

UNITED STATES MERIT SYSTEMS PROTECTION BOARD



Performance and Accountability Report

FOR FISCAL YEAR

2008



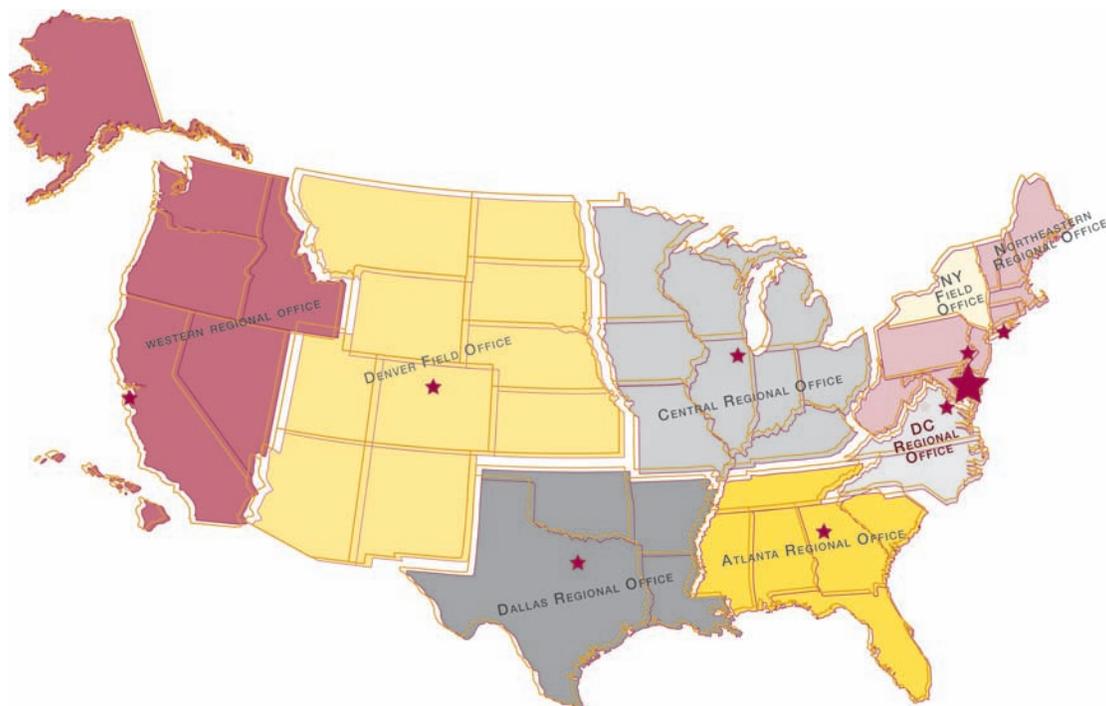
NOVEMBER 17, 2008



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Forward

The Merit Systems Protection Board (MSPB) presents its Performance and Accountability Report (PAR) for fiscal year 2008. This report contains the annual audited financial statement required by the Accountability of Tax Dollars Act (ATDA) and the annual performance report required by the Government Performance and Results Act (GPRA). The financial accountability report section of the PAR also includes the annual report on internal controls required by the Federal Managers' Financial Integrity Act (FMFIA). This report also includes information about MSPB appeals processing as required by Section 7701(i)(1) and (2) of Title 5 United States Code.

The PAR has been prepared in accordance with guidance provided by the Office of Management and Budget (OMB) and other sources. The MSPB PAR for FY 2008 was prepared by Government employees, except for the audit, which was conducted by independent auditors. The MSPB will duplicate and bind copies of the FY 2008 PAR sufficient for the November 17, 2008 distribution to the President, 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: FY 2008 PAR Comments
1615 M Street, NW
Washington, DC 20419

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

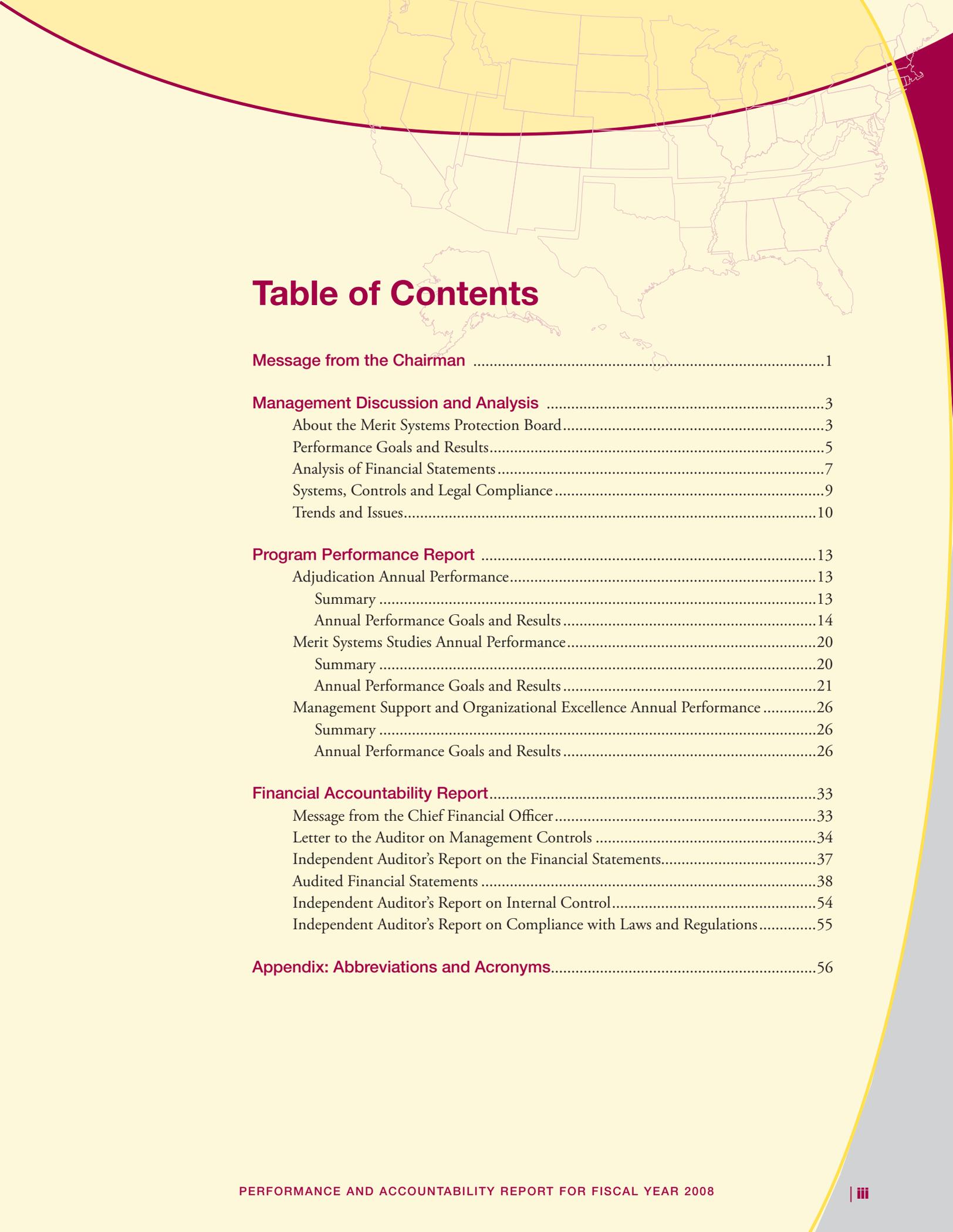
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Message from the Chairman



I am pleased to submit the FY 2008 Performance and Accountability Report (PAR) for the Merit Systems Protection Board. The MSPB met or exceeded all of its program performance goals and received a clean audit of its financial statements for FY 2008. These achievements reflect the expertise and dedication of our employees with whom Vice Chairman Mary M. Rose and I are proud to serve.

The MSPB's role as the independent, bipartisan protector of the merit systems under which Federal employees work is essential to assuring the American people that their Federal civil servants are well qualified to perform their duties and to effectively serve the public. The MSPB has two statutory functions – to provide for independent adjudication of appeals of personnel actions for over 2 million Federal employees, and to conduct studies of the merit systems and other Federal management issues to ensure employees are managed effectively and efficiently, in accordance with the merit principles, and free from prohibited personnel practices.

FY 2008 was a very successful year for the MSPB. Our regional, field and headquarters offices exceeded most targets for timely processing of initial appeals and petitions for review (PFR) while maintaining the high quality of those decisions. The MSPB also exceeded most targets regarding effective use of alternative dispute resolution procedures to resolve appeals. We completed nine merit systems study reports and published four editions of the *Issues of Merit* newsletter. Two prior year MSPB studies were instrumental in encouraging OPM to issue new regulations for managing employees in probationary and trial periods, and one earlier study was cited in OMB's new guidance on the management of contracting officer technical representatives. As a result of our work in adjudication and studies, OPM also recommended against the use of two problematic hiring authorities. We continue to effectively manage our human capital, information management, and other support programs. Our automated appeals processing system, e-Appeal, was selected as a finalist for the FY 2008 Web Managers Best Practice Award and listed as one of the 10 great .GOV websites by Government Computer News magazine. The MSPB achieved a clean audit of its financial statements for the sixth successive year. These results are reported in detail in the program performance and financial accountability sections of this report.

The most significant trends or issues affecting the MSPB's ability to carry out its mission to protect the Federal merit systems include: changes and developments in appeal rights and management flexibilities; changing demographics of the Federal workforce; the Federal budget; and changes in MSPB staff and leadership positions. In particular, the Transportation Security Administration launched a new appeals system granting MSPB the authority to adjudicate appeals for alleged incidents of whistleblower reprisal filed by Transportation Security Officers and applicants for those positions. We also bid farewell to Board Member Barbara Sapin. Her departure left the Board with one vacancy, and my term is due to expire in March of 2009 unless extended for up to one year. Having a full complement of confirmed Board members is necessary to issue precedential decisions in the absence of unanimous agreement. It is important that the new Administration nominate, and the Senate confirm, at least one new Board Member prior to my departure. The MSPB is committed to meeting these future challenges by ensuring we use effective and efficient processes and by retaining the experienced staff we need to accomplish our work.

Finally, this report provides a variety of legally required assurances regarding our performance and financial data, management controls, and financial systems. All data reported were obtained from final FY 2008 statistical reports from the agency's appeals case management system, audited FY 2008 financial reports, and reports submitted by the agency's program managers. In accordance with law and OMB guidance, I have determined that the performance and financial data included in this report are complete and reliable. There are no material inadequacies or non-conformances in either the completeness or reliability of the performance or financial data. The MSPB has existing systems to ensure the completeness and reliability of the performance data used in this report and is using OMB guidance to review and continually improve these systems. In addition, following an assessment of MSPB's comprehensive management control program, I certify, with reasonable assurance, that MSPB's systems of accounting and internal control are in compliance with the provisions of the Federal Managers' Financial Integrity Act.

Respectfully,



Neil A. G. McPhie
Chairman
November 17, 2008



Management Discussion and Analysis

About the Merit Systems Protection Board

The MSPB Mission

The mission of the Merit Systems Protection Board is:

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

The MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals and by conducting merit systems studies. In addition, the MSPB reviews the significant actions of the Office of Personnel Management to assess the degree to which those actions may affect merit.

Board Organization

The MSPB has three appointed Board members and approximately 225 employees assigned to headquarters and to its eight regional and field offices located throughout the United States. Currently, the position of Board Member is vacant.

The **Board Members** adjudicate the cases brought to the MSPB. The **Chairman**, by statute, is the chief executive and administrative officer of the MSPB. 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 MSPB. (The functions of this office are currently performed by administrative law judges at the National Labor Relations Board (NLRB) 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 an administrative judge's (AJ's) initial decision and in most other cases decided by the Board. The office conducts MSPB'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 MSPB headquarters, rules on certain procedural matters, and issues MSPB's decisions and orders. The office serves as MSPB's public information center, coordinates media relations, produces public information publications, operates MSPB's library and on-line information services, and administers the Freedom of Information Act and Privacy Act programs. The office also certifies official records to the courts and Federal administrative agencies, and manages MSPB's records 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 MSPB's equal employment opportunity programs. It processes complaints of alleged discrimination and furnishes advice and assistance on affirmative action initiatives to MSPB's managers and supervisors.

The **Office of Financial and Administrative Management (FAM)** administers the budget, accounting, travel, time and attendance, human resources, procurement, property management, physical security, and general services functions of the MSPB. It develops and coordinates internal management programs 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 National Finance Center for payroll services, the Department of the Treasury Bureau of the Public Debt for accounting services, and the U.S. Department of Agriculture Animal and Plant Health Inspection Service for human resources management services.

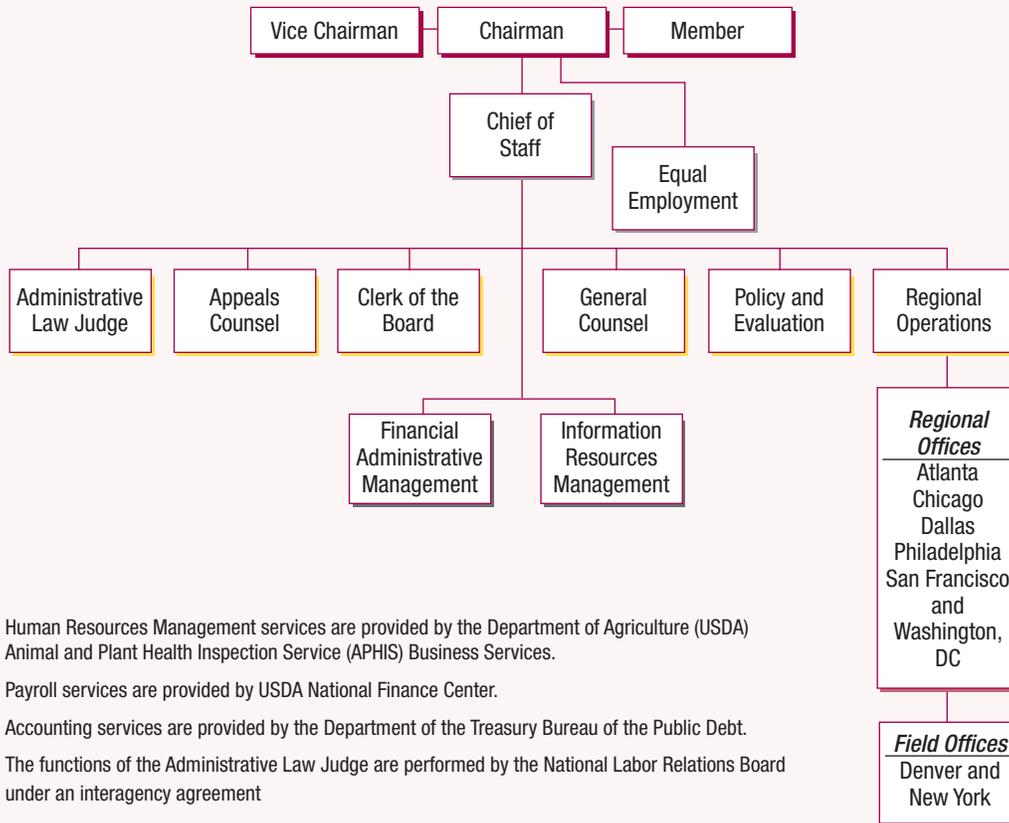
The **Office of the General Counsel (OGC)**, as legal counsel to the MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents the MSPB in litigation, prepares proposed decisions for the Board on compliance cases, requests to review OPM regulations and other assigned cases, and coordinates MSPB's legislative policy and congressional relations functions. The office drafts regulations, conducts MSPB's ethics program, and plans and directs audits and investigations. The office also provides legal research and other administrative assistance to NLRB ALJ's.

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

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

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

U.S. Merit Systems Protection Board Organization Chart



Human Resources Management services are provided by the Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Business Services.

Payroll services are provided by USDA National Finance Center.

Accounting services are provided by the Department of the Treasury Bureau of the Public Debt.

The functions of the Administrative Law Judge are performed by the National Labor Relations Board under an interagency agreement

Performance Goals and Results

The MSPB Performance Plan for FY 2008 consisted of eleven annual performance goals associated with the three strategic goals described in the agency's Strategic Plan for FY 2007 - 2012. The MSPB exceeded four and met the remaining seven of its eleven annual performance goals. Highlights of our program performance for FY 2008 are presented here and detailed performance information is available in the program performance section.¹

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

The MSPB exceeded two and met the other three of its adjudication performance goals. The performance goal for case processing timeliness was exceeded. MSPB processed cases more quickly than the target processing times with actual numeric results ranging from 120 to 144

¹The performance goals and targets for FY 2008 are those described in the MSPB Performance Budget for Fiscal 2009 submitted to the Congress on February 5, 2008. The performance goals, measures and/or targets for FY 2009 have been revised and may be adjusted further based on action taken on the FY 2009 budget and other factors. The Final Performance Plan for FY 2009 will be completed by December 31, 2008.

percent of the targets for three of the five timeliness measures. The performance goal for use of alternative dispute resolution procedures was exceeded with actual numeric results ranging from 136 to 153 percent of the targets for two of three performance measures. Because of recent changes in appeal rights, variability in the suitability of cases for settlement, and uncertainty in future Board membership, the FY 2009 targets for most adjudication performance measures will be maintained at FY 2008 levels.

Overall, the MSPB received 7,089 cases and processed 7,260 cases in FY 2008. Seventy-two percent of initial appeals were processed in 110 days or less (84 percent of initial appeals were processed in 120 days or less) and 60 percent of PFRs were processed in 110 days or less. The remaining 28 percent of initial appeals took more than 110 days to process (16 percent or 1,006 cases took more than 120 days to process), and 40 percent of PFRs took more than 110 days to process. Each case is adjudicated on its merits and in a manner consistent with the interests of fairness, which is achieved by assuring due process and the parties' full participation at all stages of the appeal.²

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

The MSPB exceeded one and met the other two merit systems studies performance goals. The MSPB completed nine reports or 150 percent of the target of six reports. Based in part on MSPB adjudication and previous studies work, new regulations and/or guidance were issued in three separate human capital areas. The MSPB was invited to testify before the Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on recruiting and hiring the next generation of Federal employees. The MSPB successfully concluded the administration of the FY 2007 Merit Principles Survey, which included assisting several agencies in meeting their annual employee survey requirement. In FY 2009, the MSPB plans to complete six studies and issue four editions of the *Issues of Merit* newsletter. In addition, the MSPB plans to begin preparations for the next Merit Principles Survey and continue to monitor the impact and usefulness of our reports.

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

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

The MSPB exceeded one and met the other two management support and organizational excellence performance goals. The performance goal for management of information resources was exceeded with actual results ranging from 111 to 142 percent of the targets for two of three numeric measures for this goal. In addition, MSPB's automated appeals system, e-Appeal, was selected as a finalist for the FY 2008 Web Managers Best Practice Award and listed as one of the 10 great .GOV websites by Government Computer News magazine. The MSPB also achieved an unqualified opinion on its financial audit for the sixth successive year and received full certification of its SES Performance Appraisal System. The FY 2009 targets for MSPB's human capital, information technology, and other internal programs reflect our intent to maintain or increase performance over that obtained in FY 2008.

Analysis of Financial Statements

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

The principal financial statements summarize the MSPB's financial position, net cost of operations, and changes in net position, provide information on budgetary resources and financing, and present the sources and disposition of custodial revenues for FY 2008 and FY 2007. Highlights of the financial information presented in the principal financial statements are shown below.

Financial Position

The MSPB's Balance Sheet presents its financial position through the identification of agency assets, liabilities, and net position. The agency's total assets decreased from \$9.9 million in FY 2007 to \$8.4 million in FY 2008. The decrease in total assets is primarily attributable to MSPB's property, plant and equipment being recorded at original acquisition cost and then depreciated using the straight-line method over the estimated useful life of the asset. The agency did not experience major changes in liabilities during FY 2008. Liabilities totaled \$4.6 million at the end of FY 2007 and \$4.7 million in FY 2008. The agency's total net position at the end of FY 2008 was \$3.7 million.

Net Cost of Operations

The net cost of MSPB operations for FY 2008 was \$40.1 million, a one percent decrease from the agency's FY 2007 cost of operations. The decrease from FY 2007 resulted from the departure of a number of senior-level officials, including one of the Board's three Presidentially-appointed Board Members.

Summary by Budget Activity
(Dollars In Thousands)

Budget Activity	2007		2008		2009 (requested)	
	FTE	Amt	FTE	Amt	FTE	Amt
Adjudication	185	\$31,791	178	\$32,918	185	\$34,395
Merit System Studies	12	2,399	11	2,236	12	2,339
Management Support	28	4,266	28	4,501	29	4,656
TOTAL	225	\$38,456	217	\$39,655	226	\$41,390

In FY 2008, 83 percent of MSPB's resources were spent on the adjudication function, which processed 7,260 cases during the year. About 6 percent of the agency's resources were devoted to the merit systems study function, which conducts studies of the civil service and other Federal merit systems and makes recommendations for their improvement. In addition, about 11 percent of MSPB's resources were spent on management support, which provides vital financial, administrative, information technology, and human resources services to the agency.

Statement of Budgetary Resources

This statement reports the budgetary resources available to the MSPB during FY 2008 and FY 2007 to effectively carry out the activities of the agency, as well as the status of these resources at the end of each fiscal year. MSPB had direct obligations of \$37.4 million in FY 2008, an increase of \$1.1 million over FY 2007.

Limitations on the Principal Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the MSPB, pursuant to the requirements of section 3515(b), Title 31 USC. While the statements have been prepared from the agency's books and records in accordance with the Generally Accepted Accounting Principles for Federal entities and the formats prescribed by the Office of Management and Budget, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

Systems, Controls and Legal Compliance

Federal Managers' Financial Integrity Act

The 1950 Budget and Accounting Procedures Act (64 Stat. 832) requires Federal managers to establish and maintain adequate systems of management control. The Federal Managers Financial Integrity Act (FMFIA) of 1982 requires the Head of each Federal Agency to conduct an annual evaluation of its management controls (Section 2) and financial management systems (Section 4), and report the results to the President and Congress. OMB Circulars A-123 on Management Accountability and Control, and A-127 on Financial Management Systems, furnish guidance on complying with Sections 2 and 4, respectively.

At the MSPB, each office director submits to the Chief Financial Officer (CFO) an annual statement of assurance representing the director's informed judgment for the overall adequacy of management controls within his or her office. Each year, the CFO updates and issues specific guidance for completing the end-of-year assurance statement and report on material deficiencies. The office directors report any significant weaknesses of safeguards (controls) against waste, loss, or misappropriation of funds or property. The directors also report activities that violate statutory authority, result in a conflict of interest or that cause adverse effects on the credibility of the agency, or that significantly impair the fulfillment of the agency's mission. The CFO consolidates the directors' reporting into one overall report for the entire agency for review by the Chairman and the Chief of Staff. 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.

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

Improper Payments Act

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

To coordinate and facilitate MSPB's efforts under IPIA, the CFO worked with office directors to develop a coordinated strategy to perform annual reviews for all programs and activities susceptible to improper payments. This cooperative effort includes developing actions to reduce improper payments, identifying and conducting ongoing monitoring techniques, and establishing appropriate corrective action initiatives. MSPB has determined that there is no significant risk of improper payments based on the review of its programs in FY 2008.

Management Controls

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

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

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

Trends and Issues

The most significant trends or issues affecting the MSPB's ability to carry out its mission to protect the Federal merit systems include: changes and developments in appeal rights and management flexibilities; changing demographics of the workforce; the Federal budget; and changes in MSPB staff and leadership positions.

Changes and developments in appeal rights and management flexibilities

On July 31, 2008, the MSPB and the Transportation Security Administration announced the launch of a new appeals system granting MSPB the authority to adjudicate appeals for alleged incidents of whistleblower reprisal filed by Transportation Security Officers (TSOs) and applicants for those positions. This agreement ensures that these appeals are heard by the MSPB as a neutral third party. TSOs will be assured that their claims of reprisal due to disclosure of serious safety or security concerns, or mismanagement will receive a fair hearing.

On April 18, 2008, the MSPB published a final rule (73 FR 21019) revising its regulations for processing appeals arising under the DHS human resources management systems. On September 30, 2008, the Consolidated Security, Disaster Assistance and Continuing

Appropriations Act, 2009, Public Law 110-329 (2008), was signed into law including a provision barring DHS from using any appropriated funds to support this new system. On October 2, 2008, DHS announced that it was rescinding the operative date of the new system effective October 1, 2008, and was returning all DHS employees covered by the new system to the authorities and provisions of Title 5, USC that applied prior to its implementation. Therefore, all appeals to the MSPB from DHS employees will be adjudicated under MSPB's governmentwide regulations.

Various aspects of the National Security Personnel System (NSPS) continue to be implemented in phases, such as performance-based pay and classification and compensation flexibilities. However, as a result of the National Defense Authorization Act (NDAA) 2008, workforce shaping, labor management relations, disciplinary actions and employee appeals of adverse actions will now be governed by governmentwide rules. Therefore, MSPB will continue to process adverse action appeals from DoD employees based on existing laws and precedent. Other appeals by DoD employees (e.g., involving whistleblower rights, veterans' rights and administrative retirement decisions) will continue to be processed as they have been.

The number of employees who will be managed under new, non-traditional human resources management systems will continue to change. As employees move from traditional Title 5 positions to those governed by more flexible provisions and back again, it is possible that the MSPB could see an increase in its appeals workload as well as increased complexity in the various legal authorities and precedents used to decide these appeals. These changes also emphasize the need for MSPB to continue its study of Federal merit systems and human capital management practices to ensure the systems are operating in accordance with merit system principles and free from prohibited personnel practices. Studying these new systems may also identify ways to improve the effectiveness and efficiency of Government operations. These changes and developments in appeal rights and management flexibilities will make MSPB's ability to hire and retain skilled staff all the more critical.

Changing demographics of the Federal workforce

The proportion of retirement-eligible Federal employees continues to increase. While current economic conditions may delay the retirements of some of these Federal employees, it is still likely that retirements will increase in the next few years. As retirements increase, we might expect to see an increase in retirement-based appeals. In addition, as the government replaces these retiring employees with relatively younger, less experienced employees, we are likely to see a decrease in the average age of the workforce. As this occurs, we may expect to see an increase in appeals because less experienced employees typically experience more appealable actions than do more experienced employees. It is not possible to predict exactly how these issues will play out over time. Therefore it is important for the MSPB to continue its efforts to hire and retain skilled adjudicatory, studies, and management support staff.

The Federal Budget

The demands on the Federal Budget continue to grow, with significant additional demands tied to the Emergency Economic Stabilization Act of 2008, Public Law 110-343 (2008). As budget pressure increases, there is greater potential to cut costs by decreasing the size of the workforce,

reducing or freezing hiring, or reducing training. Reducing the workforce may lead to increases in the number of employees who are separated involuntarily through reductions in force (RIF). If historical trends are accurate, this will lead to potentially large increases in the number of appeals to MSPB. Reductions in hiring and workforce training may also have long-term impacts on merit principles such as the efficiency and effectiveness of the workforce. It is important to understand the strategic long-term Federal workforce and merit systems implications of the methods used to control spending.

In addition, it is unclear how other factors related to changing economic conditions may affect the workforce. Employees may behave and perform better in an effort to keep their jobs. On the other hand, employees may experience more workplace conflict and other behavioral and performance issues due to the stress caused by economic conditions over which they have no control. It is not possible to predict exactly how these issues will unfold over time. Therefore, it is essential that the MSPB continue to hire and retain highly qualified employees to perform its adjudicatory, merit system studies and management support functions.

Changes in MSPB leadership positions and Board members

As described above, it is essential that the MSPB have the right people with the right skills to adjudicate appeals, conduct merit systems studies and support those missions. The MSPB also needs quality directors who can manage our programs now and into the future. In FY 2008, MSPB appointed a new Clerk of the Board and a new Director of the Office of Policy and Evaluation.

In addition to expert staff and senior managers, the MSPB also needs three confirmed Board members who can review and vote on appeals brought to the MSPB. MSPB currently has two confirmed Board members. Member Barbara J. Sapin's term ended on March 1, 2008. On March 1, 2009, Chairman Neil A. G. McPhie's term of appointment will end. Statutory provisions permit him to serve one additional year until March 1, 2010. Vice Chairman Mary M. Rose's term extends until March 2011.

According to statute, the Board consists of three Board Members who review and issue decisions on cases brought before the Board. If the Board has three Members, it takes the agreement of only two Members to issue a precedential decision. If the Board has two Members, it can issue precedential decisions if both Members agree. If the two Board Members disagree, the initial decision becomes the final decision, which is not precedential. If the Board has only one Member, it cannot issue decisions. It is important, therefore, that the Administration nominate, and the Senate confirm, at least one new Board Member prior to Chairman McPhie's departure. This will ensure that the Board can continue to issue decisions.

Program Performance Report

Adjudication Annual Performance

Summary

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

Annual Performance Goals

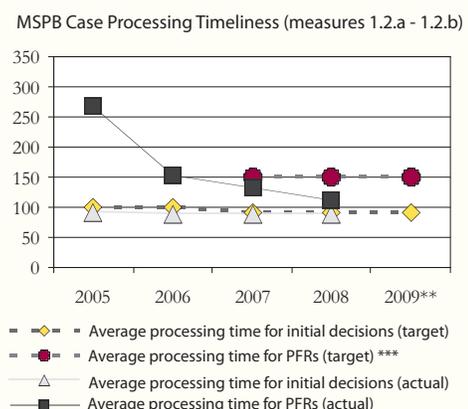
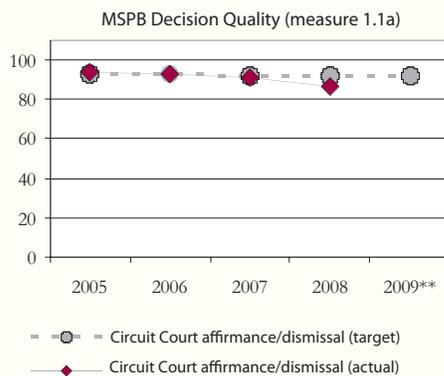
- 1.1 Issue high quality decisions.
- 1.2 Issue timely decisions.
- 1.3 Process cases efficiently.
- 1.4 Make effective use of alternative methods of dispute resolution.
- 1.5 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

Resources

	FY 2008 (actual)	FY 2009 (requested)
Budget \$ (in thousands)	\$32,918	\$34,395
% of total MSPB budgetary resources	83	83

Selected Results

(** Proposed target rate *** New goal in FY 2007)



Annual Performance Goals and Results

Performance Goal 1.1: Issue high quality decisions.

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

RESULTS		TARGETS	
FY 2005	94%	FY 2008	92% or greater.
FY 2006	93%	FY 2009	92% or greater.
FY 2007	91%		
FY 2008	87%*		

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

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

RESULTS		TARGETS	
FY 2005	7%	FY 2008	10% or fewer cases.
FY 2006	10%	FY 2009	10% or fewer cases.
FY 2007	9%		
FY 2008	6%		

Summary results for Performance Goal 1.1: This Performance Goal was **MET**. The reported proportion of cases in which the Court disagrees with the Board's decision usually reflects separate issues in individual cases. Occasionally, multiple cases are affected when new laws are applied or there are changes in the application of previous precedent. In FY 2008, several cases were affected by the Court's decision in *Kirkendall v. Department of the Army*, 479 F.3d 830 (Fed. Cir 2007) (*en banc*). Adjusting for these cases results in 94 percent of cases left unchanged by the Court. The rate of cases decided on PFR that were reversed or remanded to MSPB judges, adjusted for those cases that were not due to an error or oversight by the AJ, was 6 percent, 40 percent fewer than the target of 10 percent. Changes in Court precedent that would affect multiple cases are rare and there is considerable year-to-year variability in PFR remands and reversals. Therefore, the FY 2009 targets for these measures will remain set at FY 2008 levels.

Performance Goal 1.2: Issue timely decisions.

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

RESULTS		TARGETS	
FY 2005	92 days	FY 2008	90 days or less.
FY 2006	89 days	FY 2009	90 days or less.
FY 2007	89 days		
FY 2008	87 days		

1.2.b: Average case processing time for petitions for review (PFRs).

RESULTS		TARGETS	
FY 2005	268 days	FY 2008	150 days or less.
FY 2006	154 days	FY 2009	150 days or less.
FY 2007	132 days		
FY 2008	112 days		

1.2.c: Average case processing time for petitions for enforcement (Headquarters only).

RESULTS		TARGETS	
FY 2005	N/A new measure in 2008	FY 2008	Assess measure and establish future targets.
FY 2006	N/A new measure in 2008	FY 2009	235 days or less.
FY 2007	N/A new measure in 2008		
FY 2008	Measure assessed and target established for FY 2009		

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

RESULTS		TARGETS	
FY 2005	N/A new measure in 2007	FY 2008	50% or more of cases decided within 110 days
FY 2006	N/A new measure in 2007	FY 2009	50% or more of cases decided within 110 days.
FY 2007	85% decided within 120 days		
FY 2008	72% decided within 110 days		

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

RESULTS		TARGETS	
FY 2005	N/A new measure in 2007	FY 2008	50% or more of cases decided within 110 days.
FY 2006	N/A new measure in 2007	FY 2009	50% or more of cases decided within 110 days.
FY 2007	48% decided within 110 days		
FY 2008	60% decided within 110 days		

Summary Results for Performance Goal 1.2: This Performance Goal was **EXCEEDED**. The average case processing time for initial decisions was 87 days, 3 percent faster than the target of 90 days. The average processing time for PFRs was 112 days, or 25 percent faster than the target of 150 days. The proportion of initial appeals that were closed within the new 110 day limit was 144 percent of the target (72 percent compared to 50 percent). The proportion of PFRs closed within 110 days was 120 percent of the target (60 percent compared to 50 percent). MSPB assessed the method for measuring processing time for enforcement cases at headquarters and established an FY 2009 target of 235 days or less. Because of recent changes in appeal rights and management flexibilities and uncertainty in future Board membership, the FY 2009 targets for average case processing and percent of cases closed within time standards for both initial appeals and PFRs will remain set at FY 2008 levels.

Performance Goal 1.3: Process cases efficiently.

1.3.a: 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 2005	\$2,793 (Adjusted)	FY 2008	\$2,808 adjusted for the changes in the number of decisions issued.
FY 2006	\$2,830 (Adjusted)	FY 2009	TBD
FY 2007	\$2,808 (Adjusted)		
FY 2008	\$2,817 (Adjusted)		

Summary results for Performance Goal 1.3: This Performance Goal was **MET**. The performance target was set at an approximate level and the deviation from that level is slight. The average (adjusted) case processing cost for FY 2008 was less than one-third of one percent higher than the goal for the year. In addition, the FY 2008 cost is only 1 percent above the average cost over the last ten years.

Performance Goal 1.4: Make effective use of alternative methods of dispute resolution.

1.4.a: Maintain rate of settlement of initial appeals that are not dismissed at 50% or higher.

RESULTS		TARGETS	
FY 2005	55 %	FY 2008	50% success rate or higher.
FY 2006	58 %	FY 2009	50% success rate or higher.
FY 2007	57 %*		
FY 2008	54 %		

** Figure provided for comparison purposes only. In FY 2007, MSPB reported the settlement rate for initial appeals and PFRs combined, which was 56%.*

1.4.b: Maintain rate of settlement of cases selected for the PFR settlement program at 25% or higher.

RESULTS		TARGETS	
FY 2005	47 %	FY 2008	25% success rate or higher.
FY 2006	38 %	FY 2009	25% success rate or higher.
FY 2007	23 %*		
FY 2008	34 %		

** Figure provided for comparison purposes only. In FY 2007, MSPB reported the settlement rate for initial appeals and PFRs combined, which was 56%.*

1.4.c: Number of cases mediated and percentage of cases successfully resolved through mediation procedures.

RESULTS		TARGETS	
FY 2005	83 cases mediated with a success rate of 48 percent.	FY 2008	Mediate 96 or more cases with a 50% or better success rate.
FY 2006	109 cases mediated with a success rate of 45 percent at the conclusion of the MAP, and a success rate of 61 percent including cases that settled after returning to adjudication.	FY 2009	Mediate 101 or more cases with a 50% or better success rate.
FY 2007	100 cases were mediated with a success rate of 48 percent at the conclusion of MAP (48 settled cases), and a success rate of 67 percent including cases that settled after returning to adjudication (19 additional cases settled).		
FY 2008	147 cases were mediated with a success rate of 54 percent at the conclusion of MAP (79 settled cases), and a success rate of 71 percent including cases that settled after returning to adjudication (26 additional cases settled).		

Summary results for Performance Goal 1.4: This performance goal was **EXCEEDED**. The settlement rate of initial appeals that were not dismissed was 108 percent of the target rate (54 percent compared to 50 percent). The settlement rate of cases selected for the PFR settlement program was 125 percent of the target rate (34 percent compared to 25 percent). The number of cases mediated in FY 2008 was 153 percent of the target rate (147 cases compared to 96 cases). The success rate for MSPB's Mediation Appeals Program (MAP) was 108 percent of the target (54 percent compared to 50 percent) and 142 percent of the target counting cases that settled after returning to adjudication. There is considerable variability in the cases selected as appropriate for the PFR settlement and MAP programs as well as unpredictability of settlement successes in these two programs. Therefore, the FY 2009 targets for the initial appeals, PFR and MAP settlement rates will remain set at FY 2008 levels. The FY 2009 target for the number of cases mediated will be set at 101 or more cases.

Performance Goal 1.5: Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

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

RESULTS

FY 2005 N/A new measure in 2007

FY 2006 N/A new measure in 2007

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

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

TARGETS

FY 2008 Develop an automated random survey for e-Appeal customers.

FY 2009 Implement the survey for e-Appeal customers.

Summary results for Performance Goal 1.5: This Performance Goal was **MET**. Four automated surveys for e-Appeal users were created. In addition, formal feedback from all parties to MAP mediated cases and from outreach efforts were requested and collected. In FY 2009, we will implement the surveys for e-Appeal customers.

Merit Systems Studies Annual Performance

Summary

Strategic Goal 2: To conduct studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from prohibited personnel practices.

Annual Performance Goals

- 2.1 **Conduct merit systems studies and recommend improvements to policy-makers and practitioners.**
- 2.2 **Assess the practice of merit in the workplace.**
- 2.3 **Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts.**

Resources

	FY 2008 (actual)	FY 2009 (requested)
Budget \$ (in thousands)	\$2,235	\$2,339
% of total MSPB budgetary Resources	6	6

Selected Results

Significant impact

- Amended Federal regulations relating to the procedural and appeal rights of employees serving probationary and trial periods.
- Authority to use category rating.
- Improved assessment and selection practices.
- Recommendations against using Outstanding Scholar Program.

Select recent studies (beginning with most recent)

- The Federal Government: A Model Employer or a Work in Progress?
- The Power of Federal Employee Engagement
- Alternative Discipline: Creative Solutions for Agencies to Effectively Address Employee Misconduct
- Merit Systems Protection Board Annual Report for FY 2007
- Federal Appointment Authorities: Cutting Through the Confusion
- In Search of Highly Skilled Workers: A Study on the Hiring of Upper Level Employees From Outside the Federal Government
- Attracting the Next Generation: A Look at Federal Entry-Level New Hires
- Accomplishing Our Mission: Results of the Merit Principles Survey 2005
- Navigating the Probationary Period After Van Wersch and McCormick
- Reforming Federal Hiring: Beyond Faster and Cheaper

- Contracting Officer Representatives: Managing the Government's Technical Experts to Achieve Positive Contract Outcomes
- Designing an Effective Pay for Performance Compensation System
- Building a High-Quality Workforce: The Federal Career Intern Program
- Probationary Period: A Critical Assessment Opportunity

Annual Performance Goals and Results

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

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

RESULTS

FY 2005	Published 2 internal reports on the PFR process and HR customer satisfaction, and 4 external reports including the FY 2004 Annual Report and reports on the probationary period, the Federal career intern program, and reference checks; published the MSPB Performance and Accountability Report (PAR) for FY 2004 within the new 45-day timeline; completed 2 other merit systems reports that were in final review at the end of the fiscal year; published 4 editions of the <i>Issues of Merit</i> newsletter; increased focus on internal Board and adjudication issues by completing important studies of the PFR process and HR customer satisfaction, and by making significant progress on an internal study of the initial appeals and settlements processes.
FY 2006	Published 8 reports and 4 editions of the <i>Issues of Merit</i> newsletter. Report topics included: designing effective pay-for-performance compensation systems, managing contracting officer representatives to achieve positive contract outcomes, reforming Federal hiring, the symposium on the practice of merit, the effect of <i>Van Wersch</i> and <i>McCormick</i> on the probationary period, study of initial appeals and settlements (internal report), the MSPB FY 2005 Annual Report and the MSPB FY 2005 PAR; completed reports on the 2005 Merit Principles Survey (MPS), baseline data for DHS, baseline data for DoD and a draft of the MSPB Strategic Plan for FY 2007 – 2012.
FY 2007	Published a report on the results of the 2005 Merit Principles Survey and 4 editions of the <i>Issues of Merit</i> newsletter; completed a report on Federal entry-level new hires and four internal reports; published MSPB's Annual Report for FY 2006, FY 2006 PAR, FY 2007- 2012 Strategic Plan and FY 2007 (revised) - FY 2008 (final) Performance Plan; received Board Member approval for a new research agenda covering the 2008 – 2010 time period.

Performance Goal 2.1.a: (continued)

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

TARGETS

FY 2008 Complete 6 reports and 4 editions of the newsletter; assess scope of studies and newsletters; evaluate and select future research topics from those approved in FY 2007.

FY 2009 Complete 6 reports and 4 editions of the newsletter; assess scope of studies and newsletters; evaluate future potential research topics.

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

RESULTS

FY 2005 Reviewed alternative measures of impact of studies and began pilot test using customer survey card inserts in reports and began review of current vacancy announcements to assess the impact of the vacancy announcement report.

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

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

Performance Goal 2.1.a: (continued)

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

TARGETS

FY 2008 Continue to track and evaluate mechanisms for measuring the impact of studies and newsletters.

FY 2009 Continue to track and evaluate mechanisms for measuring the impact of studies and newsletters.

Summary results for Performance Goal 2.1: This Performance Goal was **EXCEEDED**. MSPB completed 9 reports, 150 percent of the target of 6 reports, and published four editions of the newsletter. Impact included new regulations or guidance issued by OPM on two hiring programs and managing new employees, and by OMB on training COR/COTRs. The number of studies and reports varies each year so the target for number of reports and editions of the newsletter will remain the same for FY 2009. MSPB will continue to track and evaluate ways to measure the impact of studies and newsletters in FY 2009.

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

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

RESULTS

FY 2005 Successfully completed largest and first electronic web-based MPS distributed to 80,000 employees; used this automated capability to refine questions and provide agency Chief Human Capital Officers (CHCOs) the option to use the MPS to meet their FY 2005 statutory survey requirement; similar options were built into OPM's implementing guidance for the survey requirement.

Performance Goal 2.2.a: (continued)

- FY 2006** Completed three reports using data from the 2005 MPS including a baseline report on DHS and a baseline report on DoD; collected data from OPM's Central Personnel Data File (CPDF) on DHS and DoD to monitor the impact of personnel system changes; collaborated with the Senior Executive Association (SEA) on the annual survey requirement followed by SEA proposing legislation which included a requirement to use the MSPB MPS in alternate years to the OPM Human Capital Survey; began planning a survey to assess the practice of merit and prohibited personnel practices related to equitable treatment.
-
- FY 2007** Published a report on the FY 2005 MPS; began electronic administration of the FY 2007 MPS which included assisting several agencies in meeting their statutory requirement for conducting an annual survey of their workforce; began electronic administration of a separate survey to investigate career advancement issues in the Federal workforce.
-
- FY 2008** Completed the administration of the governmentwide 2007 MPS which included assisting a number of agencies in meeting their statutory requirements for conducting an annual survey of their workforce by providing them with their survey results for posting on their agency websites; completed a report on longitudinal MPS results including those from the 2007 MPS; completed administration of the governmentwide career advancement survey and began analysis of the results; determined that planning should begin for a governmentwide administration of the next MPS to be administered in FY 2010.

RESULTS

- FY 2008** Analyze and report findings from the 2007 MPS including the assessment of the practice of merit and occurrence of prohibited personnel practices. Determine whether to conduct the next merit principles survey in FY 2009 or 2010 based upon experience in 2007.
-
- FY 2009** Continue to assess the practice of merit and prohibited personnel practices in agencies; begin the planning phase for a governmentwide administration of the Merit Principles Survey in FY 2010.
-

Summary results for Performance Goal 2.2: This Performance Goal was **MET**. Completed the 2007 MPS and a report on longitudinal analysis of prior MPS including the 2007 MPS data. Completed administration of the CAS, and contracted for support of the Telework Survey. Determined that planning will begin in FY 2009 for administration of the next MPS in FY 2010. In addition, in FY 2009 we will continue to assess the practice of merit through surveys and other methods.

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

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

RESULTS

FY 2005 – 2006 – N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 Use feedback on quality usefulness and impact of reports to maintain or improve the readability of reports and make improvements to the website.

FY 2009 Use feedback on quality, usefulness and impact of reports to maintain or improve the readability of reports, make improvements to the website and to begin the formation of our new research agenda.

Summary results for Performance Goal 2.3: This Performance Goal was **MET**. MSPB used a variety of methods to collect customer feedback about the quality and usefulness of its studies products. In FY 2009, MSPB will use this feedback to maintain or improve the readability of reports and continue to improve the studies website.

Management Support and Organizational Excellence Annual Performance

Summary

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

Annual Performance Goals

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

Resources

	FY 2008 (actual)	FY 2009 (requested)
Budget \$ (in thousands)	\$4,501	\$4,656
% of total MSPB budgetary resources	11	11

Annual Performance Goals and Results

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

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

Performance Goal 3.1.a: (continued)

TARGETS

FY 2008 Develop exit interview questionnaire to assist with assessment process.

FY 2009 Prepare semi-annual assessments based on the exit interview questionnaire.

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

RESULTS

FY 2005 – 2007 N/A new measure in FY 2008.

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

TARGETS

FY 2008 Develop and implement diversity initiatives that improve the inclusiveness of the work environment and employment opportunities, and improve the respect for and appreciation of individual differences among employees; utilize Equal Employment Opportunity (EEO) workforce data audits, surveys and other tools to assess the awareness and effectiveness of diversity initiatives.

FY 2009 Continue to develop and implement diversity initiatives that improve the inclusiveness of the work environment, employment opportunities, and improve the respect for and appreciation of individual differences among employees; utilize EEO workforce data audits, surveys, and performance management assessments to assess the awareness and effectiveness of diversity initiatives.

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 Develop, implement and assess a customer satisfaction survey of senior officials, managers, and employees on internal human resources programs and establish future targets.

FY 2009 Increase customer satisfaction among senior officials, managers, and employees by 5 percent based on feedback from internal customer surveys and recommendations from the team convened to review the hiring process.

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 Update and re-evaluate interagency agreement with HR services provider; prepare and submit SES Performance Appraisal System for full certification.

FY 2009 Continue to comply with new and existing program requirements; review and evaluate HR delegations and authorities to determine if additional authorities may be delegated to managers; evaluate and modify SES Performance Appraisal System based on FY 2008 results.

Summary results for Performance Goal 3.1: This Performance Goal was **MET**. MSPB developed and implemented an exit survey, achieved its diversity targets, completed a customer satisfaction survey on internal human resources and EEO programs, updated its interagency agreement for HR support and received full certification of its SES performance appraisal system. In addition, a team studied MSPB's entire hiring process and made recommendations for improvement. The FY 2009 targets reflect our plan to maintain and improve management of human capital and EEO programs.

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

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 26% or more of initial appeals are filed electronically.

FY 2009 35% or more of initial appeals are filed electronically and 25% or more of pleadings are submitted electronically.

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 84% of tickets resolved within one business day.

FY 2009 88% of tickets resolved within one business day.

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

RESULTS

FY 2005 – FY 2006 N/A new measure in FY 2007.

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

FY 2008 89% of the respondents were satisfied or very satisfied that their information resources management needs were being met.

TARGETS

FY 2008 80% or more of MSPB staff who respond to the survey will indicate they were satisfied or very satisfied with IRM meeting their needs.

FY 2009 84% or more of MSPB staff who respond to the survey will report being satisfied or very satisfied with IRM meeting their needs.

3.2.d: Comply with information management regulatory requirements.

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

FY 2007 FISMA compliance was reviewed by an outside contractor and the final FISMA report was submitted to OMB; 100% of MSPB employees completed annual security awareness training; remained in full compliance with FISMA, HSPD-12 and IPv6.

FY 2008 Complied with FISMA including 100% of MSPB employees completing security awareness training, completion of FISMA security audit, and submission of annual FISMA report. Complied with requirements for e-Gov Act, IPv6 (internet protocol version 6), TIC (Trusted Internet Connections), Networx, and FDCC (Federal Desktop Core Configuration).

TARGETS

FY 2008 Comply with FISMA and other regulatory requirements.

FY 2009 Comply with FISMA and other regulatory requirements.

Summary results for Performance Goal 3.2: This Performance Goal was **EXCEEDED**. The percent of initial appeals filed electronically was 142% of the target (37% compared to 26%). In addition, MSPB's e-Appeal website was selected as a finalist for the Web Managers Best Practice Award and was listed as one of the 10 great .GOV websites by Government Computer News magazine. The proportion of technical support tickets resolved within one business day was 104% of the target (87% versus 84%). A technical support ticketing process was established for external users of MSPB's public website and e-Appeal and 100% of the 457 tickets submitted were resolved within one business day. The response rate to the internal customer satisfaction survey was 39% higher than last year and the satisfaction rate was 111% of the target (89% compared to 80%). MSPB complied with FISMA and other regulatory information resources requirements. For FY 2009, the targets include 35% or more of initial appeals filed electronically and an additional target of 25% or more of pleadings submitted electronically. The FY 2009 target for tickets resolved within one business day is 88%, and the target for internal MSPB staff satisfied with IRM meeting their needs is 84%. In FY 2009, MSPB will also continue to comply with information management regulatory requirements.

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

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

FY 2005 – 2006 N/A new measure in FY 2007.

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

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

TARGETS

FY 2008 Achieve unqualified opinion on the annual financial audit.

FY 2009 Achieve unqualified opinion on the annual financial audit.

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

RESULTS

FY 2005 – 2006 N/A new measure in FY 2007.

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

Performance Goal 3.3.b: (continued)

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

TARGETS

FY 2008 Based on feedback received, develop and implement, and begin to evaluate a questionnaire on customer service satisfaction and establish future numeric targets.

FY 2009 Increase customer satisfaction by 10% over FY 2008 results. Develop methods to disseminate information in a more timely manner and provide more human resources management training to staff.

Summary results for Performance Goal 3.3: This Performance Goal was **MET**. MSPB achieved an unqualified opinion on its financial audit of FY 2007 results and completed two internal customer satisfaction surveys. MSPB also conducted an administrative management conference including training for headquarters and regional support staff. In FY 2009, MSPB will maintain the financial management targets and increase internal customer satisfaction with its other internal management programs by 10% over FY 2008 results.



Financial Accountability Report

Message from the Chief Financial Officer

I am pleased to report that the U.S. Merit Systems Protection Board earned an unqualified opinion on its FY 2008 consolidated financial statements, and particularly pleased that, once again, no material weaknesses were identified in the auditor's report on internal controls. We are proud of our accomplishments in receiving this unqualified opinion as it validates our efforts in preserving the integrity of our financial reporting. Since June 2002, we have worked with the Department of the Treasury Bureau of Public Debt (BPD) in Parkersburg, West Virginia. BPD has been designated by the Office of Management and Budget as a Center of Excellence. BPD is responsible for handling our administrative payments and preparing our financial statements. Through its franchise operation, BPD has provided us with timely and complete reports to satisfy our day-to-day operating needs as well as the reporting requirements for Congress, our auditors, and other external reviewing organizations.

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

We take our financial accountability seriously and are committed to strengthening our financial performance in accordance with the Presidential Management Agenda initiative. This year we hired a new Budget Officer. He replaced our former Budget Officer who retired after 20 years with the agency. Our new Budget Officer brings with him a wealth of financial knowledge and a strong commitment to ensuring that no financial waste, fraud or abuse takes place at this agency.

While we are pleased with our accomplishment of unqualified opinions for the past six years, we are committed to continue our work on improving our financial management performance during the coming years.



Charles Roche
Chief Financial Officer
November 17, 2008

Letter to the Auditor on Management Controls

Letter to the Auditor on Management Controls



U.S. MERIT SYSTEMS PROTECTION BOARD

Financial and Administrative Management
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Director

MANAGEMENT REPRESENTATION LETTER

November 5, 2008
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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's (MSPB) balance sheet as of September 30, 2008 and 2007, and the related statements of net costs, changes in net position and budgetary resources for the years then ended for the purposes of (1) expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America, (2) reporting on the entity's internal control as of September 30, 2008, and (3) testing for compliance with applicable laws and regulations.

Certain representations in this letter are described as being limited to matters that are material. For purposes of this letter, matters are considered material if they involve \$220,369 or more. Items also 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 the audits (these representations are as of the date of this letter, pertain to both years' financial statements, and update the representations we provided in the prior year):

1. We are responsible for the fair presentation of the financial statements 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 meetings of the Board of Directors 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 MSPB has satisfactory title to all owned assets; such assets have no liens or encumbrances; and no assets have been pledged.
6. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.
7. There are no guarantees under which the MSPB is contingently liable.
8. There are no related party transactions.
9. All intra-entity transactions and balances 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 the applicable OMB Bulletin.
10. There are no:
 - a. 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. material liabilities or gain or loss contingencies that are required to be accrued or disclosed that have not been accrued or disclosed, or
 - c. unasserted claims or assessments that are probable of assertion and must be disclosed that have not been disclosed.
11. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
12. No material events or transactions have occurred subsequent to September 30, 2008, that have not been properly recorded in the financial statements or disclosed in the notes.
13. We are responsible for establishing and maintaining internal control.
14. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud (intentional misstatements or omissions of amounts or disclosures in financial statements and misappropriation of assets that could have a material effect on the financial statements).

15. We have no knowledge of any fraud or suspected fraud affecting the MSPB involving:
 - a. management,
 - b. employees who have significant roles in internal control, or
 - c. others where the fraud could have a material effect on the financial statements.
16. We have no knowledge of any allegations of fraud or suspected fraud affecting the MSPB received in communications from employees, former employees, or others.
17. Pursuant to 31 U.S.C. 3512(c) (d) (commonly known as the Federal Managers' Financial Integrity Act), we have assessed the effectiveness of the MSPB internal control in achieving the following objectives:
 - a. reliability of financial reporting – transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and 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 with 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 OMB in its audit guidance; 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.
18. Those controls in place on September 30, 2008, and during the years ended 2008 and 2007, provided reasonable assurance that the forgoing objectives are met.
19. There are no significant deficiencies in the design or operation of internal control that could adversely affect the MSPB's ability to meet the internal control objectives and there are no material weaknesses.
20. There have been no changes to internal control subsequent to September 30, 2008, or other factors that might significantly affect it.
21. We are responsible for the MSPB's compliance with applicable laws and regulations.
22. 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.
23. There are no known instances of noncompliance with laws and regulations.



Neil A.G. McPhie
Chairman



Charles P. Roche
Chief Financial Officer

Independent Auditor's Report on the Financial Statements



BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

U.S. Merit Systems Protection Board
Washington, DC

We have audited the accompanying balance sheet of the U.S. Merit Systems Protection Board (MSPB) as of September 30, 2008 and 2007, and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of MSPB's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

Audited Financial Statements

U. S. MERIT SYSTEMS PROTECTION BOARD BALANCE SHEET AS OF SEPTEMBER 30, 2008 AND 2007 (In Dollars)

	<u>2008</u>	<u>2007</u>
Assets:		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 7,144,161	\$ 6,665,239
Accounts Receivable	2,314	-
Total Intragovernmental	<u>7,146,475</u>	<u>6,665,239</u>
Accounts Receivable	3,538	4,493
General Property, Plant and Equipment, Net (Note 3)	<u>1,253,007</u>	<u>3,232,577</u>
Total Assets	<u>\$ 8,403,020</u>	<u>\$ 9,902,309</u>
Liabilities:		
Intragovernmental:		
Accounts Payable	\$ 744,605	\$ 474,254
Other (Note 5)	323,508	285,605
Total Intragovernmental	<u>1,068,113</u>	<u>759,859</u>
Accounts Payable	251,185	557,808
Other (Note 5)	3,892,494	3,289,328
Total liabilities	<u>\$ 5,211,792</u>	<u>\$ 4,606,995</u>
Net Position:		
Unexpended Appropriations - Other Funds	\$ 4,807,211	\$ 4,460,316
Cumulative Results of Operations - Other Funds	(1,615,983)	834,998
Total Net Position	<u>\$ 3,191,228</u>	<u>\$ 5,295,314</u>
Total Liabilities and Net Position	<u>\$ 8,403,020</u>	<u>\$ 9,902,309</u>

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, 2008 AND 2007
(In Dollars)**

	<u>2008</u>	<u>2007</u>
Program Costs:		
Adjudication:		
Gross Costs (Note 7)	\$ 36,954,647	\$ 37,114,292
Less: Earned Revenue	<u>2,579,000</u>	<u>2,602,858</u>
Net Program Costs	<u>34,375,647</u>	<u>34,511,434</u>
Management Support:		
Gross Costs (Note 7)	\$ 4,380,045	\$ 4,292,847
Less: Earned Revenue	<u>-</u>	<u>-</u>
Net Program Costs	<u>\$ 4,380,045</u>	<u>\$ 4,292,847</u>
Merit System Studies:		
Gross Costs (Note 7)	\$ 1,796,264	\$ 1,879,636
Less: Earned Revenue	<u>-</u>	<u>-</u>
Net Program Costs	<u>\$ 1,796,264</u>	<u>\$ 1,879,636</u>
 Net Cost of Operations	 <u>\$ 40,551,956</u>	 <u>\$ 40,683,917</u>

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, 2008 AND 2007
(In Dollars)**

	<u>2008</u>	<u>2007</u>
Cumulative Results of Operations:		
Beginning Balances	\$ 834,998	\$ 2,698,669
Beginning Balances, as Adjusted	<u>\$ 834,998</u>	<u>\$ 2,698,669</u>
Budgetary Financing Sources:		
Appropriations Used	\$ 36,187,704	\$ 36,672,065
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources	<u>1,913,271</u>	<u>2,148,181</u>
Total Financing Sources	\$ 38,100,975	\$ 38,820,246
Net Cost of Operations	\$ 40,551,956	\$ 40,683,917
Net Change	<u>\$ (2,450,981)</u>	<u>\$ (1,863,671)</u>
Cumulative Results of Operations	<u>\$ (1,615,983)</u>	<u>\$ 834,998</u>
Unexpended Appropriations:		
Beginning Balances	\$ 4,460,316	\$ 5,280,388
Beginning Balances, as Adjusted	<u>\$ 4,460,316</u>	<u>\$ 5,280,388</u>
Budgetary Financing Sources:		
Appropriations Received	\$ 37,507,000	\$ 36,063,318
Other Adjustments	(972,401)	(211,325)
Appropriations Used	<u>(36,187,704)</u>	<u>(36,672,065)</u>
Total Budgetary Financing Sources	<u>\$ 346,895</u>	<u>\$ (820,072)</u>
Total Unexpended Appropriations	<u>\$ 4,807,211</u>	<u>\$ 4,460,316</u>
Net Position	<u><u>\$ 3,191,228</u></u>	<u><u>\$ 5,295,314</u></u>

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, 2008 AND 2007
(In Dollars)**

	<u>2008</u>	<u>2007</u>
Budgetary Resources:		
Unobligated Balance Brought Forward, October 1	\$ 2,358,121	\$ 2,380,717
Recoveries of Prior Year Unpaid Obligations	527,160	360,796
Budget Authority		
Appropriation	37,507,000	36,063,318
Spending Authority From Offsetting Collections		
Earned		
Collected	2,579,000	2,602,858
Permanently Not Available	(972,401)	(211,325)
Total Budgetary Resources	<u>\$ 41,998,880</u>	<u>\$ 41,196,364</u>
Status of Budgetary Resources:		
Obligations Incurred		
Direct	\$ 37,355,808	\$ 36,235,385
Reimbursable	2,579,000	2,602,858
Unobligated Balance		
Apportioned	431,152	312,680
Unobligated Balance Not Available	1,632,920	2,045,441
Total Status of Budgetary Resources	<u>\$ 41,998,880</u>	<u>\$ 41,196,364</u>
Change in Obligated Balance:		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	\$ 4,307,118	\$ 4,964,535
Total Unpaid Obligated Balance, Net	4,307,118	4,964,535
Obligations Incurred Net	39,934,808	38,838,243
Less: Gross Outlays	38,634,677	39,134,864
Less: Recoveries of Prior Year Unpaid Obligations, Actual	527,160	360,796
Obligated Balance, Net, End of Period		
Unpaid obligations	\$ 5,080,089	\$ 4,307,118
Total, Unpaid Obligated Balance, Net, End of Period	<u>\$ 5,080,089</u>	<u>\$ 4,307,118</u>
Net Outlays:		
Net Outlays:		
Gross Outlays	\$ 38,634,677	\$ 39,134,864
Less: Offsetting Collections	2,579,000	2,602,858
Net Outlays	<u>\$ 36,055,677</u>	<u>\$ 36,532,006</u>

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, 2008 AND 2007**

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Basis of Presentation

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

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

B. Reporting Entity

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.

MSPB has rights and ownership of all assets reported in these financial statements. MSPB does not possess any non-entity assets.

C. Budgets and Budgetary Accounting

Congress enacts appropriations to permit MSPB to incur obligations for specified purposes. In fiscal years 2008 and 2007, MSPB was accountable for General Fund appropriations. MSPB recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

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

E. Revenues & Other Financing Sources

Congress enacts annual and multi-year appropriations to be used, within statutory limits, for operating and capital expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

Appropriations are recognized as a financing source when expended. Appropriations expended for capitalized property and equipment are recognized as expenses when an asset is consumed in operations.

Revenues from service fees associated with reimbursable agreements are recognized concurrently with the recognition of accrued expenditures for performing the services.

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

F. Taxes

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

G. Fund Balance with Treasury

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

H. Accounts Receivable, Net

Accounts receivable consists of amounts owed to MSPB by other Federal agencies and the public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when either (1) based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent. Accounts receivable consisted from intra-governmental \$2,314 and \$0 as of September 30, 2008 and 2007 respectively, and also from employees, which were \$3,538 and \$4,493 as of September 30, 2008 and 2007, respectively.

I. Property, Plant and Equipment (PP&E), Net

MSPB's property, plant and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. MSPB's capitalization threshold is \$50,000 for individual purchases and \$500,000 for bulk purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, plant and equipment. 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.

J. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

K. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available Congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against MSPB by other Federal agencies. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as Components requiring or generating resources on the Reconciliation of Net Cost to Budget. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

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

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employee's Retirement System (FERS)-covered employees.

N. Accrued Workers' Compensation

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

O. Retirement Plans

MSPB employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). The employees who participate in CSRS are beneficiaries of MSPB's matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability fund. The employees who participate in FERS are beneficiaries of MSPB's contribution, equal to eleven and two tenths percent of pay, distributed to their annuity account in the Basic Benefit Plan.

FERS and Social Security cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1987 elected to join FERS and Social Security, or remain in CSRS. Employees hired as of January 1, 1987 are automatically covered by FERS. FERS offers a savings plan (aside from the Basic Benefit Plan mentioned in above paragraph) to which MSPB automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, MSPB also contributes the employer's matching share of Social Security.

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

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

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

P. Use of Estimates

Management has made certain estimates when reporting assets, liabilities, revenue, and expenses, and in the note disclosures. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of

the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates. Significant estimates include (a) year-end accruals of accounts payable, and (b) accrued workers' compensation.

Q. 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 2008 and 2007 to the extent directed by OMB.

R. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. MSPB recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. MSPB discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to MSPB for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made. There are no contingencies that require disclosure.

S. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

T. Reclassification

Certain fiscal year 2007 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with current year presentation.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balances:

	2008	2007
Appropriated Funds	\$ 7,144,161	\$ 6,665,239
Total Fund Balance	<u>\$ 7,144,161</u>	<u>\$ 6,665,239</u>

Status of Fund Balance with Treasury:

	2008	2007
Unobligated Balance		
Available	\$ 431,152	\$ 312,680
Unavailable	1,632,920	2,045,441
Obligated Balance Not Yet Disbursed	5,080,089	4,307,118
Total	<u>\$ 7,144,161</u>	<u>\$ 6,665,239</u>

Restricted unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

NOTE 3. GENERAL PROPERTY, PLANT, AND EQUIPMENT

Property, plant and equipment account balances as of September 30, 2008 and 2007 were as follows:

Schedule of Property, Plant and Equipment as of September 30, 2008

<u>Description</u>	<u>Acquisition Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>
Leasehold Improvements	\$ 1,703,459	\$ (1,162,090)	\$ 541,369
Office Equipment	73,776	(67,321)	6,455
Internal Use Software	9,415,576	(8,710,393)	705,183
Total	<u>\$ 11,192,811</u>	<u>\$ (9,939,804)</u>	<u>\$ 1,253,007</u>

Schedule of Property, Plant and Equipment as of September 30, 2007

<u>Description</u>	<u>Acquisition Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>
Leasehold Improvements	\$ 1,475,924	\$ (1,008,828)	\$ 467,096
Office Equipment	73,776	(59,943)	13,833
Internal Use Software	9,415,576	(6,827,278)	2,588,298
Construction In Progress	163,350	-	163,350
Total	<u>\$ 11,128,626</u>	<u>\$ (7,896,049)</u>	<u>\$ 3,232,577</u>

Construction In Progress consists of Leasehold Improvement.

NOTE 4. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on MSPB's Balance Sheet as of September 30, 2008 and 2007, include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities. Unfunded FECA liability is an intragovernmental liability not covered by budgetary resources. Unfunded FECA liabilities are \$101,570 and \$108,687 as of September 30, 2008 and 2007, respectively. Other liabilities not covered by budgetary resources consist of unfunded leave. Unfunded leave balances are \$2,295,585 and \$2,293,385 as of September 30, 2008 and 2007, respectively.

The Department Of Labor (DOL) estimates future workers' compensation liability for specified entities that are preparing statements under the Chief Financial Officers Act and the Government Management Reform Act. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases, plus a component for incurred but unreported claims. Because MSPB is not one of the specified entities for which DOL provides individual agency estimates on a routine basis, MSPB calculated its actuarial liability amount by using the DOL model to estimate FECA actuarial liability. The FECA actuarial liability for fiscal year 2008 is \$477,688.

NOTE 5. OTHER 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.

	<u>2008</u>	<u>2007</u>
Intragovernmental		
Payroll Taxes Payable	\$ 211,938	\$ 176,918
Unfunded FECA Liability	101,570	108,687
Other Post-Employment Benefits Due and Payable	<u>10,000</u>	<u>-</u>
Total Intragovernmental	<u>\$ 323,508</u>	<u>\$ 285,605</u>
Unfunded Leave	\$2,295,585	\$2,293,385
Accrued Funded Payroll	1,075,671	952,418
Federal Employee and Veterans' Benefits	477,688	-
Payroll Taxes Payable	<u>43,550</u>	<u>43,525</u>
Total Nongovernmental	<u>\$3,892,494</u>	<u>\$3,289,328</u>
Total Other Liabilities	<u>\$4,216,002</u>	<u>\$3,574,933</u>

All liabilities are current liabilities.

NOTE 6. OPERATING LEASES

MSPB occupies office space or warehouse space at four locations with lease agreements that are accounted for as operating leases. The first lease for office space (MSPB Headquarters) began on June 1, 2000 and expires on May 31, 2010. The agency pays annual rent of \$1,504,295, increased by 3% per annum beginning with the first anniversary of the lease commencement date. There was an additional \$2.50 per rentable square foot (RSF) increase in the escalated square foot rate in the beginning of the sixth lease year. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The second lease for office space (Washington Regional Office) began on September 15, 2000 and expires on September 14, 2010. The agency pays annual rent of \$152,216, increased annually by 2.5% of the prior year's adjusted annual rent beginning with the first anniversary of the lease commencement date, except in year six. In year six (in lieu of the 2.5% increase), there was a \$1.50 increase per RSF over the adjusted annual rent per RSF paid in the previous twelve months. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The third agreement (Denver Regional Office) began on November 1, 2001 and expires on December 31, 2011. The agency pays annual rent of \$98,802, increased each year by 2% of the prior year's adjusted annual rent beginning with the first anniversary of the lease commencement date. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index. The fourth lease (Washington, DC warehouse) began on April 1, 2003 and expires on March 31, 2013. The agency pays annual rent of \$22,800, increased each year by 4% beginning with the first anniversary of the lease commencement date. MSPB also pays its pro-rata share of any property tax increases at each location.

Schedule of Future Minimum Lease Payments

FY 2009	\$ 2,473,489
FY 2010	1,782,787
FY 2011	151,938
FY 2012	62,616
FY 2013	16,226
Total Future Minimum Lease Payments	<u>\$ 4,487,056</u>

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

NOTE 7. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

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

	<u>2008</u>	<u>2007</u>
Adjudication		
Intragovernmental Costs	\$ 8,305,714	\$ 9,044,813
Public Costs	<u>28,648,933</u>	<u>28,069,479</u>
Total Program Costs	\$ 36,954,647	\$ 37,114,292
Less: Intragovernmental Earned Revenue	<u>2,579,000</u>	<u>2,602,858</u>
Net Program Costs	<u>\$ 34,375,647</u>	<u>\$ 34,511,434</u>
Management Support		
Intragovernmental Costs	\$ 908,915	\$ 949,696
Public Costs	<u>3,471,130</u>	<u>3,343,151</u>
Total Program Costs	<u>\$ 4,380,045</u>	<u>\$ 4,292,847</u>
Merit Systems Studies		
Intragovernmental Costs	\$ 280,174	\$ 236,891
Public Costs	<u>1,516,090</u>	<u>1,642,745</u>
Total Program Costs	<u>\$ 1,796,264</u>	<u>\$ 1,879,636</u>
Total Intragovernmental Costs	\$ 9,494,803	\$ 10,231,400
Total Public Costs	<u>33,636,153</u>	<u>33,055,375</u>
Total Costs	\$ 43,130,956	\$ 43,286,775
Less: Total Intragovernmental Earned Revenue	<u>2,579,000</u>	<u>2,602,858</u>
Total Net Costs	<u>\$ 40,551,956</u>	<u>\$ 40,683,917</u>

NOTE 8. OPERATING/PROGRAM COSTS

Cost by major budgetary object classification as of September 30, 2008 and 2007 are as follows:

<u>Budgetary Object Classifications</u>	<u>2008</u>	<u>2007</u>
Personnel	\$ 24,892,792	\$ 24,887,383
Benefits	8,100,891	7,839,515
Benefits to former employees	10,000	17,275
Travel	502,124	472,881
Transportation	83,017	128,101
Rents, Communication & Utilities	4,003,075	3,612,256
Printing	109,542	100,563
Other Services	2,445,321	3,339,810
Supplies and Materials	279,824	260,336
Equipment	2,551,067	2,429,313
Land and structures	153,262	195,571
Interest and dividends	41	3,771
Total	<u>\$ 43,130,956</u>	<u>\$ 43,286,775</u>

NOTE 9. IMPUTED FINANCING SOURCES

MSPB recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management (OPM). Amounts paid from the U.S. Treasury's Judgment Fund in settlement of claims or court assessments against MSPB are also recognized as imputed financing. For the fiscal years ended September 30, 2008 and 2007, respectively, imputed financing is as follows:

	<u>2008</u>	<u>2007</u>
Office of Personnel Management	\$ 1,913,271	\$ 2,146,369
Treasury Judgment Fund	-	1,812
Total Imputed Financing Sources	<u>\$ 1,913,271</u>	<u>\$ 2,148,181</u>

NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE STATEMENT OF BUDGETARY RESOURCES AND THE BUDGET OF THE UNITED STATES GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include fiscal year 2008 actual budgetary execution information has not yet been published. The President's 2010 Budget is scheduled for publication in February 2009 and will be available then at the OMB web site: <http://www.whitehouse.gov/omb>. The 2009 Budget of the United States Government, with the Actual Column completed for 2007, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. MSPB's budgetary resources obligated for undelivered orders are \$2,743,139 and \$2,102,195 for the years ended September 30, 2008 and 2007, respectively.

NOTE 12. CUSTODIAL ACTIVITY

MSPB's custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are not primary to the mission of MSPB nor material to the overall financial statements. MSPB's total custodial collections are \$1,322 and \$483 for the years ended September 30, 2008, and 2007, respectively.

NOTE 13. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

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

	2008	2007
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations incurred	\$ 39,934,808	\$ 38,838,243
Less: Spending Authority From Offsetting Collections and Recoveries	3,106,160	2,963,654
Obligations Net of Offsetting Collections and Recoveries	<u>36,828,648</u>	<u>35,874,589</u>
Net Obligations	<u>36,828,648</u>	<u>35,874,589</u>
Other Resources		
Imputed Financing From Costs Absorbed By Others	1,913,271	2,148,181
Net Other Resources Used to Finance Activities	<u>1,913,271</u>	<u>2,148,181</u>
Total Resources Used to Finance Activities	<u>\$ 38,741,919</u>	<u>\$ 38,022,770</u>
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	\$ 640,944	\$ (797,476)
Resources That Fund Expenses Recognized In Prior Periods	7,117	-
Resources That Finance the Acquisition of Assets	<u>64,184</u>	<u>237,711</u>
Total Resources Used to Finance Items Not Part of Net Cost of Operations	<u>712,245</u>	<u>(559,765)</u>
Total Resources Used to Finance the Net Cost of Operations	<u>\$ 38,029,674</u>	<u>\$ 38,582,535</u>
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	\$ 2,200	\$ -
Other	<u>477,688</u>	<u>18,828</u>
Total Components of Net Cost of Operations That Will Require or Generate Resources In Future Periods	<u>479,888</u>	<u>18,828</u>
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	2,043,754	2,086,064
Other	<u>(1,360)</u>	<u>(3,510)</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	<u>2,042,394</u>	<u>2,082,554</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources In The Current Period	<u>\$ 2,522,282</u>	<u>\$ 2,101,382</u>
Net Cost of Operations	<u>\$ 40,551,956</u>	<u>\$ 40,683,917</u>

Independent Auditor's Report on Internal Control



BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

U.S. Merit Systems Protection Board
Washington, DC

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2008 and have issued our report thereon dated November 7, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in U.S. Government Auditing Standards, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*.

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

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. Under standards issued by the American Institute of Certified Public Accountants and OMB Bulletin No. 07-04, a significant deficiency is a deficiency in internal control, or a combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be a material weakness. A material weakness is a significant deficiency, or combination of significant deficiencies, that result in a more than remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be significant deficiencies or material weaknesses as defined above.

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

A handwritten signature in black ink that reads "Brown & Company".

Largo, Maryland
November 7, 2008

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Independent Auditor's Report on Compliance with Laws and Regulations



BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

U.S. Merit Systems Protection Board
Washington, DC

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2008, and have issued our report thereon dated November 7, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in U.S. Government Auditing Standards, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*.

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

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

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

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

Largo, Maryland
November 7, 2008

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Appendix: Abbreviations and Acronyms

ADR	Alternative Dispute Resolution
AJ	Administrative Judge
ALJ	MSPB Office of Administrative Law Judge
APHIS	USDA Animal and Plant Health Inspection Service
BPD	Department of the Treasury Bureau of the Public Debt
CMS	Case Management System
CPDF	OPM's Central Personnel Data File
CSRA	Civil Service Reform Act
EEO	MSPB Office of Equal Employment Opportunity
e-OPF	Electronic Official Personnel Folder
FAM	MSPB Office of Financial and Administrative Management
FEB	Federal Executive Board
FISMA	Federal Information Security Management Act
FOIA	Freedom of Information Act
FY	Fiscal Year
GPRA	Government Performance and Results Act
HQ	MSPB Headquarters
HR	Human Resources
IDP	Individual Development Plans
IPMA	International Personnel Management Association
IPV6	Internet Protocol Version 6
IRA	Individual Rights of Action
IRM	MSPB Office of Information Resources Management
LM	Law Manager
LOB	OPM's Line of Business initiative
MAP	Mediation Appeals Program
MPS	Merit Principles Survey
MSPB	Merit Systems Protection Board
NFC	USDA National Finance Center
OAC	MSPB Office of Appeals Counsel
OCB	MSPB Office of the Clerk of the Board
OGC	MSPB Office of General Counsel
OMB	Office of Management and Budget
OPE	MSPB Office of Policy and Evaluation
OPF	Official Personnel Folder
OPM	Office of Personnel Management
ORO	MSPB Office of Regional Operations
PAR	Performance and Accountability Report
PFR	Petition for Review
RIF	Reduction in Force
RO	Regional Office
SES	Senior Executive Service
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Program
WPA	Whistleblower Protection Act

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