 2003 Annual Report, the Board's regional and field office staffing, and the studies customer satisfaction survey; also published the MSPB Strategic Plan for FY 2004 - FY 2009 and the PAR for FY 2003; three other study reports are under review; released four newsletter issues including one celebrating the Board's first 25 years; continued to formalize collaborative relationships with other research organizations

Targets

FY 2004 Review long-term research agenda and adjust, as necessary; publish at least six reports and a quarterly newsletter; conduct less intensive studies including internal studies as directed; continue to formalize collaborative relationships with other research organizations

FY 2005 Publish at least six reports and a quarterly newsletter; increase focus on internal Board and adjudication issues

This goal was MET. The Board will continue its studies function and plans to publish six reports and four issues of the newsletter in FY 2005.

Objective 1: (continued)

Performance Goal 2.1.3 - Periodically review the actions of OPM and other agencies with authority to develop human resources regulations and policies to assess the impact of those actions on merit systems and human capital management

Results

FY 2001 N/A new goal in FY 2004
FY 2002 N/A new goal in FY 2004
FY 2003 N/A new goal in FY 2004
FY 2004 Consulted with the DHS and OPM concerning the development of new employee appeal system regulations for DHS and provided formal comments on the initial regulations issued by DHS; participated in the Department of Defense (DOD) policy and guidance committee resulting in dramatically different draft implementation plans for the DOD Personnel Systems; consulted with DOD and OPM on the design of DOD's new appeals system with consultation expected to continue in FY 2005; identified quantitative and qualitative information about program operation in DHS and DOD to be used to assess the effect of revised civil service authorities and policies at a future time

Targets

FY 2004 Review and participate in consultation with OPM on new regulations issued for the Department of Homeland Security; develop benchmark for assessment of new merit systems regulations and policies
FY 2005 Initiate assessment of new regulations and policies in selected agencies

This goal was MET: The Board will continue to assess the effect on merit and human resources management of new regulations and policies in FY 2005.

Objective 1: (Continued)

Performance Goal 2.1.4 - Ensure that reports of studies are made widely available, particularly to target audiences, and disseminate findings through such means as personal appearances, personal contacts, publication of articles by OPE staff, and collaboration with other research organizations to increase impact of studies

Results

FY 2001 55,000 copies of reports and newsletters distributed in printed form and downloaded from the MSPB website; 30 formal presentations made to groups

FY 2002 100,000 copies of reports and newsletters distributed in printed form and downloaded from the MSPB website; 500 subscribers to Studies list serve since its implementation early in FY 2002; 23 formal presentations made to groups including the Federal Executive Boards (FEBs) in Chicago, Denver, and San Antonio

FY 2003 Continued outreach targeted to FEBs and associations of managers; 30 formal presentations made to groups representing a wide range of stakeholders; worked with OCB to redesign Studies page on MSPB website; increased the number of organizations and news services that include links to MSPB website on their websites

FY 2004 Continued outreach efforts for our merit system studies and reports targeted to management groups; made more than 25 presentations to a variety of groups ranging from Federal Executive Boards (FEBs) around the country to union conferences to SES level audiences at department level; continued to improve the studies section of the MSPB website; added members of the Personnel Testing Council to the mailing lists for studies and newsletters; recorded more than 200,000 downloads of MSPB reports and newsletters from the website

Targets

FY 2004 Target management groups and other audiences for outreach presentations on studies; ensure that appropriate association membership lists are included in mailing list for studies; expand exposure through FEBs in collaboration with MSPB regional and field offices; improve website presence of studies, expand website links to research partners, and provide self-service updates to mailing list

FY 2005 Continue expanding emphasis and presence with management groups and other change leaders

This goal was MET. The MSPB outreach efforts will continue to focus on reaching managers as well as human resources employees in FY 2005.

Objective 2: Support effective and efficient implementation and practice of human capital management laws, regulations and policies that ensure the workforce is managed under the merit system and free from prohibited personnel practices

Performance Goal 2.2.1 - Conduct periodic Merit Principles Surveys, including questions intended to determine whether agencies adhere to the merit system principles and the extent to which prohibited personnel practices occur in the workplace, and report findings

Results

FY 2001 Completed analyzing and evaluating results of the 2000 Merit Principles Survey; released findings through the *Issues of Merit* newsletter and OPE staff presentations and discussions
FY 2002 Prepared report on 2000 Merit Principles Survey
FY 2003 Began work on next Merit Principles Survey to be conducted electronically using web-based technology; finalized contract to conduct the web-based survey; postponed conducting survey and analyzing and evaluating results until FY 2004
FY 2004 Completed preparations for the next Merit Principles Survey, however administration of the survey was delayed until at least the first quarter of FY 2005 to avoid overlap with OPM's Human Capital Survey; fully coordinated survey issues with OPM and OPM agreed to assist us in the capture of email addresses for our survey sample

Targets

FY 2004 Conduct electronic 2004 Merit Principles Survey (MPS); analyze and evaluate results
FY 2005 Conduct the 2005 Merit Principles Survey (delayed from FY 2004); prepare questions and refine processes for automated MPSs and coordinate with OPM's Governmentwide surveys

This goal was NOT MET. At the request of OPM, and to prevent overlap with its 2004 Human Capital Survey (HCS), we decided to delay the administration of our survey until FY 2005. This will prevent the two large surveys being in the field at the same time and will reduce the burden on agencies and employees. This will also prevent unnecessary confusion for respondents, resulting in better data.

Objective 2: (continued)

Performance Goal 2.2.2 - Conduct studies of one or more agency alternative personnel management systems or processes and their impact on human capital management, merit principles, and prohibited personnel practices

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 N/A (new goal in FY 2004)
FY 2004 Collected quantitative and qualitative baseline information on the DHS and DOD (or the predecessor organizations) including 2002 OPM Human Capital Survey data, our 1996 and 2000 Merit Principle Survey data and CPDF data; developed several questions to be included in the FY 2005 and future merit principle surveys to capture employee attitudes before and after system implementation; scheduled FY 2005 MPS to capture data prior to implementation

Targets

FY 2004 Develop a baseline of data to be used to assess operation of merit in selected agencies with new or existing alternative systems
FY 2005 Expand data collection on alternative systems; assess operation of merit in traditional and alternative systems

This goal was MET. Baseline data for DOD and DHS will be finalized in FY 2005. In FY 2005 we will also expand collection of baseline information on alternative systems and assess operation of merit in traditional and alternative systems.

Management Support Performance Results

Summary

Strategic Goal 3: To strategically manage the MSPB's human capital and strengthen its internal systems and processes to support a continually improving, highly effective and efficient organization

Objectives

3.1. Attract, develop, and retain the diverse and highly motivated workforce needed to effectively and efficiently accomplish the MSPB mission
3.2. Leverage human resources strategies, policies, and services to result in optimum individual and organizational performance
3.3. Implement effective workforce analysis and planning to meet evolving mission needs and technological advances
3.4. Maintain electronic access to and dissemination of MSPB information, explore application of Governmentwide e-Government initiatives to MSPB operations, and ensure compliance with statutory e-Government requirements
3.5. Maintain information security sufficient to safeguard agency information and assets from compromise and to ensure the highest possible availability of information services to customers

Resources

	FY 2004	**FY 2005 (requested)**
$ (000)	$3,405	$3,434
% Resources	10	9

Performance Goals and Results

Objective 1: Attract, develop, and retain the diverse and highly motivated workforce needed to effectively and efficiently accomplish the MSPB mission

Performance Goal 3.1.1 - Strengthen employee and management development programs and increase opportunities for MSPB employees

Results	Targets
FY 2001 6 employees sent to OPM's Management Development Centers and 4 employees sent to Federal Executive Institute (FEI); Employees detailed to the Dallas field office, ORO, Chairman, Vice Chairman, and to OCB for Expedited PFR Pilot Program **FY 2002** 5 employees sent to OPM's Management Development Centers and 2 employees sent to FEI; employees detailed to Board members, ORO, and OCB **FY 2003** Core and advanced curriculums were developed for paralegals; collaborated with NAPA on study of training for supervisors and managers; updated IDPs to reflect current training needs **FY 2004** Developed and taught a course to our paralegal employees; provided training in accordance with employee IDPs from a variety of organizations; provided developmental details to the Acting Chairman's or Member's offices for four employees; provided management training to several employees from a variety of agency offices; continued informal mentoring of employees within offices and proposed a formal mentoring policy as part of a talent investment program	**FY 2004** Continue developing core and advanced training and development programs for key MSPB occupations; provide training for employees in accordance with Individual Development Plans (IDPs); provide developmental details between offices; provide management training; develop mentoring programs for selected employees in key MSPB occupations **FY 2005** Develop a talent investment program with related guidance documents that support expanded efforts to develop and retain critical skills; continue to use developmental positions for attorneys; explore alternatives for SES candidate development programs; revise chief AJ position to assign full supervisory responsibilities; develop a 2005 legal conference; continue emphasis on paralegal training opportunities

This goal was MET. Employees continue to receive training and development from a variety of organizations including the OPM management development centers and the Federal Executive Institute, the National Advocacy Center, the American Academy of Judicial Education, the National Judicial College, the International Public Management Association - Federal and International Sections and Assessment Council, the Society for Industrial and Organizational Psychology, and the American Society for Public Administration. In FY 2005 we will develop a talent investment program, explore SES candidate development programs, revise AJ position descriptions, develop a 2005 legal conference and continue our emphasis on paralegal training.

Objective 2: Leverage human resources strategies, policies, and services to result in optimum individual and organizational performance

Performance Goal 3.2.1 - Leverage use of technology to support human resources management programs

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 N/A (new goal in FY 2004)
FY 2004 Began development of automated assessment tools to use in filling administrative judge and senior merit systems analyst positions; provided individual managers informal guidance on position management and classification through one-on-one sessions; enhanced the MSPB intraWeb to provide connection from work and from home and more links to internal MSPB operational systems and external sources of HR and employee service information; "Frequently asked questions" regarding the MSPB reorganization and employee relocations were posted on the intraWeb making them readily available to affected employees

Targets

FY 2004 Explore opportunity for use of automated classification and staffing capability; train managers on position management and classification issues; increase web-based capability for self-service by MSPB employees
FY 2005 Consider implementing automated hiring systems; consider adding automated retirement calculator and employee development modules; improve interface with Human Resources Information System

This goal was MET. In FY 2005 we will continue to consider implementing automated hiring systems and improving our other automated human resources information systems.

Performance Goal 3.2.2 - Enhance quality of human resources customer service

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 N/A (new goal in FY 2004)
FY 2004 Conducted site visits at two offices closing through the regional reorganization to counsel affected employees on retirement and relocation options; conducted periodic meetings with MSPB managers and identified classifying and filling of jobs as high priority

Targets

FY 2004 Enable local contact between managers and human resources experts; identify specific types of actions for priority assistance
FY 2005 Continue implementing recommendations and improvements to customer service

This goal was MET. The MSPB will continue efforts to improve HR customer service in FY 2005.

Objective 2: (continued)

Performance Goal 3.2.3 - Revise human resources policies and agency organization and structure as appropriate to align with evolving mission requirements

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 N/A (new goal in FY 2004)
FY 2004 Developed and proposed human resources policies for several initiatives including category ranking, student loan repayment, mentoring, veteran's preference and EEO; drafted and submitted to the Chairman an employee handbook on standards of conduct, grievance procedures and ethics; revised and submitted the SES performance management system to OPM for approval; sought and received additional HR flexibilities on VERA and VSIP; successfully reorganized the regional office structure including closure of two field offices with no involuntary separations; studied regional office structure and recommended changes

Targets

FY 2004 Implement category rating; revise performance management system as necessary to increase understanding of expectations and alignment with mission objectives; seek additional human resources flexibilities to meet evolving mission requirements; implement reorganization of regional operations including closure of selected field offices
FY 2005 Formalize strategic human capital plan; continue to implement, improve, and formalize human resources flexibilities and policies; implement suggestions from the field structure study completed in 2004

This goal was MET. Several human resources policies including that for category rating were proposed and are being reviewed, finalized or are awaiting the Acting Chairman's approval. These policies include topics such as student loan repayment, support for academic degrees, mentoring, applying veteran's preference in hiring attorneys, and EEO. In addition, an employee handbook was drafted and submitted to the Acting Chairman setting forth standards of conduct, an administrative grievance procedure and ethics rules. The SES performance system was revised and submitted to OPM for approval. It was approved by OPM on Oct. 4, 2004.

In addition, the Board completed a reorganization of its regional and field offices including the closure of the Boston and Seattle field offices. The purpose of this reorganization was to better address changing patterns in the geographic origin of cases filed with the Board. It was not our purpose to reduce the staffing levels in the field, and no employee was involuntarily separated during this process. Affected employees were given the opportunity to relocate to selected regional offices, transfer to another agency or retire. We used VSIP authority to support this reorganization. In FY 2005, the Board plans to continue to implement, improve and formalize our human resources flexibilities and policies, and implement suggestions from the field study completed in FY 2004.

Objective 3: Implement effective workforce analysis and planning to meet evolving mission needs and technological advances

Performance Goal 3.3.1 - Develop agency-wide recruitment strategies to ensure MSPB hires from a variety of sources to ensure a diverse, highly qualified workforce

Results

FY 2001 N/A (new goal in FY 2003)
FY 2002 N/A (new goal in FY 2003)
FY 2003 Opportunities for lateral transfers resulted in movement of AJs between field locations and movement of employees in headquarters; conducted job analyses of and created structured interviews for administrative judge (AJ) positions; began exploring use of automated systems for recruitment, including application and rating processes
FY 2004 Identified sources to expand candidate pools and targeted recruitment at these sources for attorney, paralegal and information technology positions at headquarters and in the field; targeted recruiting efforts continue for vacancies as they occur.

Targets

FY 2004 Identify sources to expand the candidate pools and target recruitment at those sources
FY 2005 Consider making broader use of human resources flexibilities such as recruitment and retention bonuses; increase managerial involvement in targeted recruitment outreach

This goal was MET. In FY 2005 we will continue and increase managerial involvement in targeted recruitment efforts and consider using additional human resources flexibilities to ensure we have a high quality, diverse workforce.

Objective 3: (Continued)

Performance Goal 3.3.2 - Analyze alternative sources for accomplishing the agency's work

Results

FY 2001 N/A (new goal in FY 2004)
FY 2002 N/A (new goal in FY 2004)
FY 2003 N/A (new goal in FY 2004)
FY 2004 Identified future HR skills needed including assistance in classifying and filling positions; identification of further skills needed depends on the final design of new appeals systems in DHS, DOD and other organizations; initiated efforts to find alternative sources for HR services, but no decision was made; continued to coordinate sourcing decisions with the agency's strategic human capital needs

Targets

FY 2004 Examine the future skills identified in workforce planning and determine whether there are alternative sources for obtaining them; review all requests for personal services contracts as a human capital management decision rather than solely a procurement decision
FY 2005 Update workforce planning documents; continue to explore viability of alternative sources for conducting the agency's work

This goal was MET. In FY 2005, we will continue to consider alternative sources for accomplishing the Board's work and will update workforce planning documents.

Objective 4: Maintain electronic access to and dissemination of MSPB information, explore application of Governmentwide e-Government initiatives to MSPB operations, and ensure compliance with statutory e-Government requirements

Performance Goal 3.4.1 - Continue to make MSPB information available on the MSPB website and enhance the website as needed; continue to provide information to customers in electronic form when requested; determine where internal processes can be improved through application of Governmentwide e-Government initiatives; comply with E-Government Act of 2002 and related e-Government requirements

Results

FY 2001 Began adding key precedential Board decisions issued from 1979 to 1994 to the decisions database on the website; tested and implemented listservs for decisions; fill-in versions of Appeal Form and PFR Form developed and placed on website; completed conversion to electronic distribution of decisions

FY 2002 Completed adding key precedential Board decisions to the MSPB website; began adding *all* pre-1994 decisions to website database; listservs for studies implemented

FY 2003 Completed and implemented redesigned MSPB website; now distribute all decisions issued by Board electronically; determined that with use of MSPB staff only, adding additional pre-1994 decisions to website will have to continue over the next 2 years, as staffing allows

FY 2004 Updated the website to reflect new Board member designations and agency reorganizations, add new MSPB publications and support e-Appeal phase II; continued to work with the Government Printing Office (GPO) to implement web-based on-line survey capabilities; developed and implemented the IT workforce plan in compliance with the e-Government Act using a mixture of Government and contractor resources to ensure MSPB has the requisite IT skills to meet requirements

Targets

FY 2004 Continue to provide information on the MSPB website and add new information in response to customer needs; continue to provide information to customers in electronic form when requested; identify and review selected Governmentwide e-Government initiatives and determine whether they would be beneficial to MSPB operations; determine steps necessary to comply with E-Government Act of 2002 and develop implementation plan

FY 2005 Continue to provide information on the MSPB website and add new information in response to customer needs; continue to provide information to customers in electronic form when requested; continue review of Governmentwide e-Government initiatives for applicability to MSPB operations; continue implementation of plan for compliance with E-Government Act of 2002

This goal was MET. In FY 2005 we will continue to improve our website and implement our e-Government initiatives.

Objective 5: Maintain information security sufficient to safeguard agency information and assets from compromise and to ensure the highest possible availability of information services to customers

Performance Goal 3.5.1 - Make improvements in information technology security program and comply with the Federal Information Security Management Act (FISMA) of 2002

Results

FY 2001 N/A (new goal in FY 2002)
FY 2002 Trained all employees on security awareness; completed Security Plan; updated Risk Analysis; completed Contingency Plan for major systems
FY 2003 Completed all information security initiatives in accordance with FY 2003 Plan of Action & Milestones submitted to OMB—except for background investigations being conducted by OPM and cancellation of one item; independent auditor conducted information security review and complete IG portion of 2003 FISMA Report; filed FISMA Report with OMB and Congress; trained all staff on security awareness
FY 2004 Ensured CMS/LM and e-Appeal systems were certified and accredited for adherence to security guidelines; updated the IT security plan, program and manuals to include several security improvements as well as the new case management and e-Appeal systems; updated the Critical Infrastructure Plan and New Employee Computer Guide; developed an IT training plan including security training; provided FISMA security awareness training to all IT staff and pertinent agency officials; completed annual FISMA audit revealing no material weaknesses and sent report to OMB on October 6, 2004

Targets

FY 2004 Provide security awareness training to all staff; revise security plans as needed, based on experience with electronic filing application, for implementation of enhancements to application and implementation of electronic publishing; continue to enhance contingency planning as funds permit
FY 2005 Provide security awareness training to all staff; revise security plans as needed, based on enhancements to electronic case processing system; continue to review and improve our IT infrastructure security with input from our annual independent security audit

This goal was MET. Security training has been offered to all employees. Security plans, programs, training and manuals have been updated or improved to ensure that MSPB's newly implemented case management system and electronic appeals systems operate securely. The annual FISMA security audit was completed and submitted to OMB with no material weaknesses found. In FY 2005, MSPB will continue to maintain and upgrade its IT security plans and systems as enhancements or changes are made to the systems and in response to the annual security audit.

Financial Report

A Message from the Chief Financial Officer

I am pleased to present the U. S. Merit Systems Protection Board's (MSPB) financial statements for fiscal 2004. Once again, we are proud of our accomplishment in receiving an unqualified opinion on our financial status from our independent auditor. Since June of 2002, we have been working with the Department of the Treasury's Bureau of the Public Debt (BPD), in Parkersburg, West Virginia. BPD is responsible for handling our administrative payments and preparing our financial statements that are included in this report. Through its franchise operation, BPD has been providing us with timely and complete reports to satisfy both 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 very quickly. Reports and communications between the MSPB and the BPD are virtually all electronic, in compliance with the President's Management Agenda initiative to increase the use of e-government applications as much as possible.

We are also committed to strengthening our financial performance in accordance with that Presidential Management Agenda initiative. Our relationship with the BPD has strengthened our financial performance. In recent years, we have increased our reporting of the cost of developing internal use software and leaseholder improvements. We have also implemented an electronic time and attendance reporting tool that saves staff time and improves accuracy.

We will continue to work on improving our financial management performance during the coming years.

Charles Roche
Chief Financial Officer

November 15, 2004

Independent Auditor's Report on the Financial Statements

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

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

We have audited the accompanying balance sheets of the U.S. Merit Systems Protection Board as of September 30, 2004 and 2003, and the related statements of net cost and results of operations and changes in net position, and the combined statements of budgetary resources and financing for the years ended September 30, 2004 and 2003. These principal statements are the responsibility of the U.S. Merit Systems Protection Board. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 01-02 require that we plan and perform the audit to obtain reasonable assurance about whether the principal statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the principal statements referred to above present fairly, in all material respects, the financial position of the U.S. Merit Systems Protection Board as of September 30, 2004 and 2003, the results of its operations, changes in its net position, budgetary resources, and financing for the years ended September 30, 2004 and 2003 in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards,* we have also issued a report dated October 25, 2004 on our consideration of the U.S. Merit Systems Protection Board's internal control over financial reporting and a report dated October 25, 2004 on its compliance with laws and regulations. These reports are an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

The information in "Management's Discussion and Analysis" is presented for the purpose of additional analysis and is required by OMB Bulletin No. 01-09. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and, accordingly, express no opinion on it.

Brown & Company

Largo, Maryland
October 25, 2004

Audited Financial Statements

U.S. MERIT SYSTEMS PROTECTION BOARD
BALANCE SHEET
AS OF SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004	2003
ASSETS:		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	$ 6,973,486	$ 7,197,643
Accounts Receivable (Note 1)	48,000	-
Total Intragovernmental	7,021,486	7,197,643
Accounts Receivable, Net (Note 1)	2,366	2,827
General Property, Plant and Equipment, Net (Note 3)	9,350,620	6,245,366
Other	-	155
Total Assets	$ 16,374,472	$ 13,445,991
LIABILITIES:		
Intragovernmental:		
Accounts Payable (Note 5)	$ -	$ 4,810
Other (Note 5)	478,125	421,218
Total Intragovernmental	478,125	426,028
Accounts Payable (Note 5)	303,331	331,765
Payroll Accrual and Other (Note 5)	1,521,273	1,090,839
Unfunded Leave (Note 5)	2,139,993	2,050,032
Total Liabilities	4,442,722	3,898,664
NET POSITION:		
Unexpended Appropriations (Note 7)	4,817,580	5,383,556
Cumulative Results of Operations (Note 7)	7,114,170	4,163,771
Total Net Position	$ 11,931,750	$ 9,547,327
Total Liabilities and Net Position	$ 16,374,472	$ 13,445,991

The accompanying notes are an integral part of these statements.

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004	2003
PROGRAM COSTS:		
Intragovernmental Gross Costs	$ 9,892,960	$ 6,004,491
Less: Intragovernmental Earned Revenue	(2,610,506)	(2,608,931)
Intragovernmental Net Costs	7,282,454	3,395,560
Gross Costs With the Public	24,691,426	27,075,824
Less: Earned Revenues From the Public	-	-
Net Costs With the Public	24,691,426	27,075,824
Total Net Cost	31,973,880	30,471,384
Costs Not Assigned To Programs	-	-
Less Earned Revenues Not Attributable To Programs	-	-
Net Cost Of Operations	$ 31,973,880	$ 30,471,384

The accompanying notes are an integral part of these statements.

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004 Cumulative Results Of Operations	2004 Unexpended Appropriations	2003 Cumulative Results Of Operations	2003 Unexpended Appropriations
Beginning Balances	$ 4,163,771	$ 5,383,556	$ 2,480,692	$ 3,430,784
Prior Period Adjustments				
Beginning Balances, as Adjusted	4,163,771	5,383,556	2,480,692	3,430,784
Budgetary Financing Sources:				
Appropriations Received	-	32,877,000	-	32,027,000
Other Adjustments (recissions, etc)	-	(584,676)	-	(239,600)
Appropriations Used	32,858,300	(32,858,300)	29,834,628	(29,834,628)
Other Financing Sources:				
Imputed Financing from Costs Absorbed by Others	2,065,979	-	2,319,835	-
Total Financing Sources	34,924,279	(565,976)	32,154,463	1,952,772
Net Cost of Operations	31,973,880		30,471,384	
Ending Balances	$ 7,114,170	$ 4,817,580	$ 4,163,771	$ 5,383,556

The accompanying notes are an integral part of these statements.

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004	2003
BUDGETARY RESOURCES:		
Budget Authority:		
Appropriations	$ 32,877,000	$ 32,027,000
Unobligated Balance:		
Beginning of Period	1,148,500	1,152,230
Spending Authority from Offsetting Collections:		
Earned		
Collected	2,610,506	2,608,931
Anticipated for Rest of Year, Without Advances	-	-
Subtotal	36,636,006	35,788,161
Recoveries of Prior-Year Obligations:		
Actual	154,618	2,253,372
Anticipated		
Permanently Not Available	(584,676)	(239,601)
Total Budgetary Resources	$ 36,205,948	$ 37,801,932

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

STATUS OF BUDGETARY RESOURCES:

	2004	2003
Obligations Incurred:		
Direct	$ 32,468,204	$ 34,044,501
Reimbursable	2,610,506	2,608,931
Subtotal	35,078,710	36,653,432
Unobligated Balance:		
Apportioned	316,726	151,932
Anticipated	-	-
Unobligated Balance Not Available	810,512	996,568
Total Status of Budgetary Resources	$ 36,205,948	$ 37,801,932

RELATIONSHIP OF OBLIGATIONS TO OUTLAYS:

Obligated Balance, Net, Beginning of Period	$ 6,049,142	$ 5,101,269
Obligated Balance, Net, End of Period:		
Undelivered Orders	(3,690,342)	(4,234,901)
Accounts Payable	(2,155,906)	(1,814,242)
Outlays:		
Disbursements	35,126,988	33,452,186
Collections	(2,610,506)	(2,608,931)
Subtotal	32,516,482	30,843,255
Less: Offsetting Receipts	-	-
Net Outlays	$ 32,516,482	$ 30,843,255

The accompanying notes are an integral part of these statements.

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF FINANCING
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004	2003
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 35,078,710	$ 36,653,432
Less: Spending Authority from Offsetting Collections and Recoveries	(2,765,123)	(4,862,303)
Obligations Net of Offsetting Collections and Recoveries	32,313,587	31,791,129
Other Resources		
Imputed Financing from Costs Absorbed by Others	2,065,979	2,319,835
Net Other Resources Used to Finance Activities	2,065,979	2,319,835
Total Resources Used to Finance Activities	34,379,566	34,110,964
Resources Used to Finance Items not Part of the Net Cost of Operations:		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered But Not Yet Provided	544,713	(1,956,501)
Resources That Fund Expenses Recognized in Prior Periods	-	-
Resources That Finance the Acquisition of Assets	(4,537,088)	(1,882,268)
Other Resources or Adjustments to Net Obligated Resources That Do Not Affect Net Cost of Operations	-	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	(3,992,375)	(3,838,769)
Total Resources Used to Finance the Net Cost of Operations	30,387,191	30,272,195
Components of the Net Cost of Operations That will not Require or Generate Resources in the Current Period:		
Components Requiring or Generating Resources in Future Periods:		
Increase in Annual Leave Liability	89,960	6,220
Other	112,434	34,390
Total Components of Net Cost of Operations That will not Require or Generate Resources in the Current Period	202,394	40,610
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	1,429,952	161,313
Other	(45,657)	(2,734)
Total Components of Net Cost of Operations That will not Require or Generate Resources	1,586,689	199,189
Net Cost of Operations	$ 31,973,880	$ 30,471,384

The accompanying notes are an integral part of these statements.

U.S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2004 AND 2003
(In Dollars)

	2004	2003
REVENUE ACTIVITY		
Sources of Cash Collections		
Miscellaneous	$ 1,265	$ 23,165
Total Cash Collections	1,265	23,165
Accrual Adjustments		
Total Custodial Revenue	1,265	23,165
DISPOSITION OF COLLECTIONS		
Transferred to Others (by Recipient)	1,265	23,165
Increase/(Decrease) in Amounts Yet to be Transferred	-	-
Retained by the Reporting Entity	-	-
Net Custodial Activity	$ -	$ -

The accompanying notes are an integral part of these statements.

U.S. Merit Systems Protection Board
Notes to the Financial Statements
For the Years Ended September 30, 2004 and 2003

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.

B. Basis of Presentation

These financial statements are provided to meet the requirements of the Government Management and Reform Act (GMRA) of 1994. The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, Statement of Financing and Statement of Custodial Activity.

These financial statements have been prepared to report the financial position and results of operations of MSPB. These statements were prepared from the books and records of MSPB in conformity with accounting principles generally accepted in the United States, and the Office of Management and Budget (OMB) Bulletin No. 01-09, Form and Content of Agency Financial Statements.

C. Basis of Accounting

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when liabilities are incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over use of federal funds.

To assist OMB in recommending and publishing comprehensive accounting standards and principles for agencies of the Federal Government, the Secretary of the Treasury, the Comptroller of the United States, the Director of OMB, and the Joint Financial Management Improvement Program (JFMIP) established the Federal Accounting Standards Advisory Board (FASAB) in 1990. The American Institute of Certified Public Accountant's (AICPA) Council designated FASAB as the accounting standards authority for Federal Government entities.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Revenues & Other Financing Sources

MSPB receives funding through Congressional appropriation from the budget of the United States. Annual appropriations are used, within statutory limits, for operating and capital expenditures for essential personal property. Appropriations are recognized as revenues at the time the related program or administrative expenses are incurred. Appropriations expended for capitalized property and equipment are recognized as expenses when an asset is consumed in operations. In addition to appropriated funding received, MSPB has in their appropriations language authorization to collect administrative expenses to adjudicate retirement appeals from the Civil Service Retirement and Disability Trust Fund. These transfers do not add to government costs, but simply transfer the costs to individual agencies.

E. Fund Balance with Treasury

Funds with Department of the Treasury primarily represent appropriated funds that are available to pay current liabilities and finance authorized purchase commitments. See Note 2 for additional information.

F. Accounts Receivable, Net

MSPB records accounts receivable as services are provided to customers. All amounts are considered collectible; therefore, no estimate is formulated for the allowance of uncollectible accounts. Generally, accounts receivable consists of amounts receivable from federal agencies for services provided and refunds receivable, or miscellaneous advances submitted to employees for travel expenses. Accounts receivable totaled $50,366 and $2,827 as of September 30, 2004 and 2003, respectively.

G. General Property, Plant, and Equipment, Net

MSPB's property, plant and equipment are recorded at cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. MSPB's capitalization threshold is $50,000 for individual purchases and $500,000 for bulk purchases. Service lives for office equipment is 10 years, internal use software lives are 5 years and leasehold improvements are depreciated over the period of the lease. See Note 3 for additional information.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

H. Liabilities

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

I. Accounts Payable

Accounts payable consists of amounts owed to other federal agencies and trade accounts payable.

J. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. Each year, the balance in the accrued leave account is adjusted to reflect current pay rates. To the extent current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of nonvested leave are expensed as taken.

K. Retirement Plans

MSPB employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). FERS was established by the enactment of Public Law 99-335. Pursuant to this law, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired before January 1, 1984 elected to join either FERS and Social Security or remain in CSRS.

All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and MSPB makes a mandatory 1 percent contribution to this account. In addition, MSPB makes matching contributions, ranging from 1 to 4 percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts of employees participating in CSRS. FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, MSPB remits the employer's share of the required contribution.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

K. Retirement Plans (Continued)

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 Office of Personnel Management.

L. 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. MSPB recognized imputed costs and financing sources in fiscal years 2004 and 2003 to the extent directed by the OMB.

M. Use of Estimates

The preparation of financial statements requires management to make estimates and assumptions that affect amounts reported in the financial statements and accompanying notes. Such estimates and assumptions could change in the future as more information becomes known, which could impact the amounts reported and disclosed herein.

N. Expired Accounts and Canceled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account into 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 canceled.

NOTE 2. FUND BALANCE WITH TREASURY

	2004	2003
Fund Balances		
Appropriated Funds	$ 6,973,486	$ 7,197,643
Status of Fund Balance with Treasury		
Unobligated Balance Available	$316,726	$151,932
Unobligated Balance not yet Available	810,512	996,568
Obligated Balance not yet Disbursed	5,846,248	6,049,143
Total	$ 6,973,486	$ 7,196,643

NOTE 3. GENERAL PROPERTY, PLANT, AND EQUIPMENT

Schedule of Property, Plant, and Equipment as of September 30, 2004

Description	Acquisition Cost	Accumulated Depreciation	Net Book Value
Leasehold Improvements	$1,198,529	($447,296)	$751,233
Office Equipment Furniture	287,623	(251,657)	35,966
Software In Development	42,000	-0-	42,000
Internal Use Software	9,843,499	(1,322,078)	8,521,421
TOTALS	$11,371,651	($2,021,031)	$ 9,350,620

NOTE 3. GENERAL PROPERTY, PLANT, AND EQUIPMENT (CONTINUED)

Schedule of Property, Plant, and Equipment as of September 30, 2003

Description	Acquisition Cost	Accumulated Depreciation	Net Book Value
Leasehold Improvements	$1,201,851	($289,664)	$912,187
Office Equipment	213,847	(213,847)	-0-
Software In Development	5,315,378	-0-	5,315,378
Internal Use Software	106,809	(89,008)	17,801
TOTALS	$6,837,885	($592,519)	$6,245,366

NOTE 4. OPERATING LEASES

MSPB occupies office space or warehouse space at four locations with lease agreements that are accounted for as operating leases. The first agreement for office headquarters began on June 1, 2000 and expires on May 31, 2010. Annual lease payments of $1,506,440 are increased annually by three percent of the Base Rental Rate (BRR) in effect for the prior lease year, except in the sixth year. In the sixth year of the lease, the BRR shall increase by $2.50 per square foot. The second lease for office space began on February 1, 2002 and expires on December 31, 2011. Annual lease payments of $101,837 are increase annually by two percent of the BRR in effect for the prior lease year. The third lease for office space began on September 15, 2000 and expires on September 14, 2010. Annual lease payments of $166,019 are increased annually by two and one half percent of the Base Rental Rate (BRR) in effect for the prior lease year, except in the sixth year. In the sixth year of the lease, the BRR shall increase by $1.50 per square foot. The fourth lease for warehouse space began on April 1, 2003 and expires on March 31, 2013. Annual lease payments of $23,180 are increased by four percent of the BRR in effect for the prior lease year.

NOTE 4. OPERATING LEASES (CONTINUED)

Schedule of Future Minimum Lease Payments

2005	$2,068,163
2006	2,195,894
2007	2,260,068
2008	2,326,133
2009	2,394,147
Thereafter	1,954,600
Total Future Minimum Lease Payments	$13,199,005

NOTE 5. LIABILITIES

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

Schedule of Liabilities as of September 30,

	2004	2003
Intragovernmental		
Accounts Payable	$-	$4,810
Payroll Taxes Payable	478,125	421,218
Total Intragovernmental	478,125	426,028
Accounts Payable	303,331	331,765
Payroll Accrual and Other	1,521,273	1,090,839
Unfunded Leave	2,139,993	2,050,032
Total Liabilities	$4,442,722	$3,898,664

NOTE 6. OPERATING/PROGRAM COSTS

Cost by major budgetary object classification are as follows:

Major Budgetary Object Classification	FY 2004	FY 2003
Personnel	$21,485,891	$20,771,692
Benefits	6,708,069	6,730,716
Benefits to Former Employees	104,635	(6,379)
Travel	526,894	528,148
Transportation	141,599	75,455
Rents, Communications	3,325,818	3,396,353
Printing and Reproduction	36,658	96,268
Other Services	(14,984)	62,573
Supplies and Materials	281,219	395,148
Equipment	1,828,194	471,823
Land & Structures	159,071	74,682
Interest and Dividends	1,322	(216)
Other (Conversion)	-	484,052
Total Object Classification	$34,584,386	$33,080,315

NOTE 7. NET POSITION

MSPB's net position is composed of unexpended appropriation and cumulative results of operations. Net position as of September 30, 2004 and 2003 consisted of the following:

Unexpended Appropriations:	2004	2003
Unobligated		
Available	$316,726	$151,932
Unavailable	810,512	996,568
Undelivered Orders	3,690,342	4,235,056
Total	4,817,580	5,383,556
Cumulative Results of Operations	7,114,170	4,163,771
Net Position	$11,931,750	$9,547,327

Independent Auditor's Report on Internal Control over Financial Reporting

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

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

We have audited the principal statements (hereinafter referred to as "financial statements") of the U.S. Merit Systems Protection Board (the Merit Systems) as of and for the years ended September 30, 2004 and 2003, and have issued our report thereon dated October 25, 2004. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements.*

In planning and performing our audits, we considered the Merit Systems' internal control over financial reporting by obtaining an understanding of the Merit Systems' 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. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audits were not to provide assurance on internal control. Consequently, we do not provide 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 reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Merit Systems' ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. 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 material weaknesses as defined above.

In addition, with respect to internal control related to performance measures reported in "Management's Discussion and Analysis," we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 01-02. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

This report is intended solely for the information and use of the management of the Merit Systems, 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
October 25, 2004

Independent Auditor's Report on Compliance with Laws and Regulations

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

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

We have audited the principal statements (hereinafter referred to as "financial statements") of the U.S. Merit Systems Protection Board (the Merit Systems) as of and for the years ended September 30, 2004 and 2003, and have issued our report thereon dated October 25, 2004. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

The management of the Merit Systems is responsible for complying with laws and regulations applicable to the Merit Systems. As part of obtaining reasonable assurance about whether the Merit Systems' 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. 01-02, including the requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the Merit Systems.

The results of our tests of compliance disclosed no instances of noncompliance with other laws and regulations discussed in the preceding paragraph exclusive of FFMIA that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

Under FFMIA, we are required to report whether the Merit Systems' financial management systems substantially comply with the Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA section 803(a) requirements.

The results of our tests disclosed no instances in which the Merit Systems' financial management systems did not substantially comply with the three requirements discussed in the preceding paragraph.

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.

This report is intended solely for the information and use of the management of the Merit Systems, 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
October 25, 2004

Letter to the Auditor on Management Controls

U.S. MERIT SYSTEMS PROTECTION BOARD

Financial and Administrative Management
1615 M Street, NW
Washington, DC, DC 20036

Phone: (202) 653-6772, ext. 1119; Fax: (202) 653-7821; E-Mail: roche@mspb.gov

Director

October 27, 2004

MANAGEMENT REPRESENTATION LETTER

Mr. Tyrone Brown, Managing Member
Brown & Company CPAs, PLLC
9200 Basil Court, Suite 400
Largo, Maryland 20774

Dear Mr. Brown:

This letter is in connection with your audit of the U.S. Merit Systems Protection Board (Merit System) Principal Statements (also referred to as "financial statements") as of September 30, 2004 and for the year then ended for the purposes of (1) expressing 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) reporting 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, 2004.

Certain representations in this letter are described as being limited to matters that are material. 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 made to you during your audit that these representations are as of the date of your auditor's report, and pertain to the periods covered by the financial statements. These representations update the representations we provided in conjunction with your audit of the financial statements as of and for the year ended September 30, 2003.

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.

2. The financial statements are fairly presented in conformity with accounting principles generally accepted in the United States of America.

3. We have made available to you all

   a. financial records and related data,

   b. where applicable, minutes of the meetings of the Board 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 Merit Systems 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 appropriate trading partners for the four fiduciary transactions identified in Treasury's *Intra-governmental Fiduciary Transactions Accounting Guide,* and other intra-governmental asset, liability and revenue amounts as required by OMB Bulletin 97-01, as amended.

10. There are no known:

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 Merit Systems'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, 2004.

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 Merit System'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. We believe that the effects of the uncorrected financial statement misstatements summarized in the accompanying schedule are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

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 interim period ending June 30, 2004 and year-end period ending September 30, 2004 that have not been properly recorded in the financial statements and required supplementary stewardship information or disclosed in the notes thereto.

Sincerely,

Charles Roche

Appendix A: Abbreviations and Acronyms

ADR	Alternative Dispute Resolution
AJ	Administrative Judge
ALJ	MSPB Office of Administrative Law Judge
APHIS	USDA Agricultural Plant and Health Inspection Service
BPD	Department of the Treasury Bureau of the Public Debt
CMS	Case Management System
CSRA	Civil Service Reform Act
EEO	MSPB Office of Equal Employment Opportunity
FAM	MSPB Office of Financial and Administrative Management
GPRA	Government Performance and Results Act
HQ	MSPB Headquarters
IDP	Individual Development Plans
IPMA	International Personnel Management Association
IRA	Individual Rights of Action
IRM	MSPB Office of Information Resources Management
LM	Law Manager
MAP	Mediation Appeals Program
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
OPM	Office of Personnel Management
ORO	MSPB Office of Regional Operations
PAR	Performance and Accountability Report
PFR	Petition for Review
RO	Regional Office
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Program
WPA	Whistleblower Protection Act