United States

Merit Systems Protection Board

Congressional Budget Justification For Fiscal Year 2012

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U.S. Merit Systems Protection Board
FY 2012 Congressional Budget Justification

Executive Summary

Introduction

A highly qualified Federal workforce managed under the merit principles is critical to ensuring effective and efficient Federal agency performance and service to the public. A fully funded, well-run MSPB is critical to protecting the Federal merit systems, ensuring due process, promoting Governmentwide Merit Principles (MPs) and preventing Prohibited Personnel Practices (PPPs). This FY 2012 Congressional Budget Justification (CBJ) includes an executive summary and overview of MSPB, the FY 2012 independent budget request, and the Performance Plan for FY 2012.

About MSPB

The MSPB has its origin in the Pendleton Act of 1883, which established the Civil Service Commission (CSC) and a merit-based employment system for the Federal government. The Pendleton Act grew out of the 19th century reform movement to curtail the excesses of political patronage in government and ensure a stable highly qualified workforce to serve the public. Over time, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate appeals. Concern over the inherent conflict of interest in the CSC's role as both rule-maker and judge was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA). The CSRA replaced the Civil Service Commission with three new agencies: the MSPB as the successor to the Commission;[1] the Office of Personnel Management (OPM) to serve as the President's agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority (FLRA) to oversee Federal labor-management relations. The CSRA also codified for the first time the values of the merit systems as the Merit Principles – and the Prohibited Personnel Practices.[2]

MSPB Return on Investment

Considering MSPB's relatively small size and budget, it provides enormous value to the Federal workforce and Federal agencies, and to the American taxpayer in terms of a more effective and efficient merit-based civil service that ensures high quality service to the public. MSPB provides this return on investment through its new strategic goals that fulfill our statutory mission of protecting merit and promoting merit, increasing adherence to MPs, and preventing or reducing PPPs.

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[1] Bogdanow, M., and Lanphear, T., History of the Merit Systems Protection Board, Journal of the Federal Circuit Historical Society, Volume 4, 2010

[2] Title 5 U.S.C. § 2301 and Title 5 U.S.C. § 2302, respectively

MSPB provides superior adjudication and alternative dispute resolution services that ensure due process and provide resolution of cases that are based in law, regulation, and legal precedent. Reason and legal analysis guide our decisions and serve as hallmarks of both our legal system and our merit system. As a neutral, independent, third party, MSPB adjudication adds value by improving the fairness and consistency of the process and decisions while increasing efficiency that would otherwise be impossible to achieve through separate adjudication of appeals by each agency. The body of legal precedent generated through adjudication, and the transparency and openness of the adjudication process both improve long-term effectiveness and efficiency by providing guidance to agencies and employees on proper behavior, the ramifications of improper behavior, and how to prepare and present strong cases. Strong enforcement of MSPB decisions ensures timely, effective resolution of current disputes, and it encourages more timely compliance with future MSPB decisions.

MSPB's high quality, objective merit systems studies provide value through assessment and identification of innovative and effective merit-based management policies and practices, and recommendations for improvements in policy and practice that would strengthen merit, improve adherence to MPs and reduce PPPs. For example, studies have linked improved hiring and selection, improved merit-based management, and greater employee engagement with a more qualified Federal workforce, improved organizational performance, and thus better service to the public. Merit systems studies also help reduce the occurrence and costs of PPPs that negatively affect agency and employee performance.

Under statute, MSPB is required to review the rules, regulations and significant actions of OPM. This OPM review function protects the integrity and viability of the merit systems and civil service, provides benefits similar to those related to merit systems studies, and reduces potential costs by preventing PPPs and improving adherence to MPs. This provides indirect value to the American taxpayer in decreased Governmentwide costs.

Current Status of MSPB

Upon the arrival of the current Chairman and Executive Director in November 2009, MSPB conducted major internal reviews and assessments that touched all parts of the agency including strategic and performance planning, budget and fiscal operations, personnel and executive management, and resource administration. The key to success for any agency relies upon its ability to articulate its deficiencies and implement corrections while restraining additional fiscal investment. Therefore, in conjunction with the initial reviews and assessment, MSPB conducted a series of exercises aimed at reducing costs across the agency. The cost-cutting exercises yielded immediate results by reducing some operating and administrative costs. These exercises will continue as a regular part of business. In addition, many cost-neutral changes to programs and management were implemented based on the findings of the internal reviews.

The actions that MSPB takes seek not only to optimize daily operations but also to install a permanent cultural change to ensure its continued success. The pattern of budget planning that focused primarily on annual activity rather than long-term strategic goals has resulted in

insufficient funding levels for personnel and operations. Over time, competition between these priorities created a domino effect affecting all areas of the agency, generating and sustaining key deficiencies that now threaten the accomplishment of mission. In addition to the key deficiencies (cited in the next section), unplanned contingencies and external trends complicate the already delicate equilibrium that MSPB holds between success and failure.

The impact of previous budget-year planning is apparent within current daily operations. MSPB continues to hold key positions vacant including administrative judges (AJs), legal counsels, attorneys, study analysts, administrative specialists and high-level management positions. Low staff numbers contribute to a backlog of Board-level cases and prevent succession planning for AJs and analysts, which take two years to train. Compliance for record keeping, FOIA, OpenGov, IT standards and general reporting is unmet or in jeopardy. While the agency continues to make great progress in many areas (transparency, staff realignments, outreach, performance management, executive and staff empowerment), this progress will become untenable if any negative external trend or internal contingency becomes reality (such as heavy retirements, major IT failure, furlough or RIFs).

Key MSPB Deficiencies:

- Overall strategic mission planning and ensuring optimum effectiveness
    - Little review of OPM regulations – one of four statutory functions[3]
    - Strategic goals and performance management goals that fall short of ensuring that the full scope of our statutory mission is performed (to protect and promote merit)

- Preserving the integrity of adjudication services
    - Better focus on performance measures to ensure equal agency emphasis on the quality, fairness and timeliness of hearings and decisions
    - Expanding outreach to stakeholders to improve adjudication efficiency, limit improper claims, and promote understanding of the adjudicatory process to Government agencies, employee unions and affinity groups, management organizations, good government groups, and others
    - Greater emphasis on enforcement of compliance decisions[4]
    - Address external concerns about MSPB time constraints and their impact on case development and discovery

- Preserving the integrity of merit systems studies
    - Expanding promotion of study findings to capitalize on exponential savings via better management practices and improved employee engagement
    - Tremendous scope and breadth of mission responsibility placed on a small staff
    - Expanding outreach with Government agencies and other groups on policy and practice issues that affect MPs and PPPs, restricting the implementation and impact of study recommendations, and the coordination of research planning

[3] Title 5 U.S.C. § 1204(a)(4)
[4] Title 5 U.S.C. § 1204(a)(2)

    - Scarce resources to administer full surveys and better use collected data in multiple forums to increase use and effectiveness of expended resources

- Inadequate alignment of annual budget, performance goals and resource management
    - Recent budgets do not account for the full mission (neglected OPM oversight)
    - Recent budgets focused only on sustaining annual operations without consideration for long term goals, necessary improvements and operational contingencies
    - Annual hiring delays relied upon to offset predictable operational requirements
    - No workforce/succession planning to support development of professional staff (judges and studies analysts require two years of training), further complicated by a workforce that is over 30% retirement eligible in FY 2011
    - Underestimated number of and cost per FTE, and no permanent FTE structure

External Trends and Issues Effecting MSPB's Mission and Performance

A number of significant external trends or issues are likely to affect the MSPB's mission to protect the Federal merit systems through FY 2011 and FY 2012. This section summarizes these trends and their potential impact on MSPB.

- Veterans' rights and other potential changes in law and jurisdiction
    - Potential increases in adjudication workload, case complexity, and jurisdiction due to large scale changes in law or regulation affecting merit systems and appeals

- Revisions to Federal management and employee flexibilities
    - Increases in appeals workload and case complexity
    - Increased intricacy in conducting studies and providing recommendations to ensure changes are managed under merit principles and free from PPPs
    - Additional requirements to educate management officials and employees

- Modernization of the Federal workforce toward a knowledge-based workforce
    - Additional observation and assessment of changes to ensure innovative practices that support MP and avoid violating PPPs
    - Will require coordinated modernization efforts across the government in conjunction with other agencies and departments

- Government-wide adjustments from increasing retirements and the aftereffects of budget cuts, Reductions in Force (RIF), and furloughs
    - Expected increase in appeals due to retirements (benefits claims appeals)
    - Increase in appeals due to RIFs, furloughs, agency realignments, and other actions to reduce the workforce

Actions Required to Address External Trends and Internal Deficiencies

- Modernize administrative and management processes while focusing on performance
  - Implement appropriate HR recommendations from merit system study reports
  - Increase use of technology internally, and sharpen external uses (e-appeal)
  - Rewrite the agency strategic plan, develop and implement optimum performance indicators, and create a resource management plan to challenge/justify resources
  - Create an executive culture that is accountable as agency leadership, and employ vehicles to allow staff at all levels to participate in the pursuit of best practices

- Enhancements to the flexibility and stability of the MSPB workforce
  - Workforce and Succession planning that ensures two-year training for professional staff
  - Improve employee development, career training and management opportunities
  - Reorganize and/or cross-train IT and business support staff
  - Create opportunities for legal staff (details to other offices and mediator training to develop knowledge areas for a cadre of in-house specialists)

- Correction to the budget and FTE level based on proper planning and justification
  - Correct years of inadequate budget planning and resource shortfalls
  - Ensure resources to support absorption of MSPB's full mission:
    - Substantial expansion of OPM rule and regulation oversight activity
    - Properly promote merit principles within the government, maximizing resources and effectiveness to other agencies
    - Increase studies staff to improve impact and long-term value of studies
    - Improve transparency, outreach and communication of results to ensure long term effectiveness and impact of MSPB functions

Building a Stronger, Modern and More Effective Agency

The findings from the internal reviews led to a significant overhaul of agency operations and culture, producing new strategic and performance plans, a new resources management plan (RMP, in-progress), ongoing improvements in mission effectiveness, and an engaged workforce with an emphasis on performance and transparency. The draft Strategic Plan includes new vision and mission statements, restated strategic goals and revised measures.[5] The two new strategic goals more thoroughly encompass MSPB's broad role in protecting merit and preventing PPPs as intended in the CSRA. The strategic goals also moved beyond previous strategic goals to include all of MPSB's statutory functions and responsibilities. MSPB's new vision and mission statements are included here. A complete draft of MSPB's Strategic Plan for FY 2012 – FY 2016 is included in Appendix A.[6]

[5] Beginning in FY 2012, MSPB will administer its internal management and administrative functions in support of the mission goals in the internal Resources Management Plan (RMP) rather than through the Strategic Plan or Annual Performance Plan.
[6] The new draft Strategic Plan will be distributed shortly for formal consultation in accordance with the GPRA.

Improving the Effectiveness and Long-term Impact of MSPB Functions

Over the last year, MSPB has worked to improve the effectiveness and long-term impact of its mission functions. The agency took significant actions beginning in FY 2010 to increase the transparency of its adjudication processes and decisions at headquarters. For the first time in 24 years, the Board heard oral arguments in two sets of cases with broad impact on the Government and the merit systems. The oral argument cases involved the Board's jurisdiction in reviewing adverse action cases involving the agency's revocation of a tenured employee's eligibility to hold a non-critical sensitive position, and the application of Title 5, U.S.C. Chapter 75 to cases in which OPM initiated removal of tenured employees based on suitability grounds. The Board expects to continue to hear oral arguments in cases that have broad Governmentwide impact on the Federal civil service and the merit systems.

In addition, the Board began issuing expanded explanations of its rationale in non-published decisions on petitions for review (PFRs) of certain initial decisions in order to promote understanding of the Board's decisions by the parties. We expect that in the future the majority of non-published decisions will include such expanded explanations. MSPB also improved education about the merit systems by initiating a merit-principle-a-month section on the MSPB website. Finally, for the first time since the agency's inception, MSPB is undertaking a complete review of our adjudication regulations to ensure they are consistent, up-to-date, understandable, and user friendly. This will improve the effectiveness and efficiency of the adjudication process.

The MSPB is exploring ways to strengthen and integrate oversight of OPM regulations into daily operations. MSPB improved the transparency of the studies process by soliciting considerable stakeholder input to our studies research agenda and holding a Sunshine in the Government Act meeting on the research agenda in December 2010. In addition, stakeholders can now follow MSPB on Twitter (@USMSPB). Additional information about recent agency activities is contained in the MSPB's FY 2010 Performance and Accountability Report and in MSPB's FY 2010 Annual Report, which are available on the MSPB website www.mspb.gov.

MSPB Vision and Mission

MSPB's vision is:

A highly qualified, diverse Federal workforce that is fairly and effectively managed, providing excellent service to the American people.

MSPB's mission is:

Protect the Merit Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.

MSPB accomplishes its mission by:

- Providing superior adjudication and alternative dispute resolution services for agencies, appellants and the Government that ensures due process and high quality, timely resolution of employee appeals of adverse actions, retirement decisions, and cases and complaints filed under a variety of other laws.[7]
- Ensuring strong, timely enforcement of MSPB decisions
- Conducting high quality, objective merit systems studies that support effective merit-based management, improve adherence to MPs, and discourage PPPs.
- Overseeing OPM by reviewing and acting on OPM rules and regulations if or when they require the commission of a PPP, and reviewing and reporting on the significant actions of OPM.

Board Organization

The MSPB is organized into several offices designed to conduct and support its statutory functions. The agency has three appointed Board members and is authorized 226 Full-time Equivalents (FTE) with offices in Washington, DC (headquarters) and six regional and two field offices, which are located throughout the United States. Additional information about the program offices and an organizational chart is provided in Appendix B.

[7] Including the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Veterans Employment Opportunity Act (VEOA), and the Whistleblower Protection Act (WPA), 5 U.S.C. Chapter 43, and all those set out at 5 C.F.R., Part 1201.3.

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FY 2012 Congressional Budget Justification

Summary of FY 2012 Independent Budget Request

The internal deficiencies that have developed over time require immediate resolution to allow MSPB to fulfill its statutory mission now and in the future. The tradition of planning for annual operations without consideration for long-term strategic goals that drive daily performance must end to allow for the full representation of the operational reality of the agency, and to recognize and plan for operational contingencies.

After considering the state of the agency as learned through the initial reviews and assessments under a renewed budget process that increased executive accountability and justification, it was determined that the agency must exercise its statutory independent budget authority in order to request a correction above current levels. This correction in the form of an increase of $1,725,000 accounts for accurate funding per full-time equivalent (FTE), and the FTE level necessary to cover critical functions, vacant positions, some succession planning and a modest increase to related object classes. The $46,186,000 request includes a transfer of $2,579,000 from the Civil Service Retirement and Disability Fund. The table below summarizes the proposed and independent requests.

	Proposed	FTE	Independent Budget Request	FTE
Salaries and Expense	$42,116,000		$ 43,607,000	
CSRD Reimbursement	2,345,000		2,579,000	
Total	$44,461,000	226	$ 46,186,000	235

The decision to exercise independent budget authority is based on the urgent desire to avert a developing critical internal environment that will directly interfere with the accomplishment of statutory mission. This decision, after heavy deliberation and the exhaustion of other avenues of potential relief, is to ensure that the agency can meet its operational requirements, which, in turn, strengthens the Federal government as a whole. In exercising its independent authority, the MSPB requests $43,607,000 in general funds for FY 2012 to provide for salaries and related expenses and to ensure that the agency continues to meet its strategic and annual performance goals.

The MSPB also requests a transfer of $2,579,000 from the Civil Service Retirement and Disability Fund to cover personnel compensation and benefit costs and other operating expenses associated with adjudicating retirement appeals. MSPB has authority to adjudicate appeals from a final administrative action or order affecting the rights or interests of an individual under 5 U.S.C. § 8347(d) (the Civil Service Retirement System) and 5 U.S.C. § 8461(e) (the Federal Employees' Retirement System). Pursuant to 5 U.S.C. § 8348(a)(3), the Fund is made available, subject to such annual limitation as Congress may prescribe, for any expenses incurred by the MSPB in the administration of such appeals. The total FY 2012 independent budget request of $46,186,000 will fund 235 FTE work-years of effort.

Schedule O - Object Classification (In thousands of dollars)

	FY 2010 Actual	FY 2011 CR	FY 2012 Request	Change
Direct obligations:				
Personnel compensation:				
Full-time permanent	$22,856	$24,142	$25,253	$1.111
Other than full-time permanent	380	567	588	21
Other personnel compensation	676	635	683	48
Total personnel compensation	23,912	25,344	26,524	$1,180
Civilian personnel benefits	5,889	6,068	6,534	466
Benefits for former personnel	14	0	0	0
Travel and transportation of persons	448	589	611	22
Transportation of things	57	60	56	-4
Rental payments to GSA	1,196	1,996	4,143	2,147
Rental payments to others	2,691	2,022	348	-1,674
Communications, utilities, and miscellaneous charges	491	425	771	346
Printing and reproduction	31	98	98	0
Advisory and assistance services	20	95	50	-45
Other services	1,160	1,470	1,792	322
Other purchases of goods and services from government accounts	986	1,156	1,257	101
Operation & maintenance of facilities	25	7	7	0
Operation & maintenance of equipment	395	297	516	219
Supplies & Materials	207	194	350	156
Equipment	1,671	518	550	32
Direct Obligations	39,193	40,339	43,607	3,268
Reimbursable Obligations	2,591	2,579	2,579	0
Total New Obligations	**$41,784**	**$42,918**	**$46,186**	**$3,268**

Schedule Q - Employment Summary

	FY 2010 Actual	FY 2011 CR	FY 2012 Request	Change
Direct:				
Civilian full-time equivalent employment	195	211	217	6
Reimbursable:				
Civilian full-time equivalent employment	18	15	18	3
Total	**213**	**226**	**235**	**9**

Adjustments From the FY 2011 CR Level of Funding

MSPB's FY 2012 independent budget request reflects a correction and increase of $1,986,000 (4.5%) over the anticipated FY 2011 enacted level ($44,200,000) and a $3,268,000 (7.6%) correction and increase over the current FY 10 funding level ($42,918,000), enacted under the current continuing resolution (CR). With this level of funding MSPB expects to support 235 fully funded positions and FTE in order to meet the goals and objectives of its Strategic Plan, which are driven by statutory mission. This represents a 9 FTE correction over our current authorized FTE level of 226 to account for corrected funding per FTE, and the FTE level necessary to cover critical functions, vacant positions, and some succession planning. Most of the correction in our request is related to compensating additional staff positions and the costs associated with fully funding the agency including equipment, personnel services, security clearances, travel, and training. Our request includes inflationary adjustments common to most Federal agencies. A discussion of our more significant corrections and increases (rounded to the nearest thousand) over the annualized CR funding levels follows:

Personnel Compensation and Benefits – correction of $1,646,000

Personnel compensation and benefit costs make up the largest amount of our budget submission, approximately 71% of our budget. Accordingly, any reduction in resources affects our ability to hire and maintain a highly qualified staff at our requested FTE level.

Our request also includes $68,000 to reimburse the Employment Standards Administration of the Department of Labor for workers' compensation benefits paid on behalf of MSPB employees under the Federal Employees' Compensation Act.

The MSPB can expect increased matching costs if the cap on Social Security earnings for Federal Employee Retirement System (FERS) employees is increased. Additionally, the agency expects payments for Federal Employee Health Benefits will rise as health insurance costs continue to increase for Hospital Insurance taxes as the percentage of the workforce under FERS continues to grow. Agency benefit costs, as a percentage of salaries will continue to rise as the percentage of the workforce under the FERS continues to grow.

Travel – an increase of $22,000 for travel of persons. Freight cost expected to be reduced by $4,000.

This request will allow our Office of Program Evaluation to expand its outreach efforts to critical stakeholders within and external to government, which would result in additional travel. We will also incur additional travel costs in conjunction with training for newly hired AJs. To meet our mission, AJs must frequently travel to hearing sites distant from the various regional offices. We are pursuing ways to gain better control over our travel budget, most notably through the use of electronic media.

Rent, Communications, & Utilities – increase of $819,000

The MSPB makes rental payments to the General Services Administration (GSA) for office space in its Washington DC headquarters and regional and field offices in Atlanta, Chicago, Dallas, New York, Philadelphia, and San Francisco. MSPB currently has commercial leases for office space for its Washington regional office, and the Denver field office. The Denver field office lease expires in FY 2012. The agency is currently working with GSA on lease renewals for the Washington regional office location and intends to do the same in Denver. Eventually, all future rent payments in accordance with the new leases will be made to GSA.

The balance of our request for this object class will be for network contract services, the internet, and mandated Managed Trusted Internet Protocol services as well as other telecommunication services such as VOIP and video conferencing which is used for hearings and management meetings. Postage and meter rental costs are expected to increase as the agency begins to lease rather than purchase mail metering equipment.

Other Contractual Services, Training, Operation and Maintenance – an increase of $642.000. Advisory services costs expected to be reduced by $45,000.

MSPB anticipates having to relocate our Denver office to a new building at an estimated cost of $200,000 for move related expenditures. An additional $32,000 is necessary to cover the annual inflationary cost of the agency's Reimbursable Service Agreement (RSA) with the Treasury Department's Bureau of Public Debt for accounting, financial auditing, purchasing, and travel-related services and a $141,000 increase for our RSA with APHIS for personnel services.

Our request includes $180,000 for our biannual legal conference (cancelled for FY 11). Supporting our workforce by the giving them the tools and training they need translates into a more productive workforce. To that end, we are requesting an increase of $22,000 for employee development training. For court reporting services we are requesting an additional $18,000. An additional $41,000 is for services from other agencies, leasing of printing and fax machines, as well as increases for maintenance agreements on equipment to include IT equipment.

Supplies and Subscriptions– an increase of $156,000.

MSPB will be purchasing more on-line subscriptions and reducing purchases for paper copies from legal service providers such as Westlaw.

Equipment – an increase of $32,000

The increase is primarily to fund the purchase of furniture and IT equipment for the requested staff correction.

Efforts to Reduce Costs

An agency-wide effort to reduce costs and spending began in concurrence with the Initial Reviews and Assessments completed in 2010. This effort yielded early results by augmenting the way the agency manages its resources producing immediate savings on the cost of daily operations and tightening several contract vehicles dedicated to the purchases of goods and services. MSPB also reduced spending on travel and conferences. These efforts will continue under the creation of a Resource Management Plan scheduled for implementation before FY 2012 that will align spending plans to strategic and performance goals, providing a clearer picture of mission-related expenses and a higher level of scrutiny of current services and future projects. Some of the areas affected:

- Consolidating subscriptions to online legal services, publications, and annual legal updates;
- Implementing an electronic requisition system for goods and services which should reduce costs and errors and lessen the possibility of payment errors;
- Increasing use of conference calls, web-based training and video conference meetings;
- Using a GSA Schedule Court Reporting service to serve all of our regional offices which should reduce costs;
- Leasing office machines such as printers, fax machines, and copiers when cost-benefit studies indicate leasing is the cost-effective alternative.

Adjudication and Enforcement Functions

The majority of the cases brought to MSPB are appeals of adverse actions – that is, removals, suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. The next largest number of cases involves appeals of OPM and some agency determinations in retirement matters. MSPB also receives a significant number of appeals under three important statutory authorities; the Whistleblower Protection Act (WPA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), and the Veterans Employment Opportunities Act of 1998 (VEOA). Other types of actions that may be appealed to MSPB include: performance-based removals or reductions in grade; denials of within-grade salary increases; reduction-in-force actions; suitability determinations; OPM employment practices (the development and use of examinations, qualification standards, tests, and other measurement instruments); denials of restoration or reemployment rights; and certain terminations of probationary employees.

An estimated 1.6 million Federal employees, or about 85% of the full-time civilian workforce of 1.9 million, currently have adverse action appeal rights to MSPB. That figure is likely to be low because it excludes the U.S. Postal Service, the second largest employer in the United States, whose preference eligible and managerial employees have such rights. It also does not include all of the Federal employees and applicants for Federal jobs who lack adverse action appeal rights but do have appeal rights under specific statutes such as the WPA, USERRA and VEOA.

An appellant files an appeal with the appropriate MSPB regional or field office having geographical jurisdiction. An AJ in the office ensures the parties receive the due process procedures called for in the law and in MSPB's regulations and, after providing a full opportunity to develop the record on all relevant matters, issues an initial decision. Unless a party files a Petition for Review (PFR) with the Board, the initial decision becomes final 35 days after issuance. Any party, or OPM or the Office of Special Counsel, may petition the full Board to review the initial decision. The Board's decision on a PFR constitutes the final administrative action on the appeal. In appellate cases, the Board's final decision (either a final initial decision of an AJ or the Board's decision on a PFR) may be appealed to the U.S. Court of Appeals for the Federal Circuit or, in cases involving allegations of discrimination, to a U.S. district court or the Equal Employment Opportunity Commission.

If a party believes that the other party is not complying with an MSPB order or MSPB-approved settlement agreement, the party can file a Petition for Enforcement (PFE) with the regional or field office that issued the initial decision. If the AJ finds compliance, that constitutes an initial decision and the party may file a PFR with MSPB. If the AJ finds non-compliance, the case is referred to the MSPB General Counsel, who is charged with enforcing compliance.

In addition to adjudicating cases on the merits, MSPB also provides alternative dispute resolution services to assist parties in resolving the case. Use of these services is voluntary, provides the parties more control of the process and can result in effective resolution of a case. In addition, resolving a case through ADR procedures can save time and reduce costs to the appellant, agency, and to MSPB associated with the more formal regulations and procedures involved with adjudication on the merits. MSPB provides opportunities for the parties to settle initial appeals filed in the regional offices and to settle PFRs filed at headquarters. MSPB also offers trained mediators (at no charge to the parties) who can facilitate confidential discussions between the parties to aid in addressing issues and barriers to agreement and reaching a settlement to which both parties agree. The parties control the results under the guidance of the mediator who plays no role in deciding the appeal.

Merit Systems Studies and OPM Oversight Functions

The MSPB has the statutory responsibility to conduct studies of the civil service and other merit systems in the Executive Branch and submit the resulting reports to the President and Congress. The studies support strong and viable merit systems, which protect the public's interest in a high quality, professional workforce managed under the MPs and free from PPPs. The studies are based on objective, independent research that assesses and evaluates Federal merit system policies, operations, and practice from a long-term perspective. This prospective function, in conjunction with the agency's adjudication of individual appeals and our authority to review human resource regulations, ensures that the Board has the full legal authority necessary to oversee Federal merit systems at both the systemic and individual level.

MSPB studies address the variety of challenges facing the Federal government in managing its workforce. In FY 2010, MSPB completed four external merit systems studies including: *A Call to Action: Improving First-Level Supervision of Federal Employees; Prohibited Personnel*

Practices: A Study Retrospective; Making the Right Connections: Targeting the Best Competencies for Training; and *Whistleblower Protections for Federal Employees*. MSPB successfully administered the 2010 Merit Principles Survey to over 70,000 Federal employees and supervisors, with a 60 percent response rate on the online survey. The agency has conducted extensive outreach in developing its 2011-2014 research agenda including a Sunshine in the Government Act meeting in December 2010 to present the agenda to the Board Members, answer questions, and take comments from key stakeholders. The positive impact of MSPB studies has been evident in a number of areas. The impact on policy and practice usually occurs over a period of years. Examples that are more recent include the following:

- *Implementation of a new pathways program for hiring students and recent graduates and termination of the FCIP Program:* In December 2010, the President issued an Executive Order (EO) terminating the FCIP Program and implementing a new pathways program for hiring students and recent graduates. In January 2011, OPM issued initial guidance on implementing the EO. These actions follow 2005 and 2008 MSPB study reports on the use, oversight and scope of FCIP, a 2010 *Issues of Merit* newsletter article on the status of FCIP hiring, and November 2010 Board decisions issued in *Dean v. Office of Personnel Management* and *Evans v. Department of Veterans Affairs*, finding that the FCIP violates veterans' preference.

- *Improving the Federal recruitment and selection process:* Numerous longstanding MSPB policy recommendations were enacted in the President's 2010 hiring reform initiative, introduced through the *Presidential Memorandum—Improving the Federal Recruitment and Hiring Process*. These recommendations include:
    - Making the application process less complex, being enacted through the introduction of resume-only applications;
    - Improving communication with applicants, being enacted through a systematic 4-touch approach;
    - Improving the quality of job announcements to better attract applicants;
    - Improving the validity and reliability of applicant assessment tools;
    - Educating and involving selecting officials more in the recruitment and selection process; and
    - Replacing the rule of three with category rating.

- *Improving the management of probationary employees:* Reported that OPM's regulations regarding the appeal rights of individuals serving in probationary or trial periods were misleading. In 2008, OPM finalized regulations clarifying the appeal rights of these individuals.

- *Improving the management of Federal contracts:* In 2007, OMB issued guidelines for certification of Contracting Officer Technical Representatives—the experts who help ensure that contractors are meeting contracts' technical requirements, referencing MSPB's 2005 report on managing these professionals.

- *Federal job announcements:* Evaluated Federal vacancy announcements and provided practical guidance for improvement that OPM is currently using to improve agency practices and the USAJOBs website.

MSPB also is responsible for reviewing the rules and regulations of the OPM, or the implementation of such rules and regulations, and has the authority to overturn regulations if they would require the commission of a PPP. In addition, MSPB is responsible for reviewing and reporting on the significant actions of OPM. MSPB's review of the significant actions of OPM is included as part of the MSPB Annual Report. (The MSPB Annual Report for FY 2010 can be obtained on the MSPB website www.mspb.gov.) MSPB will be expanding and integrating these OPM oversight function in FY 2011 and FY 2012.

Management Support Functions

As discussed earlier, beginning in FY 2012, MSPB will administer its management support programs through an internal RMP. This plan will include management of human capital, EEO, budget and financial resources, information technology, and other agency-wide administrative programs and initiatives.[8]

[8] The RMP also links other agency documents such as the Strategic Human Capital Management Plan, Strategic Information Technology and Security Plan, Open Government Plan, and other similar documents.

United States

Merit Systems Protection Board

Performance Plan (Proposed)

for

FY 2012

U.S. Merit Systems Protection Board
Performance Plan for FY 2012 (Proposed)

Introduction

A highly qualified, diverse Federal workforce managed under the Merit Principles (MPs) and free from Prohibited Personnel Practices (PPPs) is critical to ensuring high-quality agency performance and service to the public. The U.S. Merit Systems Protection Board (MSPB) protects the Federal merit systems and promotes Governmentwide merit system principles. This Annual Performance Plan is based on the draft MSPB Strategic Plan for FY 2012 – FY 2016.[9]

About MSPB

MSPB has its origins in the Pendleton Act of 1883, which was passed following the assassination of President Garfield by a frustrated Federal job seeker. The Pendleton Act created the Civil Service Commission (CSC) and provided the foundation for improvements in Government efficiency and effectiveness by helping to ensure that a stable, highly qualified Federal workforce, based on merit and free from partisan political pressure, was available to provide effective service to the American people. Over time, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate appeals. Concern over the inherent conflict of interest in the CSC's role as both rule-maker and judge was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA). The CSRA replaced the Civil Service Commission with three new agencies: the MSPB as the successor to the Commission;[10] the Office of Personnel Management (OPM) to serve as the President's agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority to oversee Federal labor-management relations. The CSRA also codified for the first time the values of the merit systems as the Merit Principles (MPs) – and the Prohibited Personnel Practices (PPPs).[11]

MSPB inherited the adjudication functions of the Commission by providing due process to employees and agencies as an independent, third-party adjudicatory authority for employee appeals of adverse actions and retirement decisions. Since the CSRA, Congress has given jurisdiction to MSPB to hear cases and complaints filed under a variety of other laws.[12] MPSB was given the authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and enforce compliance with final MSPB decisions. MPSB was also given broad new authority to conduct independent, objective studies of the Federal merit systems and Federal human capital management issues, and the authority and responsibility to review and act on the regulations of

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[9] In accordance with GPRA and OMB guidance, MSPB's FY 2011 Performance Plan, which is based on the MSPB Strategic Plan for FY 2010 – FY 2015, is included as Appendix C.

[10] Bogdanow, M., and Lanphear, T., History of the Merit Systems Protection Board, Journal of the Federal Circuit Historical Society, Volume 4, 2010

[11] Title 5 U.S.C. § 2301 and Title 5 U.S.C. § 2302, respectively

[12] Including the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Veterans Employment Opportunity Act (VEOA), and the Whistleblower Protection Act (WPA), 5 U.S.C. Chapter 43, and all those set out at 5 C.F.R., Part 1201.3.

OPM, and to review and report on the significant actions of OPM.[13] In summary, the statutory functions of MSPB include adjudicating a wide range of employee appeals, enforcing compliance with MSPB decisions, conducting studies of the Federal merit systems, and overseeing OPM.

Serving the Merit Systems, the Federal Workforce, and the Public

Considering MSPB's relatively small size and budget, it provides enormous value to the Federal workforce and Federal agencies, and to the American taxpayer in terms of better service to the public and a more effective and efficient merit-based civil service. MSPB adds value by providing superior adjudication services, including alternative dispute resolution, which ensure due process and result in resolutions that are based in law, regulation, and legal precedent – and not on non-merit factors, or on emotion. MSPB's adjudication process is guided by reason and legal analysis which are hallmarks of both our legal system and our merit system. As a neutral, independent, third party, MSPB's adjudication of appeals improves the fairness and consistency of the process and resulting decisions and is more efficient than it would be possible to achieve with separate adjudication of appeals by each agency. The body of legal precedent generated through adjudication, and the transparency and openness of the adjudication process, improve long-term effectiveness and efficiency by providing guidance to agencies and employees on proper behavior, the ramifications of improper behavior, and how to prepare and present strong cases. Strong enforcement of MSPB decisions ensures timely, effective resolution of current disputes and encourages more timely compliance with future MSPB decisions.

MSPB's high quality, objective merit systems studies provide value through assessment and identification of innovative and effective merit-based management policies and practices and recommendations for improvements. For example, improved hiring and selection, improved merit-based management, and greater employee engagement leads to a highly qualified Federal workforce, improved organizational performance, and better service to the public. They also help reduce the occurrence and costs of PPPs that negatively affect agency and employee performance. Review of OPM significant actions, rules, and regulations protects the integrity and viability of the merit systems and civil service, provides benefits similar to those related to merit systems studies, and reduces potential costs by preventing PPPs, and improving adherence to MPs. This provides indirect value to the American taxpayer in decreased Governmentwide costs.

Links to Other Agency Plans and Documents

This Annual Performance Plan (APP) is based on the MSPB Strategic Plan for FY 2012 – FY 2016 (draft). The draft of the new Strategic Plan is attached here for your information and will soon be distributed for stakeholder consultation and feedback. The new Strategic Plan includes an updated agency mission statement, a new vision statement, new organizational values, restated strategic goals and revised measures.[14]

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[13] The MSPB may on its own motion, or at the request of other parties, review and potentially overturn OPM regulations if such regulations, or the implementation of such regulations, would require an employee to commit a PPP. MSPB is also responsible for annually reviewing and reporting on the significant actions of OPM.

[14] It was also determined that MSPB administrative and support functions would be administered through an internal Resource Management Plan (RMP).

The two new strategic goals more thoroughly encompass MSPB's broad role in protecting merit and preventing PPPs as intended in the CSRA. The new strategic goals also moved beyond previous strategic goals to include all of MPSB's statutory functions and responsibilities. The first strategic goal focuses on reviewing and taking action on individual appeals and on reviewing and assessing existing and proposed merit system laws, regulations and practices to identify best practices and areas for improvement. The second strategic goal focuses on efforts to inform and encourage policy-makers to take actions that improve merit, on conducting outreach to improve the practice of merit in the workplace, and on improving merit systems education that will strengthen merit systems, promote adherence to MSPs, and prevent PPPs in the future. These two strategic goals recognize the importance of taking what we do in terms of protecting merit and promoting those lessons in strategic goal two to strengthen merit, increase adherence to MPs, and prevent or reduce PPPs. The overall, long term result is better management, improved employee and agency performance, better service to the public, and increased value to the taxpayer.

The FY 2012 Annual Performance Plan (APP) includes strategic objectives as program performance goals, performance measures, and annual performance targets designed to move the agency incrementally on a path to achieve its strategic goals. The performance measures include the outcomes, outputs, and processes that are critical to successful achievement of our strategic goals. The performance goals, measures, and targets describe what we can accomplish with the budgetary and FTE resources requested in the FY 2012 Congressional Budget Justification (CBJ) accompanying this APP. The FY 2012 CBJ describes the resources required to begin implementing changes in the strategic direction of the agency, take the first critical steps toward achieving our new strategic goals, and correct for several years of inadequate budget requests. In recognition of this tight budgetary environment, MSPB has intentionally requested fewer resources for FY 2012 that those justified. This reduction is reflected in reduced performance targets and lengthening the period of time for shifting toward our new strategic direction. If budgetary and/or FTE resources approved for FY 2012 fall short of the requested amount, MSPB will necessarily adjust the measures and targets provided in this APP.

Beginning in FY 2012, MSPB will administer its internal management and administrative functions in support of the mission goals in an internal Resources Management Plan (RMP) rather than through the Strategic Plan or Annual Performance Plan. The RMP also links other agency documents such as the Strategic Human Capital Management Plan, Strategic Information Technology and Security Plan, Open Government Plan, and other similar documents. The agency's Senior Executive Service Performance Rating Plans are linked to the APPs and to the RMP. Individual employee performance plans are linked through the RMP, and, as appropriate, to the APPs. MSPB reports program performance results compared to its APPs, along with financial accountability results, in the Annual Performance and Accountability Report (PAR). The Strategic Plan, APPs, and PARs are posted on MSPB public website, when appropriate and in accordance with GPRA and OMB guidance.

The Mission, Vision, Values, Strategic Goals, and Objectives of MSPB

MSPB Mission

Protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.

MSPB Vision

A highly qualified, diverse Federal workforce that is fairly and effectively managed, providing excellent service to the American people.

MSPB Organizational Values

Excellence: We will base our decisions on statute and legal precedent, use appropriate scientific research methods to conduct our studies and make practical recommendations for improvement, and develop and use appropriate processes to oversee the regulations and significant actions of OPM. We will interact with our customers and stakeholders in a professional, respectful, and courteous manner. We will strive to be a model merit-based organization by applying the lessons we learn in our work to the internal management of MSPB.

Fairness: We will conduct our work in a fair, unbiased, and objective manner. We will be inclusive in considering various perspectives and interests of stakeholders in our work, and in our external and internal interactions with individuals and organizations.

Timeliness: We will issue timely decisions on initial appeals and petitions for review in accord with our performance goals and targets. We will issue timely reports on the findings and recommendations of our merit system studies. We will respond promptly to inquiries from customers and stakeholders.

Transparency: We will make our regulations and procedures easy to understand and follow. We will communicate with our customers and stakeholders using clear language and make our decisions, merit systems studies, and other materials easy to understand and widely available and accessible on our website. We will enhance the understanding of our processes and impact of our products through outreach efforts.

MSPB Strategic Goals and Objectives

Strategic Goal 1: **Serve the public interest by *protecting* merit system principles and *safeguarding* a civil service free of Prohibited Personnel Practices**

Objectives/Performance Goals:

1A: Provide understandable, high-quality resolution of appeals supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes

1B: Enforce timely compliance with MSPB decisions

1C: Conduct objective, timely studies of the Federal merit systems and human capital management issues

1D: Review, determine, and act upon the rules, regulations, and significant actions of the Office of Personnel Management

Strategic Goal 2: **Advance the public interest through *education* and *promotion* of stronger merit systems, adherence to Merit Principles, and *prevention* of Prohibited Personnel Practices**

Objectives/Performance Goals:

2A: Inform, promote and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit systems laws and regulations

2B: Support and improve the practice of merit, adherence to MPs and prevention of PPPs in the workplace through outreach

2C: Advance the understanding of the concept of merit, MPs, and PPPs through educational programs conducted by MSPB, or by others based on merit education guidance established by MSPB

Measuring Achievement of Our Performance Goals

Strategic Goal 1: Serve the public interest by *protecting* merit system principles, and *safeguarding* a civil service free of Prohibited Personnel Practices

1A. Provide understandable, high-quality resolution of appeals supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes

1A-1 Percent of MSPB initial decisions filed on PFR with the Board

Results:	FY 2011 and prior years:	New measure in FY 2012
Targets	FY 2012:	Establish measurement process and set future targets

1A-2 Percent of MSPB decisions left unchanged upon review by an Appellate Court

Results:	FY 2011 and prior years:	New measure in FY 2012
Targets:	FY 2012:	Establish measurement process and set future targets

1A-3 Percent of adjudication participants surveyed each year who agree MSPB initial appeals processes are fair, open, accessible, understandable and easy to use

Results:	FY 2011 and prior years:	New measure in FY 2012
Targets:	FY 2012:	Establish measurement process and set future targets

1A-4 Average processing time for initial appeals

Results:	FY 2007:	89 days
	FY 2008:	87 days
	FY 2009:	83 days
	FY 2010:	89 days
	FY 2011:	89 days (as of 31 Dec 2010)
Targets:	FY 2011:	90 days or less
	FY 2012:	100 days or less[15]

1A-5 Average processing time for PFRs

Results:	FY 2007:	132 days
	FY 2008:	112 days
	FY 2009:	94 days
	FY 2010:	134 days
	FY 2011:	210 days (as of 31 Dec 2010)
Targets:	FY 2011:	150 days or less
	FY 2012:	220 days or less[16]

[15] See Development and Revision of Performance Measures and Targets.
[16] See Development and Revision of Performance Measures and Targets.

1A-6 Percent of ADR adjudication participants surveyed each year who agree the ADR process was helpful, valuable, and non-coercive, even if no agreement was reached

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

1B. Enforce timely compliance with MSPB decisions

1B-1 Average processing time for enforcement cases at headquarters

Results: FY 2008 and prior years: N/A New measure and target in FY 2009

FY 2009: 171 days

FY 2010: 180 days

FY 2011: 250 days (as of 31 Dec 2010)

Targets: FY 2011: 200 days or less

FY 2012: 200 days or less[17]

1C. Conduct objective, timely studies of Federal merit systems and human capital management issues

1C-1 Percent of external studies stakeholders surveyed who rate published reports as being objective, timely, and well written

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

1C-2 Number and scope of reports published each year

Results: FY 2007: Three reports completed or published

FY 2008: Six reports completed or published

FY 2009: Six reports completed or published

FY 2010: Five reports completed or published

FY 2011: Three draft reports completed and under review

Targets: FY 2011: Six reports completed

FY 2012: 3-5 reports completed

1D. Review, determine, and act upon the rules, regulations, and significant actions of the Office of Personnel Management

1D-1 Number and scope of OPM rules and regulations made, or implementation of the same, that are reviewed

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

[17] See Development and Revision of Performance Measures and Targets.

1D-2 Number and scope of OPM significant actions that are reviewed

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

Strategic Goal 2: Advance the public interest through *education* and *promotion* of stronger merit systems, adherence to the Merit Principles, and the *prevention* of Prohibited Personnel Practices

Performance Measurement:

2A. Inform, promote and/or encourage action by policy-makers, as appropriate, that strengthen Federal merit systems laws and regulations[18]

2A-1 Number and audience of contacts with Governmentwide policy-makers (Congress, CHCO Council, OPM, and others involved in merit systems policy) focused on supporting or improving Governmentwide merit systems laws and regulations

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2A-2 Number of references to MSPB documents or recommendations in policy papers or by policy-makers

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2A-3 Number, type and scope of MSPB products created to inform policy makers on improvements to merit systems policy, laws and regulations

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2A-5 Increased downloads MSPB precedential decisions, studies, and other materials containing support for or recommendations to improve merit systems policies, laws, regulations

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2B. Support and improve the practice of merit, adherence to MPs and prevention of PPPs in the workplace through outreach[19]

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[18] This includes contacts with Governmentwide policy-makers including Congress, CHCO Council, OPM and others involved in Governmentwide merit systems policy that focus on information gained from adjudication case law, oral arguments, merit system studies, and oversight of OPM, etc.

[19] Our advisory responsibility is critical to the maximum success and efficiency of both strategic goals. This includes contacts (e.g., presentations, speeches, meetings, web content, participation in committees and panels) that are with stakeholders involved in the practice of merit (e.g., agency senior leaders and Chief Human Capital Officer (CHCO) Council, Human Resource (HR) Directors, HR specialists, employees, the media, and other stakeholder groups).

2B-1 Number and scope of MSBP contacts (type and size of audience of meetings, presentations, etc.) with stakeholders focused on improving the practice of merit in the workplace

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2B-2 Increased number of requests for MSPB input or advice on improving merit from practitioners (agency HR staff, managers, employees, good government organizations and other groups involved in the practice of merit)

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2B-3 Increased downloads MSPB precedential decisions, studies, and other materials containing support for or recommendations to improve the practice of merit in the workplace

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2C. Advance the understanding of the concept of merit, MPs, and PPPs through educational programs conducted by MSPB, or by others based on merit education guidance established by MSPB

2C-1 Number and type of merit system educational materials and guidance MSPB makes available per year

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2C-2 Number and scope (level, type, and number of audience members) of educational outreach presentations per year

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

2C-3 Number and type of educational materials downloaded from the MSPB website per year

Results: FY 2011 and prior years: New measure in FY 2012

Targets: FY 2012: Establish measurement process and set future targets

Development and Revisions of Performance Measures and Targets

The performance measures proposed for tracking achievement of our performance goals for FY 2012 reflect critical outcomes, outputs, or processes needed to achieve the performance goals. Tracking progress on our performance goals over time will provide critical evidence of achievement of our strategic goals. For the performance measures proposed for FY 2012, MSPB will continue to review and assess new proposed measures during FY 2011 and may adjust those measures based on our review, Congressional actions taken on the FY 2011 and FY 2012 budgets, FY 2011 performance results, and consultation feedback on our new Strategic Plan. In FY 2012, MSPB will develop appropriate measurement processes for the new measures and set future targets. MSPB plans to continue using selected measures of adjudication timeliness and merit systems studies output that have been used for several years. A review of those measures and rationale for the proposed FY 2012 targets for those measures is provided below.

Average case processing time for initial appeals (measure 1A-4) will continue to be used to measure processing time for initial appeals. While there are various ways to measure timeliness, the number of days it takes to process a case, averaged over all of the cases closed each year represents a straightforward, meaningful measure of overall processing time at the agency level. This overall measure of processing timeliness, along with measures of adjudication decision quality and of the perceptions participants have of the fairness and openness of the adjudication and ADR processes, provides a balanced set of measures of the adjudication function.

Early targets for average processing time for initial appeals were set at 120 days or less. The target was reduced to 90 days or less following implementation of the statutory human resources management flexibilities granted to the Department of Homeland and Security and the Department of Defense in 2003 and 2004. Both of those systems have been terminated, along with the requirement to process their cases in 90 days or less. Since that time, there have been concerns from adjudication participants that MSPB time constraints have a potential negative impact on case development and discovery. There is also a growing consensus that the legal and factual aspects of cases have become more complex over time.

In addition, several senior adjudication staff members have retired in the last 3 years, and approximately 25% of MSPB staff is retirement eligible in FY 2011. These losses, accompanied by restrictions on hiring resulting from budget limitations in the last several years, and the 2-3 year period it takes for new staff members to reach full performance, have reduced the overall capacity of our adjudication staff. For all of these reasons, we believe it is necessary to increase the target for average processing time for initial appeals to 100 days or less in FY 2012. Depending on actions taken on the FY 2011 and FY 2012 budgets and other factors, it may be necessary to increase the FY 2012 target further.

Average case processing time for PFRs (measure 1A-5: number of days to process a PFR average over all PFRs closed during the year) will continue to be used to measure processing time for PFRs. The PFR process is different from the initial appeals process and involves several MSPB offices and participants. The Office of the Clerk of the Board (OCB) receives the case and coordinates case documents required or submitted by the parties, attorneys in the Office of Appeals Counsel (OAC) review the cases and draft proposed decisions, and each MSPB Board Member reviews and votes on each case. Following the voting process, OAC revises the final decision and writes dissenting opinions, if appropriate, and OCB records and releases the case.

Various factors, most of which are not under the control of MSPB, have an impact on PFR processing timeliness. These factors include the number and complexity of PFRs filed with the Board, the number and expertise of OAC attorneys available to review the case and write proposed decisions and the number of highly skilled attorneys assigned to the Board Member Offices (usually from OAC and thus not available to write proposed decisions). In addition, the number of Board Members, their relative experience with Board procedures, the interests and priorities of new Board Members, and intentional changes and improvement in the PFR process also affect timeliness. When OAC is fully staffed with more experienced attorneys, when the Board Members are experienced with MSPB procedures, when OAC staff have adjusted to the interests and priorities of new Board Members, and when the PFR process is stable, PFR processing time is relatively shorter. However, when one or more of these factors becomes as issue, PFR processing time can become significantly longer over a short period of time. When this happens, the inventory of PFR cases grows and it can take 1-2 years or longer to re-balance the system, and reduce PFR processing time.

Overall processing time for PFRs slowed in FY 2010. Four factors contributed to this result. Conservative hiring decisions in FY 2009, and assignment of OAC's top attorneys to the offices of new Board members, led to a higher than average number of vacancies among the attorneys who process PFRs and draft proposed PFR decisions for the Board Members. Vacancies due to retirement or transfer of senior OAC attorneys reduced the number of highly experienced attorneys available to draft proposed PFR decisions. The arrival of two new Board Members increased Board membership to its authorized level of three Board members. PFR processing time normally increases when three rather than two Board members review cases. Temporary increases in processing time also occurs as MSPB attorneys adapt to the style and priorities of new Board members, and the new Board members gain experience with MSPB procedures and processes. Finally, MSPB intentionally adjusted the PFR process toward the end of FY 2010 to increase the explanatory information provided in non-published PFR decisions. This change in process is an important part of our efforts to improve the transparency of the PFR process by providing more information on MSPB's decisions to the parties of the case.

Resolution of these issues will continue through FY 2011. At present, MSPB is unable to hire new attorneys due to restrictions on the budgets over the last several years. Our FY 2011 PFR processing targets reflect our commitment to achieving an average processing time for PFRs at 150 days or less. Given the status of our staff and current restrictions on hiring, we are not likely to achieve our PFR processing targets in FY 2011. Therefore, we have set our FY 2012 target for PFR average processing time at 220 days or less. Depending on decisions made on the budget over the next few months, and other factors, MSPB may need to lengthen the target for average PFR processing time.

The MSPB will continue to measure average processing time for enforcement cases at headquarters in FY 2012 (measure 1B-1). The enforcement process at headquarters includes actions taken by MSPB staff to research the case, notify the alleged non-compliant party (sometimes more than once), as well as the time it takes both parties to submit relevant information regarding compliance. The FY 2012 target of 200 days or less for average case processing time for enforcement cases reflects both MSPB's activities, as well as those of the parties. While the FY 2012 target of 200 days or less for average case processing time for enforcement cases is slightly higher than the results achieved in FY 2010, it is consistent with the FY 2011 target which reflects a higher degree of complexity in the issues presented for resolution in enforcement cases, as well as an increase in the amount of time required to obtain the necessary information from the parties to adequately address such issues.

The MSPB will also continue to measure the number and scope of merit systems studies completed each year. Depending on the breadth and depth of the particular topic of a study, the method of collecting data, the complexity of the data and data analyses, and the relative expertise of the project manager and analysts involved in the study, it may take from 18-30 months to complete a study. In recent years, we have completed between three and six reports of studies each year. Because of the many factors that can impact the study process, and variability in the number of reports completed each year, our FY 2012 target is a range of three to six completed reports.

The Means and Strategies Needed to Accomplish our Goals

Strategic Goal 1

1. Provide effective and efficient adjudication of initial appeals in our regional and field offices, and of PFRs and original jurisdiction cases at headquarters; increase legal training and expertise of adjudication staff; monitor adjudication performance and accountability; and improve adjudication customer satisfaction
2. Provide effective, impartial, professional ADR services (including initial appeals and PFR settlement programs and MAP) to meet the needs of the parties
3. Ensure effective representation of MSPB in cases brought before other bodies including, but not limited to, U.S. District Courts, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Supreme Court
4. Provide effective and efficient processing of requests for compliance with MSPB decisions
5. Conduct objective studies of the Federal merit systems and Federal management issues and practices, report findings and recommend actions to strengthen the merit systems, improve the practice of merit, and reduce the occurrence of PPPs
6. Expand the review of OPM rules, regulations and significant actions and take appropriate action to ensure adherence to MPs and avoidance of PPPs
7. Increase transparency and outreach regarding adjudication processes and outcomes, and review of OPM rules, regulations, and significant actions

Strategic Goal 2

1. Assess and report on the overall health of the merit systems, practice of merit, and occurrence of PPPs through periodic surveys
2. Translate information from adjudication processes and results, merit systems studies, and results of OPM oversight into outreach products designed to influence actions by policy-makers and practitioners that will improve merit, adherence to MPs and prevention of PPPs
3. Provide appropriate information about adjudication processes, outcomes and legal precedent to support adjudication participants' ability to prepare and file strong cases with MSPB
4. Expand the studies program capacity and increase the value and impact of studies
5. Develop educational materials about merit, MPs, PPPs, adjudication, and other Federal employment issues and make them widely available through the website, web 2.0 and other appropriate mechanisms

6. Encourage the development of compelling public educational tools to improve the public's understanding of the merit system and its relationship to excellent service to the public
7. Develop training guidelines for Federal employees on merit systems, MPs and PPPs and encourage agencies to develop and implement training modules based on these guidelines to improve the understanding and practice of merit in the workplace
8. Increase transparency and outreach regarding actionable recommendations to improve the practice of merit and prevent PPPs

Agency-wide Means and Strategies (Administered through the Resources Management Plan)

1. Manage people effectively and efficiently, adhering with MPs and avoiding PPPs
    a. Hire and retain a diverse high-quality legal, analytic, and administrative workforce that can effectively accomplish and support the knowledge-based work of the agency
    b. Walk the talk – implement appropriate recommendations from study reports to improve adherence to MPs and avoid PPPs

2. Manage budget, financial, and other resources effectively and efficiently
    a. Use of people and budgetary resources effectively and efficiently to ensure adequate staff to accomplish our goals and continue the value we provide, now and in the future
    b. Improve budget planning and development to ensure complete justification of funds, FTE, operational requirements, and contingencies, and prevent the need to routinely delay hiring to fund operational and mission requirements

3. Lead and manage agency technology, facilities, procedures, and processes effectively and efficiently
    a. Ensure access to and increase the use of e-Appeal Online, continue to shift from paper-based work processes to electronic work processes
    b. Develop and implement an IT hardware, software, and systems plans and schedules to support effective and efficient MSPB adjudication, studies, OPM oversight, and administrative programs
    c. Improve the ability to administer and host surveys in support of our studies function and better leverage the high quality Governmentwide data we collect
    d. Improve MSPB's program evaluation capability
    e. Improve efficiency and effectiveness of other administrative and management programs and processes including appropriate use of interagency agreements and contractors

Trends and Challenges that May Effect Agency Performance

A number of significant external trends and internal challenges are likely to effect MSPB's mission in FY 2012. This section lists these trends and challenges and their potential effect on MSPB.

External Trends

- Veterans' rights and potential changes in law
  - Large increases in adjudication workload and jurisdiction, increased case complexity
  - Increased complexity in studying the merit systems and overseeing OPM

- Revisions to management policies and employee flexibilities
  - Increases in appeals and case complexity
  - Increased complexity studying merit and making recommendations to ensure workforce is managed under the MPs and free from PPPs
  - Increased need to promote merit and educate management officials about merit, MPs and PPPs

- Increases in the number of Federal employees retiring, modernizing Federal workforce policy and employee competencies to perform knowledge-based work:
  - Some increase in appeals due to increased retirements (benefits claims)
  - Need to study how changes impact MPs and PPPs
  - Increased need to promote merit in the Federal workplace and educate the Federal workforce about the merit, MPs and PPPs

- Budget cuts, Reductions in Force (RIF), and workforce adjustments
  - Increase in appeals due to potential RIFs and actions taken in lieu of or in preparation for RIFs
  - Continue to study and make recommendations on how to ensure merit and avoid PPPs

Internal Management Challenges

- Mission planning and ensuring optimum effectiveness
  - Improve and strengthen performance of our statutory function to review and take appropriate action on OPM regulations[20]
  - Revise Strategic Plan to encompass all statutory functions and focus on our role to protect and promote merit
  - Improve integration of performance goals to the annual budget process to ensure legislative intent to protect and promote merit
  - Improve leadership culture and structure, and internal and external agency communication, to improve performance in the short and long term

[20] Title 5 U.S.C. § 1204(a)(4)

- Adjudication services and enforcement
    - Address external concerns about MSPB time constraints and the potential negative impact such constraints have on case development and discovery
    - Balance performance measures of adjudication quality, fairness, and timeliness
    - Increase outreach to improve adjudication effectiveness and efficiency, and understanding of the adjudicatory process
    - Increase emphasis on enforcement of compliance decisions[21]

- Effectiveness of merit systems studies
    - Improvements in distribution and promotion of information to capitalize on savings via better management, higher employee engagement, and fewer appeals
    - Small increase in staff to maximize the value and impact of studies to the Government and the taxpayer
    - Increase outreach to coordinate research plans and improve implementation of study recommendations that improve Federal management and service to the public
    - Improve ability to administer surveys and use collected data to increase effectiveness and efficiency of Government as a whole

- Effectiveness of performance and budget planning, and resource management
    - Justify budgets to support the full mission and improve planning for operational requirements, program improvements and contingencies
    - Eliminate the routine use of hiring delays to offset operational requirements
    - Improve workforce planning including succession planning and support for employee development to ensure and sustain availability of high-quality professional and technical staff (over 25% of MSPB staff is retirement eligible in FY 2011); and establish an accurate and stable FTE structure

Program Evaluation, and Verification and Validation of Performance Data

Program Evaluation

MSPB programs broadly impact Federal merit systems and Federal management, and they generate significant value for Federal agencies and the public. Effective program evaluation is critical to ensuring MSPB can continue to effectively and efficiently achieve its mission, and provide value to the civil service and to the public, now and in the future.

The MSPB is committed to high-quality program evaluation. However, ensuring our ability to perform our statutory mission, as well as ensuring compliance with requirements of the Government Performance and Results Act (GPRA), the GPRA Modernization Act of 2010, and recent program evaluation guidance from the Office of Management and Budget (OMB), will require increased resources and program evaluation staff. A relatively small increase in program evaluation resources and staffing will yield large potential return in efficiency and cost savings for MSPB, which will in

[21] Title 5 U.S.C. § 1204(a)(2)

turn improve the value MSPB brings to agencies, Federal employees, individual parties to cases, and to the public.

In FY 2012, assuming appropriate resources are available, MSPB plans to continue the program evaluations begun in FY 2010 and FY 2011, and undertake independent program evaluations of three additional mission and administrative support programs. In addition, in FY 2012, MSPB will continue efforts to improve coordination and oversight of its customer satisfaction surveys to improve the consistency and comparability of the data and the use of such data in guiding program changes and improvements. Based on obtaining requested program evaluation resources, a projected program evaluation schedule is provided below.

Program evaluation schedule

Program	Evaluation Start Year
Administrative program structure, staffing, and functions	2010
PFR case processing	2010
Review of OPM rules, regulations, and significant actions	2011
IT program planning and implementation	2011
Functions of the Office of Regional Operations	2012
Case processing in the regional and field offices	2012
HR Management and EEO functions	2012

Verification and Validation of Performance Information

Most of the quantitative measures of adjudication performance come from Law Manager (LM) our case management system. Other quantitative and qualitative measures of program performance are reported by program offices. The LM system was implemented in FY 2002 to track basic information about the type of case, and location and timeliness information during case processing. Since that time, there has been an increasing need to gather and assess information about cases and case processing that the LM system was either not designed to collect or that has not been reliably collected. Assuming appropriate resources are available in FY 2011 and FY 2012, MSPB will continue its efforts to improve the consistency, validity, and verifiability of information reported in agency plans and used to manage MSPB programs, including:

- Continuing the assessment of the LM system to determine if changes need to be made to satisfy current and potential needs for information to manage our adjudication programs
  - Validation and verification of LM data
  - Design, structure and type of data in the system
  - LM procedures
- Assessing the systems and procedures used by program offices to track and report performance information for other agency measures
- Improving coordination and oversight of performance measurement processes.

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Appendix A: MSPB Strategic Plan for FY 2012 – FY 2016 (Draft)

United States

Merit Systems Protection Board

Strategic Plan

for

FY 2012 – FY 2016

(Draft)

U.S. Merit Systems Protection Board
Strategic Plan for FY 2012 – 2016 (Draft)

Introduction

A highly qualified, diverse Federal workforce managed under the Merit Principles (MPs) and free from Prohibited Personnel Practices (PPPs) is critical to ensuring high-quality agency performance and service to the public. The U.S. Merit Systems Protection Board (MSPB) protects the Federal merit systems and promotes Governmentwide merit system principles.

About MSPB

The U.S. Merit Systems Protection Board has its origin in the Pendleton Act of 1883, which was passed following the assassination of President Garfield in 1881 by a frustrated Federal job seeker. The Pendleton Act created the Civil Service Commission (CSC or the Commission) and provided the foundation for improvements in Government efficiency and effectiveness by helping to ensure that a stable, highly qualified Federal workforce, free from partisan political pressure, was available to provide effective service to the American people.

Over time, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate appeals. Concern over the inherent conflict of interest in the CSC's role as both rule-maker and judge was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA). The CSRA replaced the Civil Service Commission with three new agencies: the MSPB as the successor to the Commission;[22] the Office of Personnel Management (OPM) to serve as the President's agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority to oversee Federal labor-management relations. The CSRA also codified for the first time the values of the merit systems as the Merit Principles (MPs)[23] – and the Prohibited Personnel Practices (PPPs).[24]

During hearings on the CSRA, the role and functions of MSPB were described during testimony by various members of Congress: ". . . [MSPB] will assume principal responsibility for safeguarding merit principles and employee rights" and be "charged with insuring adherence to merit principles and laws" and with "safeguarding the effective operation of the merit principles in practice."[25] MSPB inherited the adjudication functions of the Commission by providing due process to employees and agencies as an independent, third-party adjudicatory authority for employee appeals of adverse actions and retirement decisions. Since the CSRA, Congress has given jurisdiction to MSPB to hear cases and complaints filed under a variety of other laws.[26] MPSB was given the authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and enforce compliance with final MSPB decisions. MPSB was also given broad new authority to

[22] Bogdanow, M., and Lanphear, T., History of the Merit Systems Protection Board, Journal of the Federal Circuit Historical Society, Volume 4, 2010

[23] Title 5 U.S.C. § 2301

[24] Title 5 U.S.C. § 2302

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

[26] Including the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Veterans Employment Opportunity Act (VEOA), and the Whistleblower Protection Act (WPA), 5 U.S.C. Chapter 43, and all those set out at 5 C.F.R., Part 1201.3.

conduct independent, objective studies of the Federal merit systems and Federal human capital management issues. In addition, MSPB was given the authority and responsibility to review and act on the regulations of OPM, and review and report on the significant actions of OPM.[27] In summary, the statutory functions of MSPB include adjudicating a wide range of employee appeals, enforcing compliance with MSPB decisions, conducting studies of the Federal merit systems, and overseeing OPM.

Serving the Merit Systems, the Federal Workforce, and the Public

The Federal merit systems are based on widely accepted organizational management practices and values that have been developed and reinforced through historical experience. There are costs and benefits associated with merit-based management of the Federal workforce. Values such as fairness in all personnel matters, hiring and advancement based on qualifications and performance, protection from arbitrary personnel decisions and from undue partisan political influence, and assurance of due process incur necessary costs, at least in the short-term. However, these costs are offset by the benefits associated with ensuring a stable, highly qualified workforce that serves in the public's interest over the long-term rather than at the pleasure of current political leaders. The goal is a strong, highly qualified, stable merit-based civil service.

Considering MSPB's relatively small size and budget, it provides enormous value to the Federal workforce and Federal agencies, and to the American taxpayer in terms of better service to the public and a more effective and efficient merit-based civil service. MSPB adds value by providing superior adjudication services, including alternative dispute resolution, which ensure due process and result in resolutions that are based in law, regulation, and legal precedent – and not on non-merit factors, or on emotion. MSPB's adjudication process is guided by reason and legal analysis which are hallmarks of both our legal system and our merit system. As a neutral, independent, third party, MSPB's adjudication of appeals improves the fairness and consistency of the process and resulting decisions and is more efficient than separate adjudication of appeals by each agency. The body of legal precedent generated through adjudication, and the transparency and openness of the adjudication process improve long-term effectiveness and efficiency by providing guidance to agencies and employees on proper behavior, the ramifications of improper behavior, and how to prepare and present strong cases. Strong enforcement of MSPB decisions ensures timely, effective resolution of current disputes and encourages more timely compliance with future MSPB decisions.

MSPB's high quality, objective merit systems studies provide value through assessment and identification of innovative and effective merit-based management policies and practices, and recommendations for improvements. For example, improved hiring and selection, improved merit-based management, and greater employee engagement leads to a highly qualified Federal workforce, improved organizational performance, and better service to the public. They also help reduce the occurrence and costs of PPPs that negatively affect agency and employee performance. Review of OPM significant actions, rules, and regulations protects the integrity and viability of the merit systems and civil service, provides benefits similar to those related to merit systems studies, and reduces costs in terms of fewer PPPs, improved employee performance, less employee misconduct, fewer adverse actions, and fewer unsubstantiated appeals. This provides indirect value to the American taxpayer in decreased Governmentwide costs.

[27] The MSPB may on its own motion, or at the request of other parties, review and potentially overturn OPM regulations if such regulations, or the implementation of such regulations, would require an employee to commit a PPP. MSPB is also responsible for annually reviewing and reporting on the significant actions of OPM.

Developing this Strategic Plan

In mid-FY 2010, the leaders and senior managers of MSPB, the President of the MSPB Professional Association, and key staff participated in an offsite meeting to review the strategic direction of the agency. Following the offsite meeting, small groups of agency leaders and managers met to draft more detailed narrative and contents for select sections of a new MSPB Strategic Plan. Additional information on the means and strategies used to accomplish our goals, program evaluation, and links to other agency program planning documents are also included in this draft Strategic Plan.

The offsite meeting resulted in proposed changes to the agency mission statement, a new vision statement, new organizational values, restated strategic goals and revised measures.[28] The two new strategic goals more thoroughly encompassed MSPB's broad role in protecting merit and preventing PPPs as intended in the CSRA. The new strategic goals also moved beyond previous strategic goals to include all of MPSB's statutory functions and responsibilities. The first strategic goal focuses on reviewing and taking action on individual appeals, and reviewing and assessing existing and proposed merit system laws, regulations and practices to identify best practices and areas for improvement. The second strategic goal focuses on efforts to inform and encourage policy-makers to take actions that improve merit, conducting outreach to improve the practice of merit in the workplace, and improving merit systems education that will strengthen merit systems, promote adherence to MSPs, and prevent PPPs in the future. These two strategic goals recognize the importance of taking what we do in terms of protecting merit and promoting those lessons in strategic goal two to strengthen merit, increase adherence to MPs, and prevent or reduce PPPs. The overall, long term result is better management, improved employee and agency performance, better service to the public, and increased value to the taxpayer.

[28] It was also determined that MSPB administrative and support functions would be administered through an internal Resource Management Plan (RMP).

The Mission, Vision, Values, Strategic Goals, and Objectives of MSPB

MSPB Mission

Protect the Merit Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.

MSPB Vision

A highly qualified, diverse Federal workforce that is fairly and effectively managed, providing excellent service to the American people.

MSPB Organizational Values

Excellence: We will base our decisions on statute and legal precedent; use appropriate scientific research methods to conduct our studies and make practical recommendations for improvement; and develop and use appropriate processes to oversee the regulations and significant actions of OPM. We will interact with our customers and stakeholders in a professional, respectful, and courteous manner. We will strive to be a model merit-based organization by applying the lessons we learn in our work to the internal management of MSPB.

Fairness: We will conduct our work in a fair, unbiased, and objective manner. We will be inclusive in considering various perspectives and interests of stakeholders in our work, and in our external and internal interactions with individuals and organizations.

Timeliness: We will issue timely decisions on initial appeals and petitions for review in accord with our performance goals and targets. We will issue timely reports on the findings and recommendations of our merit system studies. We will respond promptly to inquiries from customers and stakeholders.

Transparency: We will make our regulations and procedures easy to understand and follow. We will communicate with our customers and stakeholders using clear language and make our decisions, merit systems studies, and other materials easy to understand and widely available and accessible on our website. We will enhance the understanding of our processes and impact of our products through outreach efforts.

MSPB Strategic Goals and Objectives

Strategic Goal 1: **Serve the public interest by *protecting* merit system principles, and *safeguarding* a civil service free of Prohibited Personnel Practices**

Objectives:

1A: Provide understandable, high-quality resolution of appeals supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes

1B: Enforce timely compliance with MSPB decisions

1C: Conduct objective, timely studies of the Federal merit systems and human capital management issues

1D: Review, determine, and act upon the rules, regulations, and significant actions of the Office of Personnel Management

Strategic Goal 2: **Advance the public interest through *education* and *promotion* of stronger merit systems, adherence to Merit Principles, and *prevention* of Prohibited Personnel Practices**

Objectives:

2A: Inform, promote and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit systems laws and regulations

2B: Support and improve the practice of merit, adherence to MPs and prevention of PPPs in the workplace through outreach

2C: Advance the understanding of the concept of merit, MPs, and PPPs through educational programs conducted by MSPB, or by others based on merit education guidance established by MSPB

Measuring Achievement of Our Strategic Objectives

Strategic Goal 1: Serve the public interest by *protecting* merit system principles, and *safeguarding* a civil service free of Prohibited Personnel Practices

Performance Measurement:

1A. Provide understandable, high-quality resolution of appeals supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes

- Percent of MSPB decisions not dismissed that are affirmed by Court of Appeals for the Federal Circuit over time
- Percent of adjudication participants and stakeholders over time who agree MSPB decisions are understandable, thoughtful, and legally sound (though they may not agree with outcome of decision)
- Average case processing time for initial appeals and petitions for review of initial appeals (PFRs) over time
- Percent of adjudication participants over time who agree that MSPB adjudication processes are fair, open, accessible, easy to use, and understandable
- Percent of ADR program participants (including the initial appeals settlement, PFR settlement and Mediation Appeals Program (MAP)) over time who agree the ADR process was helpful, valuable, and non-coercive even if no agreement was reached

1B. Enforce timely compliance with MSPB decisions

- Average processing time for enforcement cases over time

1C. Conduct objective, timely studies of Federal merit systems and human capital management issues

- Percent of stakeholders who agree that research agenda-setting process was inclusive and the resulting agenda included topics with high potential to strengthen Federal merit systems policies and practices
- Percent of external stakeholders over time who rate studies as being objective, timely, and well written
- Number and scope of studies produced over five year period

1D. Review, determine, and act upon the rules, regulations, and significant actions of the Office of Personnel Management

- Number and scope of OPM rules or regulations, or implementation of the same, reviewed over time
- Number and scope or percent of OPM significant actions reviewed over time

Strategic Goal 2: Advance the public interest through *education* and *promotion* of stronger merit systems, adherence to the Merit Principles, and the *prevention* of Prohibited Personnel Practices

Performance Measurement:

2A. Inform, promote and/or encourage action by policy-makers, as appropriate, that strengthen Federal merit systems laws and regulations[29]

- Number and scope of changes in merit systems policies, rules, regulations and laws that strengthen merit, improve adherence to MPs and prevent PPPs over time
- Appropriateness and scope of topic areas addressed in contacts with policy-makers regarding changes in Governmentwide policies, rules, regulations, and laws that strengthen the merit systems, improve adherence to MPs, or prevent PPPs over time
- Number and audience of contacts with Governmentwide policy-makers focused on supporting or improving Governmentwide merit systems laws and regulations over time

2B. Support and improve the practice of merit, adherence to MPs and prevention of PPPs in the workplace through outreach[30]

- Percent of agencies that adopt one or more best practices or recommendations for improvement over time
- Number and scope of MSBP contacts with stakeholders focused on improving the practice of merit in the workplace over time

2C. Advance the understanding of the concept of merit, MPs, and PPPs through educational programs conducted by MSPB, or by others based on merit education guidance established by MSPB

- Percent of agencies that educate employees about the merit system, MPs and PPPs over time
- Number and scope of educational information about the merit systems, MPs and PPPs, MSPB decisions, appeals process, studies, newsletters, etc., requested, accessed or downloaded from MSPB website over time
- Number and type of merit system educational materials and guidance MSPB makes available over time

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[29] This includes contacts with Governmentwide policy-makers including Congress, CHCO Council, OPM and others involved in Governmentwide merit systems policy that focus on information gained from adjudication case law, oral arguments, merit system studies, and oversight of OPM, etc.

[30] Our advisory responsibility is critical to the maximum success and efficiency of both strategic goals. This includes contacts (e.g., presentations, speeches, meetings, web content, participation in committees and panels) that are with stakeholders involved in the practice of merit (e.g., agency senior leaders and Chief Human Capital Officer (CHCO) Council, Human Resource (HR) Directors, HR specialists, employees, the media, and other stakeholder groups).

The Means and Strategies Needed to Accomplish our Goals

Strategic Goal 1

1. Provide effective and efficient adjudication of initial appeals in our regional and field offices, and of PFRs and original jurisdiction cases at headquarters; increase legal training and expertise of adjudication staff; monitor adjudication performance and accountability; and improve adjudication customer satisfaction
2. Provide effective, impartial, professional ADR services (including initial appeals and PFR settlement programs and MAP) to meet the needs of the parties
3. Ensure effective representation of MSPB in cases brought before other bodies including, but not limited to, U.S. District Courts, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Supreme Court
4. Provide effective and efficient processing of requests for compliance with MSPB decisions
5. Conduct objective studies of the Federal merit systems and Federal management issues and practices, report findings and recommend actions to strengthen the merit systems, improve the practice of merit, and reduce the occurrence of PPPs
6. Expand the review of OPM rules, regulations and significant actions and take appropriate action to ensure adherence to MPs and avoidance of PPPs
7. Increase transparency and outreach regarding adjudication processes and outcomes, and review of OPM rules, regulations, and significant actions

Strategic Goal 2

1. Assess and report on the overall health of the merit systems, practice of merit, and occurrence of PPPs through periodic surveys
2. Translate information from adjudication processes and results, merit systems studies, and results of OPM oversight into outreach products designed to influence actions by policy-makers and practitioners that will improve merit, adherence to MPs and prevention of PPPs
3. Provide appropriate information about adjudication processes, outcomes and legal precedent to support adjudication participants' ability to prepare and file strong cases with MSPB
4. Expand the studies program capacity and increase the value and impact of studies
5. Develop educational materials about merit, MPs, PPPs, adjudication, and other Federal employment issues and make them widely available through the website, web 2.0 and other appropriate mechanisms
6. Encourage the development of compelling public educational tools to improve the public's understanding of the merit system and its relationship to excellent service to the public
7. Develop training guidelines for Federal employees on merit systems, MPs and PPPs and encourage agencies to develop and implement training modules based on these guidelines to improve the understanding and practice of merit in the workplace

8. Increase transparency and outreach regarding actionable recommendations to improve the practice of merit and prevent PPPs

Agency-wide Means and Strategies (Administered through the Resources Management Plan)

1. Manage people effectively and efficiently, adhering with MPs and avoiding PPPs
   - Hire and retain a diverse high-quality legal, analytic, and administrative workforce that can effectively accomplish and support the knowledge-based work of the agency
   - Walk the talk – implement relevant recommendations from study reports to improve adherence to MPs and avoid PPPs

2. Manage budget, financial, and other resources effectively and efficiently
   - Use of people and budgetary resources effectively and efficiently to ensure adequate staff to accomplish our goals and continue the value we provide, now and in the future
   - Improve budget planning and development to ensure complete justification of funds, FTE, operational requirements, and contingencies, and prevent the need to routinely delay hiring to fund operational and mission requirements

3. Lead and manage agency technology, facilities, procedures, and processes effectively and efficiently
   - Ensure access to and increase the use of e-Appeal Online, continue to shift from paper-based work processes to electronic work processes
   - Develop and implement an IT hardware, software, and systems plans and schedules to support effective and efficient MSPB adjudication, studies, OPM oversight, and administrative programs
   - Improve the ability to administer and host surveys in support of our studies function and better leverage the high quality Governmentwide data we collect
   - Improve MSPB's program evaluation capability
   - Improve efficiency and effectiveness of other administrative and management programs and processes including appropriate use of interagency agreements and contractors

Trends and Challenges that May Effect Agency Performance

A number of significant external trends and internal challenges are likely to effect MSPB's mission through FY 2016. This section lists these trends and challenges and their potential effect on MSPB.

External Trends

- Veterans' rights and potential changes in law
  - Large increases in adjudication workload and jurisdiction, increased case complexity
  - Increased complexity in studying the merit systems and overseeing OPM

- Revisions to management policies and employee flexibilities
  - Increases in appeals and case complexity
  - Increased complexity studying merit and making recommendations to ensure workforce is managed under the MPs and free from PPPs
  - Increased difficulty ensuring that new and amended regulations ensure adherence to MPs and avoidance of PPPs
  - Increased need to promote merit and educate management officials about merit, MPs and PPPs

- Increases in the number of Federal employees retiring, modernizing Federal workforce policy and employee competencies to perform knowledge-based work:
  - Some increase in appeals due to increased retirements (benefits claims)
  - Need to study how changes impact MPs and PPPs
  - Increased need to promote merit in the Federal workplace and educate the Federal workforce about the merit, MPs and PPPs

- Budget cuts, Reductions in Force (RIF), and workforce adjustments
  - Increase in appeals due to potential RIFs and actions taken in lieu of or in preparation for RIFs
  - Need to study and make recommendations on how to ensure merit and avoid PPPs

Internal Management Challenges

- Mission planning and ensuring optimum effectiveness
  - Improve and strengthen performance of our statutory function to review and take appropriate action on OPM regulations[31]
  - Revise Strategic Plan to encompass all statutory functions and focus on our role to protect and promote merit
  - Improve integration of performance goals to the annual budget process to ensure legislative intent to protect and promote merit

[31] Title 5 U.S.C. § 1204(a)(4)

- Improve leadership culture and structure, and internal and external agency communication, to improve performance in the short and long term

- Adjudication services and enforcement
  - Address external concerns about MSPB time constraints and the potential negative impact such constraints have on case development and discovery
  - Balance performance measures of adjudication quality, fairness, and timeliness
  - Increase outreach to improve adjudication effectiveness and efficiency, and understanding of the adjudicatory process
  - Increase emphasis on enforcement of compliance decisions[32]

- Effectiveness of merit systems studies
  - Improvements in distribution and promotion of information to capitalize on savings via better management, higher employee engagement, and fewer appeals
  - Small increase in staff to maximize the value and impact of studies to the Government and the taxpayer
  - Increase outreach to coordinate research plans and improve implementation of study recommendations that improve Federal management and service to the public
  - Improve ability to administer surveys and use collected data to increase effectiveness and efficiency of Government as a whole

- Effectiveness of performance and budget planning, and resource management
  - Justify budgets to support the full mission and improve planning for operational requirements, program improvements and contingencies
  - Eliminate the routine use of hiring delays to offset operational requirements
  - Improve workforce planning including succession planning and support for employee development to ensure and sustain availability of high-quality professional and technical staff (over 25% of MSPB staff is retirement eligible in FY 2011); and establish an accurate and stable FTE structure

[32] Title 5 U.S.C. § 1204(a)(2)

Program Evaluation, and Verification and Validation of Performance Data

Program Evaluation

MSPB programs broadly impact Federal merit systems and Federal management, and they generate significant value for Federal agencies and the public. Effective program evaluation is critical to ensuring MSPB can continue to effectively and efficiently achieve its mission now and in the future.

The MSPB is committed to high-quality program evaluation. However, ensuring our ability to perform our statutory mission, as well as ensuring compliance with requirements of the Government Performance and Results Act (GPRA) and recent program evaluation guidance from the Office of Management and Budget (OMB), will require increased resources and program evaluation staff. A relatively small increase in program evaluation resources and staffing will yield large potential return in efficiency and cost savings for MSPB, which will in turn improve the value MSPB brings to agencies, Federal employees, individual parties to cases, and to the public.

Mission and administrative support programs should be evaluated to ensure they are implemented as planned and delivering the services and outcomes intended. Evaluations should include customer satisfaction and stakeholder feedback, and the degree to which programs achieve intended results in the short and long term, and at the organizational and Governmentwide levels. MSPB has conducted internal program evaluations of several of its adjudication and administrative programs. The MSPB also collects customer satisfaction data from adjudication and merit systems studies customers and stakeholders, and from internal customers of our administrative programs. These data are typically collected, analyzed, and reported by the office responsible for carrying out the program.

In the next few years, MSPB needs to undertake independent program evaluations of several of its mission and administrative support programs. In addition, MSPB needs to improve coordination and oversight of its customer satisfaction efforts to improve the consistency and comparability of the data and its use in guiding program changes and improvements. Based on obtaining requested program evaluation resources, a projected program evaluation schedule is provided below.

Program evaluation schedule

Program	Evaluation Start Year
Administrative program structure, staffing, and functions	2010
PFR case processing	2010
Review of OPM rules, regulations, and significant actions	2011
IT program planning and implementation	2011
Functions of the Office of Regional Operations	2012
Case processing in the regional and field offices	2012
HR Management and EEO functions	2012
Merit System Studies	2013
Functions of the Office of the Clerk of the Board	2013
Functions of the Office of the General Counsel	2013

Verification and Validation of Performance Information

Most of the quantitative measures of adjudication performance come from Law Manager (LM) our case management system. Other quantitative and qualitative measures of program performance are reported by program offices. The LM system was implemented in FY 2002 to track basic information about the type of case, and location and timeliness information during case processing. Since that time, there has been an increasing need to gather and assess information about cases and case processing that the LM system was either not designed to collect or that has not been reliably collected. In FY 2011, we will begin assessing the LM system and the degree to which it provides valid and verifiable performance information for agency performance measures. In addition, it is important to assess the design of the system and its procedures to determine if changes need to be made in its structure, in how and what type of data are input, and to determine what changes should be made to the LM system to satisfy current and potential needs for information to manage our adjudication programs effectively. The systems used by the program offices to track and report performance information for other agency measures also need to be assessed. Better coordination and oversight of performance measurement processes will help ensure consistency, validity, and verifiability of information reported in agency plans and used to manage MSPB programs.

Links to Other Agency Plans and Cross-Cutting Documents

This Strategic Plan provides the foundation for MSPB's work for the next several years. In accordance with GPRA, MSPB Annual Performance Plans (APPs) include program performance goals, measures, and annual performance targets designed to move the agency incrementally on a path to achieve its strategic goals. The APPs are published as part of the Performance Budget provided to OMB and in the Congressional Budget Justification submitted to Congress. MSPB reports program performance results as compared to its APPs, along with financial accountability results, in the Annual Performance and Accountability Report (PAR). The Strategic Plan, APPs, and PARs are posted on MSPB public website, when appropriate and in accordance with GPRA and OMB guidance.

The MSPB Resources Management Plan (RMP) is an internal agency document that guides the agency's internal management and administrative functions in support of the mission goals included in the Strategic Plan and APPs. The RMP also links other agency documents such as the Strategic Human Capital Management Plan, Strategic Information Technology and Security Plan, Open Government Plan, and other similar documents.

The agency's Senior Executive Service Performance Rating Plans are linked to the APPs and to the RMP. Individual employee performance plans are linked through the RMP, and, as appropriate, to the APPs.

Governmentwide Indicators of a Strong Merit-based Civil Service

MSPB cannot achieve its purpose to protect and promote a strong merit-based civil service on its own. There are many important participants and stakeholders who must do their part in establishing and implementing merit-based policies, and in applying these policies in the everyday practice of merit in the workplace. If everyone does their part, a strong merit-based civil service will consist of a stable, highly qualified workforce managed under the MPs and free from PPPs. MSPB cannot control the ultimate strength of the merit systems, or the degree to which other stakeholders do their part in supporting a strong merit system. However, we suggest that the following long-term Governmentwide indicators may illustrate important aspects of creating and maintaining a strong merit-based civil service. These are truly long-term indicators with changes becoming evident over a period of several years, beyond even the period of time covered in a strategic plan.

- ✓ Higher Governmentwide employee engagement and improved organizational management leading to higher organizational performance
- ✓ Federal employees perceive improved adherence to the MPs
- ✓ Long term decrease in the actual or perceived occurrence of PPPs, or in the perception of the adverse impact of PPPs
- ✓ A reduction in performance, disciplinary, or conduct actions (following an initial spike in such actions due to better understanding of the concept of merit, MPs, PPPs, and the appeals process)
- ✓ Increase in the percent of Federal employees, supervisors, managers and leaders who understand the basis of the Federal merit systems, the MPs, and PPPs
- ✓ Increased percent of employees agree they trust the Federal merit systems appeals process
- ✓ Increased and more timely compliance with MSPB decisions
- ✓ Increase in reported level of public's trust in of Federal civil servants or employees

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Appendix B: Organization and structure of MSPB

MSPB program offices and their functions

The three **Board Members** adjudicate the cases brought to the MSPB. The bipartisan Board consists of the Chairman, Vice Chairman and Member, with no more than two of its three members from the same political party. Board members are nominated by the President, confirmed by the Senate, and serve over-lapping, non-renewable 7-year terms. The **Chairman**, by statute, is the chief executive and administrative officer of the MSPB. The Office Directors report to the Chairman through the **Executive Director**.

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

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

The **Office of the Clerk of the Board** receives and processes cases filed at MSPB headquarters, rules on certain procedural matters, and issues MSPB decisions and orders. The office serves as MSPB's public information center, coordinates media relations, produces public information publications, operates MSPB's library and on-line information services, and administers the Freedom of Information Act and Privacy Act programs. The office also certifies official records to the courts and Federal administrative agencies, and manages MSPB's records systems, legal research systems, and the Government in the Sunshine Act program.

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

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

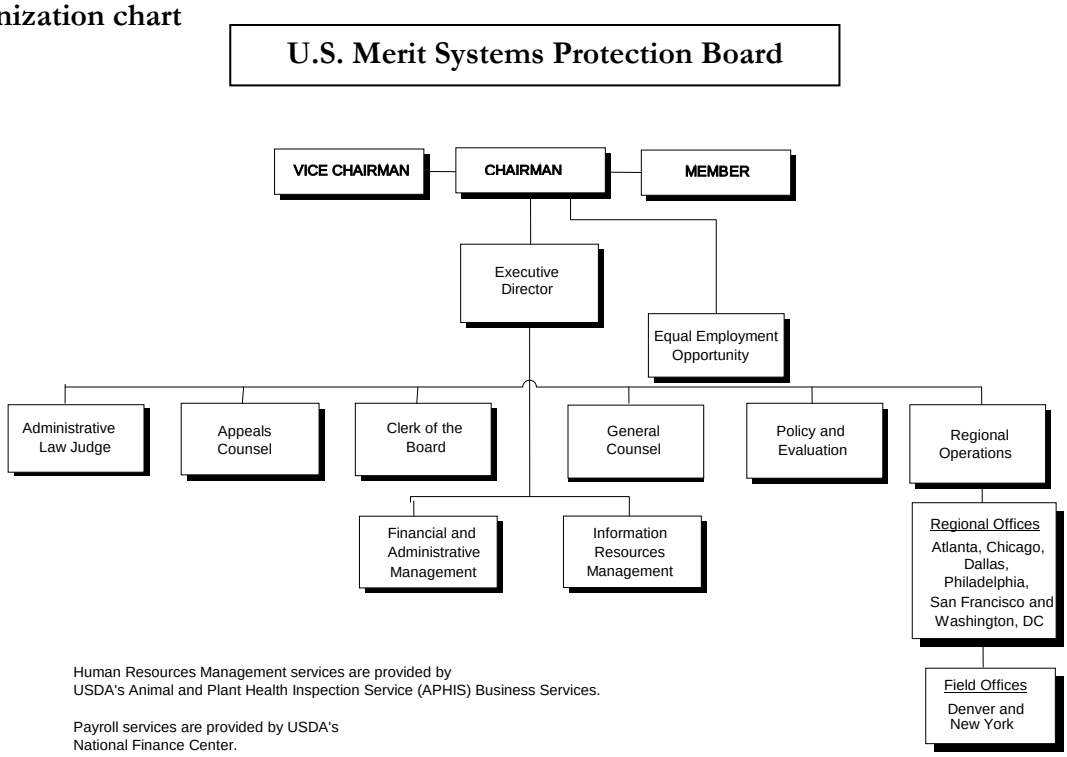
The **Office of the General Counsel**, as legal counsel to MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents MSPB in litigation; prepares proposed decisions for the Board to enforce a final MSPB decision or order, in response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

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

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

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

Organization chart



Human Resources Management services are provided by USDA's Animal and Plant Health Inspection Service (APHIS) Business Services.

Payroll services are provided by USDA's National Finance Center.

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

Appendix C: MSPB FY 2011 Performance Plan (Final)

United States

Merit Systems Protection Board

Performance Plan for FY 2011

December 20, 2010

Overview of the Performance Plan

The budget and the performance plan of the Merit Systems Protection Board (MSPB) are integrated so that the funding request can easily be compared to the performance goals. The performance budget is structured on the basis of MSPB's FY 2010-FY 2015 Strategic Plan, which has three strategic goals: adjudication, merit systems studies, and management support and organizational excellence. The MSPB's performance goals cover the critical components of each strategic goal, and the performance measures support our ability to manage and report performance over time. The performance targets for FY 2011 are consistent with the proposed performance budgets for those years.

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 impact merit.

Adjudication Performance Plan

Summary

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

Performance Goals

1.1 Issue high-quality decisions.

1.2 Issue timely decisions.

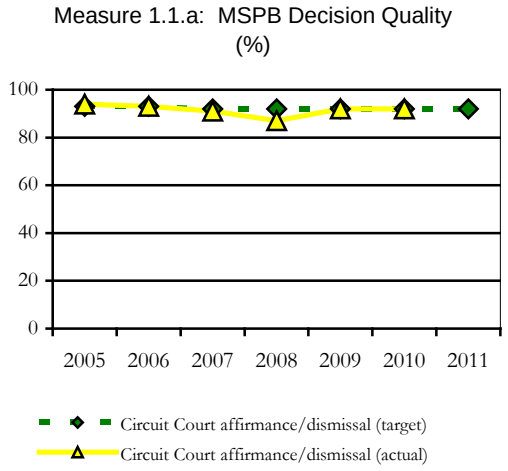
1.3 Make effective use of alternative methods of dispute resolution.

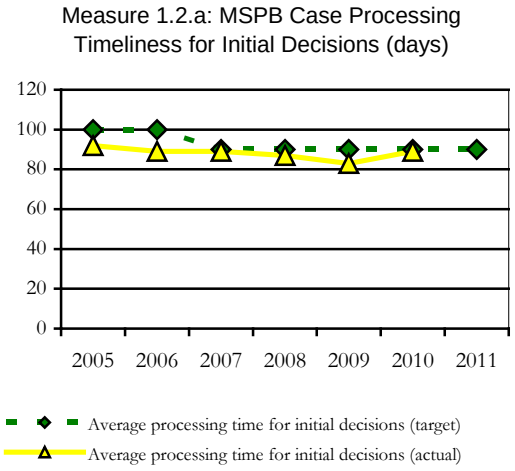
1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

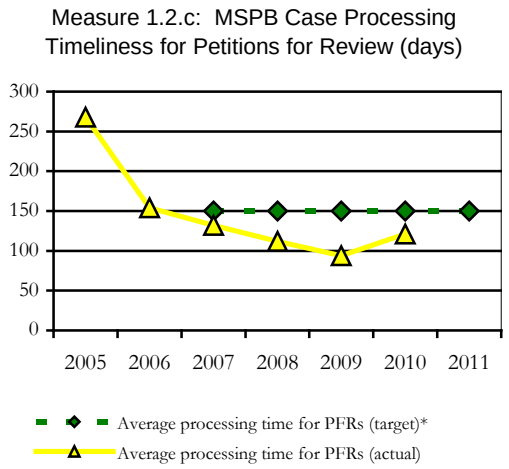
Resources

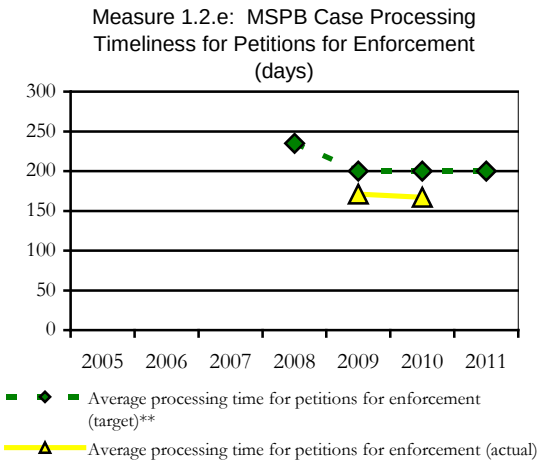
	FY 2010 (enacted)	FY 2011 (requested)
Budget $ (000)	$35,286	$36,380
% of total MSPB resources	82%	82%

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









Performance Goals, Measures, and Results

Performance Goal 1.1: Issue high-quality decisions.

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

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

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

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

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

Performance Goal 1.2: Issue timely decisions.

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

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

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

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

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

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

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

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

Performance Goal 1.2: (Continued)

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

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

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

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

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

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

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

Performance Goal 1.3: (Continued)

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

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

*** The methods for measuring the success rate for the PFR settlement program have been found to be inconsistent. We are continuing to review the methodology used to measure program success and impact; our efforts will continue in FY 2011. The targets for FY 2012 will be determined based on FY 2011 results.

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

Results

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

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

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

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

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

Targets

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

FY 2011 50% success rate or better.

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

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

Performance Goal 1.4: Measure 1.4.a (Continued)

Results

FY 2006 New measure in FY 2007.

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

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

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

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

Targets

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

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

Merit Systems Studies Performance Plan

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 (PPPs).

Performance Goals

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

2.2 Assess the application of merit in the workplace.

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

Resources

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

Selected Results

Significant impact of MSPB merit systems studies

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

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

Selected recent merit systems studies (beginning with most recent)

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

Performance Goals, Measures, and Results

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

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

Results

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

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

Performance Goal 2.1: Measure 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 the MSPB website. Assessed the scope of study reports and selected research topics from the existing research agenda.

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

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

Targets

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

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

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

Results

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

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

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

FY 2009 Tracked references to findings and recommendations in policy, professional literature, legislation, and the media. Following numerous MSPB studies that advocate better applicant recruitment, assessment, and communication, OPM included many of MSPB's recommendations in its end-to-end hiring process as well as instructions to agencies on how to improve job announcements and hiring processes. Following the release of two employee engagement studies, numerous requests were received for more information about engagement from Federal agencies, Congress, oversight agencies such as OMB and GAO, good- government groups, and the media. Testified by invitation before the House Armed Services Readiness Subcommittee about government hiring practices and before the Defense Business Board about pay for performance. Findings and recommendations of studies were highlighted by numerous media outlets, including the *Washington Post*, *Federal Times*, *Government Executive*, Federal News Radio, and others.

Performance Goal 2.1: Measure 2.1.b (Continued)

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

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

Targets

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

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

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

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

Results

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

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

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

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

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

Performance Goal 2.2: Measure 2.2.a (Continued)

Targets

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

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

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

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

Results

FY 2006 New measure in FY 2007.

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

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

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

Performance Goal 2.3: Measure 2.3.a (Continued)

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

Targets

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

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

Management Support and Organizational Excellence Performance Plan

Summary

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

Performance Goals

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

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

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

Resources

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

Performance Goals, Measures, and Results

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

3.1.a: Ensure timely recruitment and a workforce with the right competencies.

Results

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

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

Performance Goal 3.1: Measure 3.1.a (continued)

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

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

Targets

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

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

3.1.b: Improve the diversity of the MSPB workforce and increase employee knowledge and appreciation of individual differences, including how diversity can positively impact agency results.

Results

FY 2007 New measure in FY 2008.

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

Performance Goal 3.1: Measure 3.1.b (Continued)

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

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

Targets

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

FY 2011 Examine and identify ways to expand the diversity of our applicant pool through targeted recruitment and use of appropriate hiring authorities. Review ways to measure employee understanding and knowledge of diversity management and its linkage to improved productivity and mission results.

Performance Goal 3.1 (continued)

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

Results

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

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

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

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

Targets

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

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

Performance Goal 3.1 (Continued)

3.1.d: Effectively implement appropriate recommendations from MSPB merit systems study reports.

Results

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

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

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

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

Targets

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

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

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

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

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

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

Targets

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

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

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

Results

FY 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.

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

Performance Goal 3.2 (continued)

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

Targets

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

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

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

Results

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

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

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

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

Targets

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

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

Performance Goal 3.2: (continued)

3.2.d: Comply with information management regulatory requirements.

Results

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

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

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

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

Targets

FY 2010 Comply with information management regulatory requirements.

FY 2011 Comply with information management regulatory requirements.

Performance Goal 3.3: 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 2007 Achieved unqualified opinion on the FY 2006 financial audit; maintained accurate, up-to-date budget and accounting ledgers; began update of internal Financial Management Manual.

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

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

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

Targets

FY 2010 Achieve unqualified opinion on the annual financial audit.

FY 2011 Achieve unqualified opinion on the annual financial audit.

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

Results

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

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

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

Performance Goal 3.3: Measure 3.3.b (continued)

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

Targets

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

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