U.S. Merit Systems Protection Board

Performance and Accountability Report for FY 2011

November 15, 2011

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Foreword

The U.S. Merit Systems Protection Board (MSPB) presents its Performance and Accountability Report (PAR) for Fiscal Year (FY) 2011. This report contains the annual audited financial statement required by the Accountability of Tax Dollars Act of 2002 (ATDA, Public Law 107-289) and the annual performance report required by the Government Performance and Results Modernization Act of 2010 (GPRAMA, Public Law 111-372). The financial accountability report section of the PAR also includes the annual report on internal controls required by the Federal Managers' Financial Integrity Act (FMFIA, Public Law 97-255) and the report required by the Federal Financial Management Improvement Act (FFMIA, Public Law 104-208). This report also includes information about MSPB appeals processing as required by Section 7701(i) (1) and (2) of Title 5 United States Code.

The PAR has been prepared in accordance with guidance provided by the Office of Management and Budget (OMB) and other sources. The MSPB PAR for FY 2011 was prepared by Government employees, except for some clerical support and the audit, which was conducted by independent auditors. MSPB will post the FY 2011 PAR on its website, www.MSPB.gov, on November 15, 2011 and electronically notify official recipients of its availability. MSPB will duplicate and bind copies of the PAR sufficient to meet the specific needs of Congress.

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

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Find out more about MSPB at www.mspb.gov, and follow us on Twitter @USMSPB.

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U.S. Merit Systems Protection Board
Fiscal Year 2011
Performance and Accountability Report

Message from the Chairman

It is my honor to submit the FY 2011 Performance and Accountability Report (PAR) for the U.S. Merit Systems Protection Board (MSPB). The achievements reported here reflect the expertise and dedication of our employees with whom Vice Chairman Wagner, Board Member Rose, and I are proud to serve.

MSPB's role as the independent, bipartisan protector of the merit systems under which Federal employees work is essential to assuring the American people that their Federal civil servants are well qualified to perform their duties and serve the public effectively. MSPB carries out its mission to protect the Federal merit systems by: providing for independent adjudication of employee appeals of personnel actions for over two million Federal employees; enforcing compliance with Board orders and decisions; conducting studies of the merit systems and other Federal management issues to ensure employees are managed in accordance with the Merit System Principles (MSPs) and free from Prohibited Personnel Practices (PPPs); and reviewing the rules, regulations, and significant actions of the Office of Personnel Management (OPM) to ensure they adhere to MSPs and do not cause PPPs.

In FY 2011, MSPB exceeded its targets for the quality of initial decisions issued in the regional and field offices and proportion of cases left unchanged by the U.S. Court of Appeals for the Federal Circuit. MSPB also exceeded its targets for the use of settlement and mediation as alternative dispute resolution (ADR) procedures in resolving appeals. For a variety of reasons, including improvements in the transparency of petition for review (PFR) processing, the need to better balance processing timeliness with decision quality, and budget constraints that prevented filling key vacancies in our legal staff, MSPB did not meet its processing timeliness performance goal. This report summarizes the factors that affect processing timeliness and how we are addressing them. We continued to emphasize the importance of transparency in the appeals process by hearing oral arguments in another set of cases with broad impact on the merit systems, and including additional explanatory information in non-precedential PFR decisions. Following the passage of the GPRAMA and the release of the Executive Order on efficiency and customer service, we postponed the achievement of the performance goal on adjudication customer service survey program to FY 2012.

MSPB completed several merit systems studies on topics such as women in the Federal workforce, employee perceptions of PPPs, barriers to making Whistleblower disclosures,

and telework. Merit systems studies continue to be cited in a wide variety of print and online sources, and Senate staff reported using previous studies in drafting legislation to improve the selection and training of Federal supervisors. We pilot tested internal administration of studies surveys and completed two studies using data from the FY 2010 Merit Principle Survey (MPS). We improved our communication and transparency using social media through Twitter, and developed and implemented an application (app) for the Android and iPhone that displays key MSPB products and information. Electronic filing of initial appeals and pleadings via e-Appeal continues to increase, resulting in efficiency and cost savings for MSPB, appellants, and agencies. We also received an unqualified audit of our FY 2010 financial statements for the ninth straight year.

The most significant issues affecting MSPB's ability to carry out its mission to protect the Federal merit systems include an increasing number of cases involving veterans' rights and changes in law and jurisdiction; the changing demographics of the workforce; and reductions in the Federal budget. We continue to address management challenges that affect our ability to successfully achieve our mission in both the short and long term. We drafted a new *MSPB Strategic Plan for FY 2012 – 2016* which refocuses our mission to protect merit and to promote MSPs and prevent PPPs. Our *FY 2012 Performance Plan* and new internal Resources Management Plan (RMP) are based on the new strategic plan and will assist us in implementing the important changes we are making in the strategic direction of the agency and our improvements in internal agency management.

Finally, this report provides a variety of legally required assurances regarding our performance and financial data, management controls, and financial systems. All data reported were obtained from the agency's appeals case management system, audited FY 2011 financial reports, and reports submitted by the agency's program managers. In accordance with law and OMB guidance, I have determined that the performance and financial data included in this report are complete and reliable. There are no material inadequacies or non-conformances in either the completeness or reliability of the performance or financial data. MSPB has systems to ensure the completeness and reliability of the performance data used in this report and uses OMB guidance to review and continually improve these systems. In addition, following an assessment of MSPB's comprehensive management control program, I certify, with reasonable assurance, that MSPB's systems of accounting and internal control are in compliance with the provisions of the Federal Managers' Financial Integrity Act.

Respectfully,

Susan Tsui Grundmann
Chairman

November 15, 2011

Management Discussion and Analysis

About the U.S. Merit Systems Protection Board

A merit-based U.S. Civil Service: A brief review of the history of our Federal civil service is helpful in understanding the origin and purpose of MSPB. Until the early 1880s, the Federal civil service was a patronage or "spoils system" in which the President's administration appointed Federal workers based on their political beliefs and support of his campaign rather than their suitability and qualifications to perform particular jobs.[1] Over time, this practice contributed to an unstable workforce lacking the necessary qualifications to perform their work, which in turn adversely affected the efficiency and effectiveness of the Government and its ability to serve the American people. The patronage system continued until President James A. Garfield was assassinated by a disgruntled Federal job seeker who felt he was owed a job because of his support of the President's campaign. A public outcry for reform resulted in passage of the Pendleton Act in 1883. The Pendleton Act created the Civil Service Commission (CSC), which monitored and regulated a civil service system based on merit and the use of competitive examinations to select qualified individuals for Federal positions. This process contributed to 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.

During the following decades, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate employee appeals of actions Federal agencies took against them. Concern over the inherent or perceived 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).[2] The CSRA replaced the CSC with three new agencies: MSPB as the successor to the Commission;[3] 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.

MSPB's role and functions: 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."[4] MSPB inherited CSC's adjudication functions and provides due process to employees and agencies as an independent, third-party adjudicatory authority for employee appeals of adverse actions and retirement decisions. For matters within its jurisdiction, MSPB was given the statutory authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and

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[1] Bogdanow, M., and Lanphear, T., History of the Merit Systems Protection Board, Journal of the Federal Circuit Historical Society, Vol. 4, 2010, page 109-110.

[2] Ibid. page 113.

[3] Ibid. page 114.

[4] 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).

enforce compliance with final MSPB decisions. MSPB was also given broad new authority to conduct independent, objective studies of the Federal merit systems and Federal human capital management issues to ensure employees are managed under the MSPs and free from PPPs. In addition, MSPB was also given the authority and responsibility to review the rules, regulations, and significant actions of OPM.

Since passage of the CSRA, Congress has given MSPB jurisdiction to hear cases and complaints filed under a variety of other laws including the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Veterans Employment Opportunity Act (VEOA), and the Whistleblower Protection Act (WPA). In addition, MSPB hears appeals from certain employees covered in merit systems established under other statutes such as Veterans Health Administration employees managed under Title 38 U.S.C., reduction-in-force actions affecting certain members of the Foreign Service managed under Title 22 U.S.C., and certain postal service employees managed under Title 39.

MSPB's scope: Under various statutes, MSPB serves as an independent, third-party adjudicatory authority for over two million Federal civilian employees in almost every Federal department and agency, applicants for Federal civilian jobs, and certain U.S. Postal Service (USPS) employees and uniformed military service members. MSPB's merit systems studies findings and recommendations strengthen merit and improve public management and administration in the Federal executive branch, and are generally applicable to the management of Federal legislative branch and judicial branch employees, and even to public employees at the state and local level. Through its authority to review and act on OPM rules, regulations, and significant actions, MSPB protects the merit system and helps ensure that Federal employees are managed in adherence with the MSPs and free from PPPs. This broad authority includes all employees in all the agencies for which OPM sets policy, beyond the specific individual employees who may file appeals to MSPB of actions their agencies have taken against them.

The Merit System Principles and Prohibited Personnel Practices

The CSRA also codified for the first time the values of the merit systems as the MSPs and delineated specific actions and practices that were prohibited (PPPs) because they were contrary to merit system values.[5] The MSPs include the values of fair and open competition for positions with equal opportunity to achieve a workforce from all segments of society; merit-based selection for jobs; advancement and retention based on qualifications and job performance; fair and equitable treatment in all aspects of management; equal pay for work of equal value; training that improves organizational and individual performance; protection from arbitrary action, favoritism, or coercion for political purposes; and protection against reprisal for lawful disclosure of violations of law and waste, fraud and abuse. The principles also state that the workforce should be used effectively and efficiently and that all employees should maintain high standards of integrity, conduct, and concern for the public interest. The PPPs state that employees shall NOT take or influence others to take personnel actions that: discriminate for or against an individual or applicant on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation;

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

consider information beyond the persons qualifications, performance, or suitability for public service; coerce political activity or be in reprisal for refusal to engage in political activity; deceive or willingly obstruct rights to compete for employment; influence a person to withdraw from competition to affect the prospects of another; grant preference beyond that provided by law; are based on or create nepotism; are in retaliation or reprisal for whistleblowing–the lawful disclosure of violation of law, rule, regulation, gross mismanagement or waste of funds, abuse of authority, or danger to public health or safety; are in retaliation or reprisal for an employee's exercise of their rights and legal protections; are based on past conduct that does not adversely affect the job; knowingly violate veteran's preference; or violate the merit systems principles.

MSPB Serves 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. Ensuring values such as fairness in all personnel matters; hiring and advancement based on qualifications and performance; protection from arbitrary personnel decisions, undue partisan political influence and reprisal; and assurance of due process, incur necessary costs that are not comparable to the private sector. For example, the Government hiring process is longer than that of the private sector to ensure appropriate selection of employees based on assessment of their qualifications after fair and open competition. Effective assessment of candidates improves the overall quality of the workforce and helps ensure that Federal job protections are provided to the most highly qualified employees. This, in turn, helps reduce the likelihood that the Government will need to undertake the process to remove that employee. These management costs are offset by the benefits associated with ensuring a more 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 ultimate 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, Federal agencies, and to the American taxpayer in terms of ensuring 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 decisions that are based in law, regulation, and legal precedent and not on arbitrary or subjective factors. 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 of the civil service and support better adherence to MSPs and prevention of PPPs by providing guidance to agencies and employees on proper behavior and the ramifications of improper behavior. This adjudication information also improves the effectiveness and efficiency of the adjudication process by helping the parties understand the law and how to prepare and present thorough, well-reasoned 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 and confidence that the Government doing its job and appropriately managing the workforce.

The MSPB Mission

The mission of MSPB is to *Protect the Federal merit systems and the rights of individuals within those systems*. MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals, enforcing its decisions, conducting objective merit systems studies, and reviewing OPM rules, regulations and significant actions to assess the degree to which those actions support adherence to the MSPs and do not lead to the commission of PPPs.

The MSPB Organization

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

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

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

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

The **Office of the Clerk of the Board** receives and processes cases filed at MSPB headquarters, rules on certain procedural matters, and issues MSPB decisions and orders. The office serves as MSPB's public information center, coordinates media relations, produces public information publications, operates MSPB's library and on-line information services, and administers the Freedom of Information Act (FOIA) 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 internal controls agency-wide. It also administers the agency's cross-servicing agreements with the U.S. Department of Agriculture, National Finance Center for payroll services, U.S. Department of the Treasury, Bureau of the Public Debt for accounting services, and U.S. Department of Agriculture, Animal, and Plant Health Inspection Service (APHIS) for human resources management services.

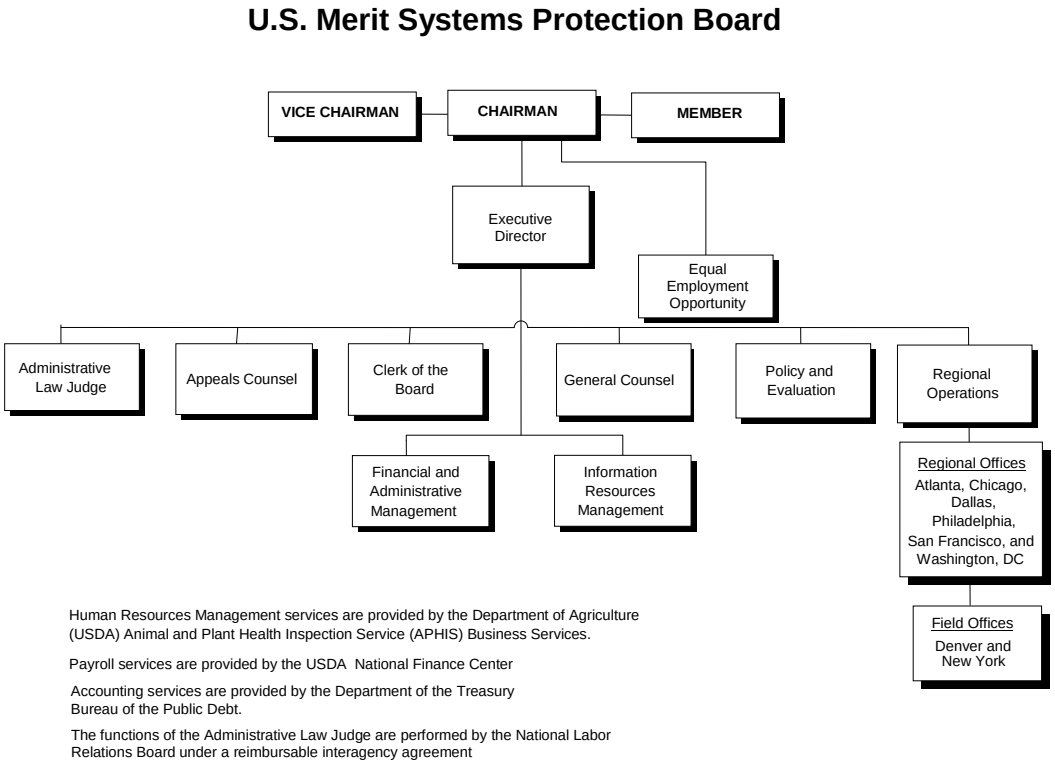
The **Office of the General Counsel**, as legal counsel to MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents MSPB in litigation; prepares proposed decisions for the Board to enforce a final MSPB decision or order, in response to requests to review OPM regulations, and for other assigned cases; conducts the agency's PFR 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 reviews and reports on the significant actions of OPM. The office also conducts program evaluations for the agency and has responsibility for preparing MSPB's strategic and performance plans and performance reports required by the GPRAMA.

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 issuing fair, well-reasoned, and timely initial decisions.

MSPB Organizational Chart



Program Performance Goals and Results

The MSPB Performance Plan for FY 2011 consisted of ten annual performance goals associated with the three strategic goals described in the agency's *Strategic Plan for FY 2010 – 2015*. Each performance goal has one to five associated performance measures with targets established for each measure. Highlights and a tabular summary of our program performance results are presented below.[6]

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

In FY 2011, MSPB exceeded its decision quality and alternative dispute resolution performance goals, failed to meet its case processing timeliness goal, and postponed achievement of its adjudication customer survey goal. We exceeded our decision quality goal with 98% (compared to a target of 92% or more) of MSPB cases left unchanged by the U.S. Court of Appeals for the Federal Circuit, and 7% (compared to a target of 10% or less) of initial decisions filed with the Board on PFR being reversed or remanded to MSPB judges. We also exceeded our ADR performance goal with 62% initial appeals settled (compared to 50% or more), and 64% of MAP cases resolved (compared to 50% or more). As a result of our review of PFR settlement program measures, we decided to discontinue reporting measures of the PFR settlement program. Due to the passage of the GPRAMA and related OMB guidance, the release of an Executive Order on efficiency and customer service, and the subsequent appointment of a new Performance Improvement Officer (PIO) whose duties include oversight of customer service surveys, we postponed development of a program and schedule for adjudication customer service surveys until FY 2012.

We did not meet our performance goal for overall adjudication case processing timeliness. The average case processing time for initial appeals was 94 days compared to 90 days or less, and 69% of initial appeals were closed within 110 days compared to 50% or more. The average PFR processing time was 213 days compared to 150 days or less, and 20% of PFRs were closed within 150 days compared to 50% or more. The average processing time for enforcement cases was 288 days compared to 200 days or less. A variety of factors affected processing time this year, including our intentional focus on reaching a better balance of adjudication decision quality, processing timeliness, and customer satisfaction with the appeals process, changes in the PFR process to increase transparency, wide year-to-year variability in processing time for enforcement cases, and budget limits that are affecting hiring of legal staff. We will continue to focus on balancing adjudication measures with emphasis on decision quality and participant views of the process and to maintain the improved transparency of the PFR process, even if case processing is slower than in the previous years. This is consistent with comments from external stakeholders that our processing time for initial appeals is having a negative impact on case development and discovery.

[6] The performance goals and targets for FY 2011 are those described in the MSPB Performance Budget for Fiscal 2012 submitted to the Congress on February 7, 2011. The performance goals, measures, and/or targets for FY 2012 have been revised and may be adjusted further based on action taken on the FY 2012 budget and other factors. The final Performance Plan for FY 2012 will be completed by December 31, 2011.

We are taking several actions that may directly or indirectly assist us in managing case processing time. In FY 2011, we began the process of reviewing our adjudication regulations in 5 C.F.R Parts 1201, 1208, and 1209, which will continue into FY 2012. We expanded our electronic case processing pilot program to all regional and field offices and headquarters, initiated a mandatory program for electronic filing for pleadings, and if funds permit, will begin an evaluation of the PFR program. In addition, although not within our direct control, we continue to experience increases in the proportion of initial appeals filed electronically. However, despite these efforts, we expect budget constraints will continue to prevent us from filling critical vacancies on our legal staff. This problem is further exacerbated by the fact that almost half of our AJs are retirement eligible in the next three years. In addition, we anticipate increases in our appeals workload due to external factors such as an increasing number of veteran's cases, expected increases in Governmentwide retirements, and reducing budgets which will likely lead to involuntary Governmentwide workforce reductions. In combination, these factors will likely lead to longer case processing times for initial appeals and a limited ability to reduce the processing time for PFRs.

In addition to our adjudication performance results, we continued our efforts to improve transparency and implement other innovations in the adjudication program. We held oral arguments (using meetings under the Sunshine Act procedures) in a case involving the application of Title 5, Chapter 75 to cases in which OPM initiated removal of tenured employees based on suitability grounds. In addition, the Board requested amicus briefs in selected cases, and continued issuing expanded explanations of its rationale in non-published PFR decisions to improve the understanding of its decision process. We reached an agreement with the University of San Francisco Law School for them to provide pro bono legal services to pro se appellants who file cases with the San Francisco Regional Office. We also began reviewing and updating our adjudication regulations in 5 C.F.R. Parts 1201, 1208, and 1209 in advance of the President's Directive on efficiency. This process will continue in FY 2012. We posted additional adjudication information on our website, including rotating content on the Merit System Principle of the Month, to improve understanding of the MSPs.

Overall, MSPB received 7,907 cases in FY 2011, slightly fewer cases than were received in FY 2010. MSPB decided 8,025 cases in FY 2011, 4 percent more cases than were decided in FY 2010. Sixty-nine percent of initial appeals were processed in 110 days or less (82 percent of initial appeals were processed in 120 days or less), and 6 percent of PFRs were processed in 110 days or less (20 percent in 150 days or less). The remaining 31 percent of initial appeals took more than 110 days to process (18 percent took more than 120 days to process), and 94 percent of PFRs took more than 110 days to process (80 percent took more than 150 days to process). Each case is adjudicated on its merits and in a manner consistent with the interests of fairness, which is achieved by assuring due process and the parties' full participation at all stages of the appeal.[7]

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

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

MSPB met all three of its merit systems studies performance goals. MSPB completed four external reports on topics including women in the Federal workforce, employee perceptions of PPPs, barriers to making Whistleblowing disclosures, and telework. MSPB completed four internal reports, published the *FY 2010 Annual Report* which included a review of the significant actions of OPM, and published four editions of the *Issues of Merit* newsletter. Five original articles were posted on the new revolving content feature on the studies webpage. Merit systems study reports continue to be cited by policy-makers, practitioners, and the media, including Senate staffers who used MSPB reports in drafting legislation to improve the election and training of Federal supervisors. MSPB pilot tested internal administration and hosting of two large MSPB surveys and completed two reports from the FY 2010 MPS data. MSPB conducted extensive outreach in developing the FY 2011 – 2013 Research Agenda, and hosted MSPB's first open meeting of the Board to consider the research agenda in approximately 15 years.

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

MSPB met all three of its performance goals for management support and organizational excellence. We made several improvements to the hiring process including the use of clearer language in vacancy announcements, automated applicant notifications, and revised job questionnaires for key positions. We also updated the category rating policy and the merit promotion plan. We identified tools to expand the diversity of our applicant pools, refined our disability hiring process, and agreed to partner with Federal Employed Women (FEW) to share information and promote MSPB's mission and job opportunities. We administered an updated internal customer satisfaction survey for human resources (HR) and equal employment opportunity (EEO) programs, and will establish future targets in conjunction with our efforts to restructure our internal customer service/satisfaction survey program. We established a group of key staff who will select appropriate recommendations for implementation at MSPB and drafted an employee engagement plan.

We met our information technology management performance goal. Forty-eight percent of initial appeals were filed electronically (20 relative percentage points higher than the target of 40 percent), and 44 percent of pleadings were filed electronically (47 relative percentage points higher than the target of 30 percent). Nearly 100 percent of technical support tickets were resolved within one business day (16 relative percent points higher than the target of 86 percent). Seventy-nine percent of the 89 internal respondents to the IT customer support survey reported they were satisfied or very satisfied that their IT needs were being met (7 relative percentage points lower than the target of 85 percent). We continued to comply with IT regulatory requirements including the Federal Information Security Management Act of 2002 (FISMA), Open Government, and IPv6; transitioned to Networx; and implemented a new cloud-based FOIA tracking system. In the first year of our Twitter account, we sent almost 300 tweets sharing a variety of MSPB information and acquired 286 followers. We

developed and implemented an app for Android and iPhone to display key MSPB information which has been downloaded over 100 times.

Finally, we met our performance goal for effective and efficient management of our budget, financial, and other support programs. We achieved an unqualified opinion on the audit of our FY 2010 financial statements for the ninth straight year. We administered a customer satisfaction survey of the internal customers of these programs; however, setting future targets will occur in conjunction with the restructuring of our internal customer service/satisfaction survey program.

Beginning in FY 2012, with the exception of electronic filing through e-Appeal which will be included in the performance plan, the internal management support and administrative programs reported under Strategic Goal 3 will be administered through the internal Resource Management Plan (RMP).

Summary of Program Performance Results

Strategic Goal 1 - To provide fair, high-quality, timely and efficient adjudication of cases filed with MSPB and to make effective use of alternative methods of dispute resolution in MSPB proceedings.	
Performance Goal 1.1 Issue high-quality decisions.	Goal exceeded
Performance Goal 1.2 Issue timely decisions.	Goal not met
Performance Goal 1.3 Make effective use of alternative methods of dispute resolution.	Goal exceeded
Performance Goal 1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.	Goal postponed
Strategic Goal 2 - To conduct studies that support strong and viable merit systems that ensure the public's interest in a high-quality, professional workforce managed under the merit principles and free from Prohibited Personnel Practices.	
Performance Goal 2.1 Conduct merit systems studies and recommend improvements to policy-makers and practitioners.	Goal met
Performance Goal 2.2 Assess the practice of merit in the workplace.	Goal met
Performance Goal 2.3 Achieve and maintain customer satisfaction with merit systems studies products and outreach efforts.	Goal met
Strategic Goal 3 - To achieve organizational excellence and strategically manage MSPB's human capital, information technology, and other internal systems and processes.	
Performance Goal 3.1 Attract, develop, and retain a high-quality, diverse and highly motivated workforce.	Goal met
Performance Goal 3.2 Effectively use information technology to enhance organizational performance and efficiency, and provide access to and dissemination of MSPB information.	Goal met
Performance Goal 3.3 Effective and efficient operation of financial, budget, and other support programs.	Goal met

Goal exceeded *Goal met* *Goal not met* *Goal postponed*

External Trends and Issues

The most significant external trends or issues affecting MSPB's ability to carry out its mission include veteran's rights and changes in law and jurisdiction, the changing demographics of the workforce, and reductions in the Federal budget.

Veteran's rights and changes in law and jurisdiction

MSPB continues to receive a large number of cases under two laws related to veterans' rights and military service, the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans Employment Opportunities Act (VEOA). Veterans who seek employment in the Federal civil service and are not hired have the right to seek redress for any alleged violation of their veterans' preference rights before the MSPB under VEOA. VEOA provides a means of redress for any violation of an individual's rights under any statute or regulation relating to veterans' preference. Individuals who left employment in the Federal civil service to serve in the military have the right to reemployment in the Federal civil service, and to challenge the terms (or denial) of reemployment before MSPB under USERRA. USERRA also gives the right to challenge discrimination against an individual based on military service or the obligation to perform it, and protection against reprisal for the exercise of any of the rights granted by USERRA. MSPB expects to continue to receive a large number of cases under these veterans' rights laws as more military members return from engagement in military conflicts.

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

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

Members of both houses of Congress have introduced legislation that, if enacted, would increase MSPB's caseload in whistleblower appeals as well as increase the complexity of the processing of those appeals. For example, the Whistleblower Protection Enhancement Act would allow MSPB to consider certain new kinds of retaliation claims, remove several existing exceptions to whistleblower protection, create a new category of whistleblowing, bring screeners employed by the Transportation Security Administration within the coverage of the Whistleblower Protection Act, and require that findings be made on certain issues in whistleblower cases that currently are not always made.

We expect these changes to increase the number and complexity of cases filed with MSPB. The changes also emphasize the need for a strong merit systems studies program to ensure agencies continue to adhere to the MSPs and avoid PPPs. Changes in appeal rights and appellate jurisdiction also increase the importance of MSPB's statutory responsibility to promote merit and educate employees, supervisors, managers, leaders, on the merit system, MSPs, PPPs, and MSPB appellate procedures, processes, and case law. Educating and promoting merit and sharing important information about appeals procedures will improve workforce management and reduce the cost of appeals to agencies, appellants, and the Government.

Changing demographics of the Federal workforce

The proportion of retirement-eligible Federal employees continues to increase. Current economic conditions may delay the retirements of some retirement-eligible Federal employees. However, if proposed changes to Federal retirement systems such as increasing the percent employees pay into the system and changing to an average high of five years from an average high of three years are made and affect current employees, and/or if additional pay freezes are implemented, then larger numbers of Federal employees may retire than we might otherwise anticipate. As retirements increase, we expect to see an increase in retirement-based appeals. If the government replaces retiring employees with relatively younger, less experienced employees, there is likely to be a decrease in the average age of the workforce. As this occurs, we may expect to see an increase in appeals because less experienced employees typically experience more appealable actions than do more experienced employees.

In addition, if these employees retire, and agencies are prohibited from replacing them, the Government will suffer a tremendous loss of senior technical expertise, which could degrade agency performance and service to the public. Ultimately, the cost to the Government could be substantial in terms of degraded service in the short term, and overall loss of critical expertise in the long term, especially if budget limits delay or prevent filling the vacancies created by these retirements. Retirements would also likely result in a loss of Governmentwide supervisory and managerial expertise, which could increase conflict in the workforce due to lower supervisory experience to manage employee performance and behavior. It would also increase the number of cases brought to MSPB due to the lack of agency expertise available to resolve conflicts at an agency level. Based on previous experience with workforce reductions in the mid-1990s, recovering this loss of expertise will be impossible in some circumstances and could take a decade or more in other circumstances. These changes require a fully staffed MSPB to handle the increased case workload and conduct studies to provide recommendation for policy makers and practitioners on how to manage these workforce changes while ensuring adherence to MSPs and avoiding PPPs.

In addition to changes in workforce demographics, Government work has continued to shift from administrative processing to knowledge-based work. Federal human resources management systems, many designed in the 1940s and 1950s, do not have the flexibility needed to manage a knowledge-based workforce effectively. Issues including recruitment, hiring, performance management, pay, training, and development need to be improved in order to maintain a workforce of highly engaged and motivated employees who can perform

agency missions and serve the public. At the same time, MSPs, fair treatment, and freedom from discrimination and PPPs must be ensured. Improvements are also needed in the selection and training of supervisors and managers who must use the existing management systems to manage a modern workforce and achieve results for the public. These changes emphasize the need for a strong merit systems studies function and an increased focus on promoting and educating employees about the merit systems, MSPs, and PPPs.

Reductions in the Federal Budget

Governmentwide actions to decrease Federal budgets include pay freezes, severe limitations in employee awards (for performance, special acts, quality step increases, or other purposes), and limits on within grade increases. Budget reductions will also likely increase agency use of furloughs (involuntary release from duty without pay), reductions in force (RIF) to decrease the size of their workforce, hiring delays or freezes, and reductions in training and development to save money. Depending on how these actions are taken and their effects on individual employees, many of these actions are appealable to MSPB because they may violate PPPs or result in adverse impact not due to the fault of the employee. For example, RIFs and other related involuntary actions are generally appealable to MSPB. This could lead to potentially large increases in the number of appeals to MSPB.

Reductions or long delays in hiring and/or reductions in workforce training may also impact the efficiency and effectiveness of the workforce in terms of loss of expertise and workforce capacity to carry out the mission, from which it could take years to recover. Individually, some employees may perform better and refrain from misconduct in an effort to keep their jobs. High performing employees in competitive occupations could become frustrated and leave for other opportunities. Employees may also experience more workplace conflict and other behavioral and performance issues due to the stress caused by economic conditions over which they have no control. Overall, using these methods to reduce the budget is likely to increase appeals to MSPB and emphasizes the need to conduct studies to understand the strategic implications of the methods used to control spending on the workforce, adherence to MSPs, and avoidance of PPPs. It is also important to promote merit and educate the workforce, especially managers and leaders, about how to adhere to MSPs and avoid PPPs when making management decisions such as those related to reducing the workforce.

In addition to these indirect affects of the Federal Budget, any decreases in MSPB's budget will have a direct, adverse impact on our ability to perform our mission. Internal review of our budget processes has shown that years of using vacancies to fund operational requirements and contingencies has resulted in staff deficiencies that are endangering our ability to continue to achieve our goals. Position vacancies have already contributed to our failure to meet our case processing timeliness performance goal. In addition, we will be limited in our ability to provide the outreach and education services that are essential to our ability to bring overall value to the workforce agencies performance and service the public by promoting MSPs and preventing PPPs. If our budget does not increase and our appellate workload increases as anticipated, average case processing time for initial appeals will increase, and we will not be able to reduce average PFR processing time. Inadequate budgets will also jeopardize our studies output, our ability to bring value to the workforce, Federal agencies, and to taxpayers in the near and long term, and will delay internal improvements in our management processes.

Internal Issues and Management Challenges

Reviews of our mission and support programs included reviews of statute, legislative history, regulations, mission operations, internal business processes, management structure, performance results, and consultation with internal and external stakeholders. These reviews brought to light management challenges in mission planning and effectiveness, budgetary planning and resources management, and management processes that affect our ability to successfully achieve our mission in both the short and long term.

To address these challenges, we have developed a new Strategic Plan for FY 2012 – 2016 focused on MSPB's overall responsibility for protecting MSPs, safeguarding the workforce from PPPs, and promoting adherence to MSP and preventing PPPs governmentwide. This plan includes an updated mission statement, new vision statement, organizational values, and is more outcome-oriented. It includes our authority to review and take appropriate action on OPM rules and regulations, and our responsibility to improve merit and reduce PPPs in the future. It emphasizes a balanced measurement approach for adjudication with less emphasis on timeliness, continued emphasis on decision quality, and more emphasis on participant perceptions of the adjudication and ADR processes. This is consistent with stakeholder feedback that adjudication time constraints have a negative impact on case development and discovery. The strategic plan also emphasizes the need to improve the distribution and promotion of adjudication, studies, and OPM review information for policy-makers and practitioners, and educational purposes.

We continue to improve the transparency of our adjudication program including conducting oral arguments, requesting amicus briefs in select cases, providing additional information on non-precedential PFR decisions, and posting additional content on our website such as the Merit System Principle of the Month. We increased the transparency of our studies process by hosting a meeting under the Sunshine Act on the research agenda for the first time in 15 years. We added a flash feature on the studies webpage which included five original articles. We increased our consultation and collaboration with external stakeholders during the strategic planning process and are exchanging presentations to build better relationships with our sister agencies involved with Federal workforce management. The agency also increased its use of social media for communication purposes including Twitter and the development and implementation of an app for Android and iPhone to display key MSPB products and information.

We have also developed an RMP which covers internal management and administrative functions in terms of goals, objectives, and measures. The budget process continues to improve with managers involved in justifying their current and future resource needs and the inclusion of operational requirements and contingencies. The Executive Committee continues to focus on planning, policy development, and other management issues that have broad impact on the agency both now and in the future. We created a Labor-Management Council to open communication with the Professional Association. We are encouraging a culture for Senior Executive Service (SES) members to serve as agency leaders as well as office directors. Finally, we will be improving our workforce and succession planning and employee training and development, and establishing a formal FTE structure.

Analysis of Financial Statements

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

The principal financial statements summarize MSPB's financial position, the net cost of operations, and changes in net position; provide information on budgetary resources and financing; and present the sources and disposition of custodial revenues for FY 2011 and FY 2010. Highlights of the financial information presented in the principal financial statements are shown below.

Summary by Budget Activity (Dollars In Thousands)						
	2010 (Actual)		**2011 (Actual)****		**2012 (Requested)**	
Budget Activity	**FTE**	**Amt**	**FTE**	**Amt**	**FTE**	**Amt**
Adjudication	172	$34,192	177	$34,654	188	$36,804
Merit Systems Studies	12	2,518	13	2,598	15	3,490
Management Support	29	5,074	28	5,310	32	5,892
Obligation adjustments of PY funds made in FY 2011		**0**		**52**		**0**
TOTAL	**213**	**$41,784**	**218**	**$42,562**	**235**	**$46,186**

*** Includes obligations charged to the FY 10/11 Carryover fund*

Financial Position

MSPB's Balance Sheet presents its financial position through the identification of agency assets, liabilities, and net position. The agency's total assets increased from $8.5 million in FY 2010 to $9.2 million in FY 2011. Liabilities totaled $5.7 million at the end of FY 2010 and $5.4 million in FY 2011. The agency's total liabilities and net position at the end of FY 2011 was $9.2 million.

Net Cost of Operations

The net cost of MSPB's operations for FY 2011 was $44.2 million, a decrease of approximately $318,000 over the agency's FY 2010 cost of operations.

Statement of Budgetary Resources

This statement reports the budgetary resources available to MSPB during FY 2011 and FY 2010 to effectively carry out the activities of the agency, as well as the status of these resources at the end of each fiscal year. MSPB had direct obligations of $40 million in FY 2011, an increase of $742K over FY 2010.

Limitations on the Principal Financial Statements

As required by the Government Management Reform Act (GMRA) of 1994 (31 USC 3515 (b)), the principal financial statements report MSPB's financial position and results of operations. While the statements have been prepared from the agency's books and records, in accordance with formats prescribed by OMB, the statements differ from the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the realization that MSPB is a component of the U.S. Government, a sovereign entity, and that liabilities reported in the financial statements cannot be liquidated without legislation providing resources to do so.

Systems, Controls and Legal Compliance

Federal Managers' Financial Integrity Act (FMFIA)

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

Federal Financial Management Improvement Act (FFMIA)

The purpose of the FFMIA is to advance Federal financial management by ensuring that Federal financial management systems provide accurate, reliable, and timely financial management information to the government's managers. The intent and requirements of this Act go beyond the directives of the Chief Financial Officer's (CFO) Act and GMRA to publish audited financial reports.

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

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

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

Improper Payments Information Act

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

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

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

To coordinate and facilitate MSPB's efforts under the IPIA, the Chief Financial Officer works with Office Directors to develop a coordinated strategy to perform annual reviews for all programs and activities susceptible to improper payments. This cooperative effort includes developing actions to reduce improper payments, identifying and conducting ongoing monitoring techniques, and establishing appropriate corrective action initiatives.

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Program Performance Results

Adjudication Performance

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

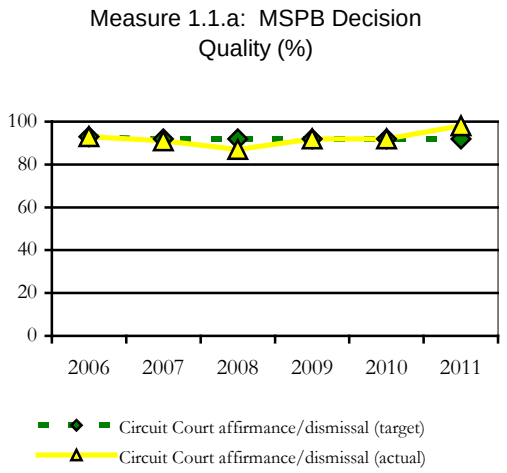
Performance Goals

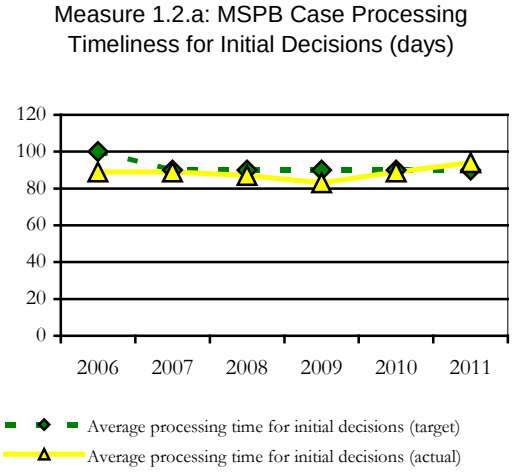
1.1 Issue high-quality decisions.
1.2 Issue timely decisions.
1.3 Make effective use of alternative methods of dispute resolution.
1.4 Achieve and maintain customer satisfaction with our adjudicatory and alternative dispute resolution programs and with adjudication outreach efforts.

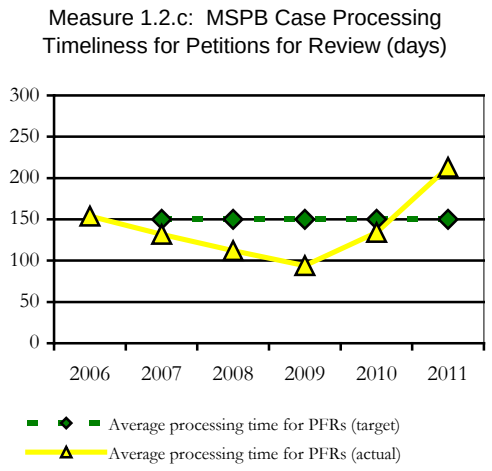
Resources

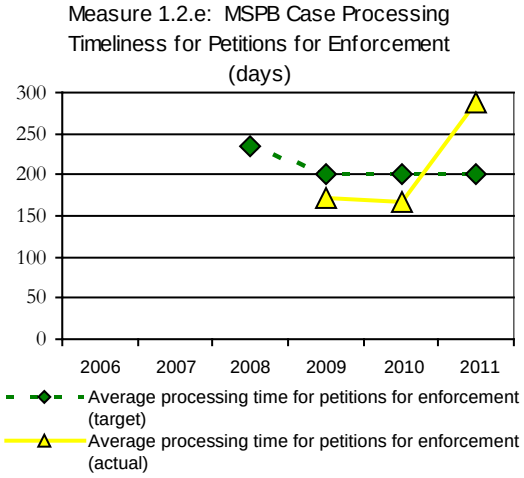
	FY 2011 (Actual)	FY 2012 (Requested)
Budget $ (000)	$34,654	$36,804
% of total MSPB resources	81%	80%

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









Adjudication Performance Results

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

		Target	Result	
Performance Goal 1.1 Issue high-quality decisions.				
1.1.a	Percentage of MSPB decisions unchanged on review by the U.S. Court of Appeals for the Federal Circuit.	92% or more	98%	
1.1.b	Percent of cases decided by the Board on Petition for Review (PFR) that are reversed and/or remanded to MSPB judges for a new decision.	10% or less	7%	
Performance Goal 1.2 Issue timely decisions.				
1.2.a	Average case processing time for initial decisions.	90 days or less	94 days	
1.2.b	Percentage of initial appeals decided within time standards.	50% within 110 days	69%	
1.2.c	Average case processing time for PFRs.	150 days or less	213 days	
1.2.d	Percentage of PFRs decided within time standards.	50% within 150 days	20%	
1.2.e	Average case processing time for petitions for enforcement.	200 days or less	288 days	
Performance Goal 1.3 Make effective use of alternative methods of dispute resolution.				
1.3.a	Maintain rate of settlement of initial appeals that are not dismissed at 50% or higher.	50% or higher	62%	
1.3.b	Success rate for settlement of cases selected for PFR settlement program.	Examine/refine measures	Met	
1.3.c	Percentage of cases successfully resolved through mediation procedures.	50% or better	64%	
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.			

Goal exceeded *Goal met* *Goal not met* *Goal postponed*

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 2011**	92% or greater; study alternative measures of quality of Board decisions.
FY 2007	91%		
FY 2008	87%*		
FY 2009	92%	**FY 2012**	92% or greater.
FY 2010	92%		
FY 2011	98%		

* 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 2011**	10% or fewer; study alternative measures of quality of initial appeals.
FY 2007	9%		
FY 2008	6%		
FY 2009	5%	**FY 2012**	10% or fewer
FY 2010	9%		
FY 2011	7%		

This Performance Goal was **Exceeded.** The 98% of cases left unchanged by the Court was 6 raw percentage points higher than the target of 92%. This result is 75 relative percentage points of the difference between the target and the maximum value (6%/(100%-92%)), the highest level demonstrated in the last 6 years. The 7% of cases decided by the Board on PFR that were remanded and/or reversed to the AJ, adjusted for those not due to error or oversight by the AJ, was 3% raw percentage points lower than the target (10%-7%) or 30% relative percentage points lower (3%/10%) than the target. The results for these measures can vary considerably from year to year. Therefore the targets for FY 2012 will remain at 92% or greater, and 10% or fewer, respectively.

Performance Goal 1.2: Issue timely decisions.

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

Results		Targets	
FY 2006	89 days.	**FY 2011**	90 days or less.
FY 2007	89 days.	**FY 2012**	100 days or less.
FY 2008	87 days.		
FY 2009	83 days.		
FY 2010	89 days.		
FY 2011	94 days.		

The FY 2011 average case processing time for initial decisions, excluding the time spent in the MAP, was 88 days.

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

Results		Targets	
FY 2006	New measure in 2007.	**FY 2011**	50% or more of cases decided within 110 days; review measure and set future targets.
FY 2007	85% decided within 120 days.		
FY 2008	72% decided within 110 days.		
FY 2009	75% decided within 110 days.		
FY 2010	72% decided within 110 days.	**FY 2012**	N/A
FY 2011	69% decided within 110 days.		

The percentage of initial appeals decided within time standards in FY 2011, excluding the time spent in the MAP, was 71%.

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

Results		Targets	
FY 2006	154 days.	**FY 2011**	150 days or less.
FY 2007	132 days.	**FY 2012**	195 days or less.
FY 2008	112 days.		
FY 2009	94 days.		
FY 2010	134 days.		
FY 2011	213 days.		

Performance Goal 1.2: (Continued)

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

Results		**Targets**	
FY 2006	New measure in 2007.	**FY 2011**	50% or more of cases decided within 150 days.
FY 2007	48% decided within 110 days.		
FY 2008	60% decided within 110 days.	**FY 2012**	N/A
FY 2009	72% decided within 110 days.		
FY 2010	42% decided within 110 days.		
FY 2011	20% decided within 150 days.		

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

Results		**Targets**	
FY 2006	New measure in FY 2008.	**FY 2011**	200 days or less.
FY 2007	New measure in FY 2008.	**FY 2012**	200 days or less.
FY 2008	Target set for FY 2009.		
FY 2009	171 days.		
FY 2010	180 days.		
FY 2011	288 days.		

This performance goal was **NOT MET**. The average case processing time for initial appeals was 4 days longer than (94 days – 90 days) but within 10% of the target of 90 days or less (4 days/90 days). The 69% of initial appeals closed within 110 days was 19 raw percentage points (69%-50%) and 38 relative percentage points (19%/50%) greater than the target. The average case processing time for PFRs was 63 days longer (213 days – 150 days) and 42% (63 days/150 days) longer than the target of 150 days. The 20% of PFRs closed within 150 days was 30 raw percentage points (50% - 20%) and 60 relative percentage points (30%/50%) less than the target. The 288 day average processing time for enforcement cases was 88 days (288-200 days) and 44 relative percentage points (88 days/200 days) longer than the target value. Additional discussion of the factors effecting case processing timeliness, and what we are doing to address them, is contained in the MD&A. In FY 2012, MSPB will measure only average case processing time setting the targets at 100 days or fewer, 195 days or fewer, and 200 days or fewer, for initial appeals, PFRs, and enforcement cases, respectively.

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

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

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

*** The methods for measuring the success rate for the PFR settlement program were found to be inconsistent in FY 2010. A variety of methods for measuring program success were reviewed in FY 2011. As a result, MSPB decided not to include a measure for the PFR settlement program in future performance plans.

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).

Performance Goal 1.3: Measure 1.3.b (Continued)

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.

FY 2011 The success rate at conclusion of the MAP was 64%. The rate was 65% when including cases that settled after returning to adjudication.

Targets

FY 2011 50% success rate or better.

This performance goal was **Exceeded**. The 62% of initial appeals successfully settled was 12 raw percentage points (62% - 50%) and 24 relative percentage points (12%/50%) greater than the target. The 64% of cases successfully resolved through mediation was 14 raw percentage points (64%-50%) and 28 relative percentage points (14%/50%) greater than the target. The review of PFR settlement measures resulted in the decision to discontinue reporting performance results for that program. The purpose of MSPB's ADR programs is to provide a range of suitable methods or approaches to resolve cases brought to MSPB. The most important aspect of the ADR programs is the participants' views of the process. Therefore, in FY 2012 as part of the restructuring of our external customer survey program, MSPB will develop an appropriate process to measure participants' satisfaction with the ADR process and set future targets.

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.

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.

Performance Goal 1.4: Measure 1.4.a (Continued)

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.

FY 2011 Continuing to collect adjudication customer satisfaction survey data. Restructuring of the external customer satisfaction survey program, including adjudication participants, was postponed until FY 2012.

Targets

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

This performance goal was **Postponed**. MSPB continued to collect adjudication customer satisfaction data. However, several factors and changes in FY 2011 resulted in MSPB's decision to postpone establishing a more strategic customer satisfaction survey program and schedule and setting future targets. These changes include development of MSPB's new Strategic Plan which includes more focus on measures of customer satisfaction and customer service with its mission programs and processes, including adjudication. In addition, GPRAMA, related OMB Guidance, and the Executive Order on Government efficiency and customer service were passed or implemented in the last three quarters of FY 2011. In compliance with GPRAMA, MSPB appointed a new PIO whose duties include overseeing MSPB's internal and external survey programs. Therefore, in FY 2012, MSPB will restructure its internal and external customer service/satisfaction surveys, including those for adjudication.

Merit Systems Studies Performance

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

Performance Goals

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

2.2 Assess the application of merit in the workplace.

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

Resources

	FY 2011 (Actual)	FY 2012 (Requested)
Budget $ (000)	$2,598	$3,490
% of total MSPB Resources	6%	8%

Selected Results

Selected recent merit systems studies (beginning with most recent):

Telework: Weighing Information, Determining an Appropriate Approach
Blowing the Whistle: Barriers to Federal Employees Making Disclosures
Prohibited Personnel Practices: Employee Perceptions
Women in the Federal Government: Ambitions and Achievements
Making the Right Connection: Targeting the Best Competencies for Training
Merit Systems Protection Board Annual Report for FY 2010
Whistleblower Protections for Federal Employees
A Call to Action: Improving First-Level Supervision
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

Merit Systems Studies Performance Results

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

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

Performance Goals, Measures, and Results

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

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

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 MPS, baseline data for the Department of Homeland Security (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 that were 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 focusing 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.

FY 2011 Completed four external merit systems studies including: *Telework: Weighing Information, Determining an Appropriate Approach; Blowing the Whistle: Barriers to Federal Employees Making Disclosures; Prohibited Personnel Practices: Employee Perceptions*; and *Women in the Federal Government: Ambitions and Achievements*. Published the *FY 2010 MSPB Annual Report*, and four editions of the *Issues of Merit* newsletter. Completed four internal studies. Conducted extensive outreach in developing the FY 2011 – 2013 Research Agenda and hosted MSPB's first open meeting of the Board to consider the research agenda in approximately 15 years. The final agenda approved by the Board is available on our website.

Targets

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.

FY 2012 Complete 3-5 merit system study reports.

Performance Goal 2.1: (Continued)

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 Office of Policy and Evaluation (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 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 the Government Accountability Office (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.

FY 2011 MSPB continued to track and evaluate mechanisms for measuring the impact of studies and newsletters. MSPB reports have been referenced in numerous print and online sources including *The Washington Post*, *Federal Times*, *Government Executive Magazine*, *Federal Computer Weekly*, *IPMA's HR News*, *FEDManager*, *FedWeek*, and the *Federal Daily* newsletter. Interviews about several MSPB studies were conducted on Federal News Radio. Research as been cited by Senate staff who used MSPB reports in drafting legislation on hiring and training supervisors, in the OCIO's report *NetGeneration: Preparing for Change in the Federal Information Technology Workforce,* and in the Australian Government's State of the Service Report. We consulted with or gave presentations to Federal agencies to improve their human resources practices, and met or worked with various colleges and universities and public policy groups such as the Partnership for Public Service (PPS), National Academy of Public Administration (NAPA), and the National Associations of Schools of Public Affairs and Administration (NASPAA). MSPB logged over 96,000 accesses to 72 merit system study reports, and over 13,500 accesses to 35 editions of the newsletter. A new studies flash feature was implemented on the MSPB website to highlight timely research finding and new information about the Federal workforce. Five original articles were posted on this feature.

Performance Goal 2.1: Measure 2.1.b (Continued)

Targets

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.

This performance goal was **MET**. MSPB completed four merit system study reports, the FY 2010 MSPB Annual Report, four editions of the newsletter, and four internal reports. Reports continue to be referenced in print and online academic, professional, HR policy, HR practice, and media resources. Senate staff reported using MSPB studies in drafting legislation on improving the selection and training of Federal Supervisors. Over 119,000 accesses and downloads to the MSPB studies website were logged and five original articles were posted on the new flash feature on the studies webpage. MSPB held its first open meeting of the Board to consider the research agenda in approximately 15 years, and finalized the FY 2011 – 2013 Research Agenda which is available on our website.

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 PPPs 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.

Performance Goal 2.2: Measure 2.2.a (Continued)

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.

FY 2011 Pilot tested internal administration and hosting of Governmentwide surveys of Federal employees on favoritism and of Federal HR Specialists on fair and open competition. Completed two reports on the results of the Merit Principles 2010 Survey including, *Prohibited Personnel Practices: Employee Perceptions* and *Blowing the Whistle: Barriers to Federal Employees Making Disclosures*.

Targets

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.

This performance goal was **MET**. We pilot tested internal administration of two large studies surveys and completed two reports using data from the 2010 MPS including a report on employee perceptions of PPPs.

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.

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. MSPB conducted extensive outreach to our stakeholders to obtain their input on MSPB's new research agenda, including Chief Human Capital Officers (CHCOs), HR Directors, employee groups and unions, Federal employees, supervisors and managers, and good government groups.

Performance Goal 2.3: Measure 2.3.a (Continued)

FY 2011 Conducted the first Sunshine Act meeting on the studies research agenda since 1996 to discuss the FY 2011 – 2013 MSPB Research Agenda. 29 research topics, most identified through public and stakeholder input, were presented to the Board Members. The meeting was open to all interested parties and several key stakeholders presented their views on the proposed research agenda. Following an additional 3-week public comment period, the final research agenda was prepared, approved by the Board Members, and posted on the MSPB website.

Collected feedback from customers on their satisfaction with MSPB merit systems studies reports, newsletters, website, and outreach efforts using a variety of methods; and used the feedback to improve reports, outreach presentations, and the website. Improvements to the website included implementing a new flash feature on the MSPB studies webpage designed to provide additional, timely information about studies and the Federal workforce of interest to our stakeholders. Five original articles were posted on this new feature.

Targets

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

This performance goal was **MET**. Feedback on MSPB studies was collected with a variety of methods and used to improve study reports, newsletters, outreach efforts, and the studies webpage. A new studies flash feature with five original articles was implemented on the studies webpage. Conducted extensive outreach to develop the FY 2011 – 2013 research agenda. Proposed topics were presented at the first Sunshine Act meeting for the Board to discuss the research agenda in 15 years. The meeting was open to all interested parties and key stakeholders presented their input on the 29 proposed research topics. Following an additional comment period, the agenda was finalized by the Board, and posted on the MSPB website.

Management Support and Organizational Excellence Performance

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

Performance Goals

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

Resources

	FY 2011 (Actual)	FY 2012 (Requested)
Budget $ (000)	$5,309	$5,892
% of total MSPB Resources	12%	13%

Organizational Excellence and Management Support Performance Results

Strategic Goal 3 -- To achieve organizational excellence and strategically manage MSPB's human capital, information technology and other internal systems and processes.				
Performance Goal 3.1 Attract, develop, and retain a high-quality, diverse and highly motivated workforce.				
3.1.a	Ensure timely recruitment and a workforce with the right competencies.			✔
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.			
3.1.c	Customer satisfaction with internal HR and EEO programs and services.			
3.1.d	Effectively implement appropriate recommendations from MSPB merit systems study reports..			
Performance Goal 3.2 Effectively use information technology to enhance organizational performance and efficiency, and provide access to and dissemination of MSPB information.				
3.2.a	Support e-Government objectives by increasing appeals and pleadings filed electronically (Initial appeals and pleadings).	40% 30%	48% 44%	✔
3.2.b	Improve customer service by conforming with established MSPB Office of Information Resource Management (IRM) service level agreements.	86%	99%	
3.2.c	Measure success in enhancing organizational performance and efficiency through IRM customer satisfaction surveys.	85%	79%	
3.2.d	Comply with information management regulatory requirements.			
Performance Goal 3.3 Effective and efficient operation of financial, budget and other support programs.				
3.3.a	Maintain accurate and legally sound budget accounts and accounting ledgers.			✔
3.3.b	Customer satisfaction of employees with other support programs.			

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

Performance Goals, Measures, and Results

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

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

Results

FY 2006 New measure in FY 2007.

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

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

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, 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 continued to use exit interview questionnaires and consider other options to improve hiring timeliness.

FY 2011 The hiring make-over final report was distributed for review and approval. We implemented several changes to improve hiring timeliness including using plain language in our vacancy announcements, notifying applicants at various points in the hiring promise, revising or establishing job questionnaires for key occupations, and updating the Category Rating Policy and Merit Promotion Plan. These changes also support MSPB's compliance with the President's Hiring Reform initiative.

Targets

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

Performance Goal 3.1: (Continued)

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 2006-2007 New measure in FY 2008.

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

FY 2009 The delivery of Special Emphasis Observance Programs was enhanced with presentations from noted speakers on Federal workplace diversity issues such as generational differences and sexual orientation. Awareness and appreciation of diversity in its broadest context was promoted through these programs and other communications to all employees. Strategies were developed for achieving diverse applicant pools and for proposing training plans that will assist employees with achieving their best in accomplishing the agency's mission and assist managers and supervisors with managing a diverse workforce. Training and developmental opportunities were offered to employees, largely from affinity groups; a new collateral duty Disability Program Coordinator was recruited; an EEO & 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 the Equal Employment Opportunity Commission (EEOC). Recommendations were developed for recruiting and hiring qualified applicants from underrepresented groups. Agency turnover rates and employee survey results were reviewed to identify potential barriers to improving representation. We initiated reviews of the agency's reasonable accommodation policy and complaint processing procedures.

Performance Goal 3.1: Measure 3.1.b (Continued)

FY 2011 Identified specific tools that would help expand the diversity of our applicant pool such as Workforce Recruitment Program, Hispanic Association of Colleges and Universities' Internship Program, and participation in FY 2011 national conferences to promote the agency to diverse communities. Refined the process for referring qualified Schedule A Hiring Authority (disability) candidates and strengthened the Special Placement Coordinator responsibilities in response to Executive Order 13548. Completed revision of MSPB's Reasonable Accommodation Policy and Procedures in accord with changes in Federal law. Entered into a formal partnership with Federally Employed Women (FEW) to share information about and promote MSPB's mission and job opportunities and FEW's training opportunities. Consulted with EEO and HR staff members from four agencies to identify various ways to measure employee understanding of diversity management and the link between diversity and mission productivity.

Targets

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 link to improved productivity and mission results.

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

Results

FY 2006 New measure in FY 2007.

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

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

FY 2009 Feedback received from senior management concerned communication regarding the year-end procurement process, which will be further addressed in FY 2010. 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 tracked the recruitment process from initial planning to onboard.

Performance Goal 3.1: Measure 3.1.c (Continued)

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.

FY 2011 The results of the Unity Day participant satisfaction survey indicated the need to move Unity Day to another time of year to minimize competition with other agency-wide projects such as the Combined Federal Campaign. Customer satisfaction survey questions for HR (as part of a survey of other administrative functions) and an EEO customer satisfactions survey were developed and administered.

Targets

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

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

Results

FY 2006-2010 New measure in FY 2011

FY 2011 Appointed a small group of key staff who will review study recommendations and use selected criteria to propose appropriate recommendations for implementation at MSPB. Began implementing some study recommendations such as drafting an employee engagement initiative, implementing clear language in vacancy announcements, and updating the category rating policy. Included employee engagement and walk-the-talk objectives and measures in the new internal RMP.

Targets

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

Performance Goal 3.1: (Continued)

This performance goal was **MET**. MSPB completed the hiring makeover report and began implementing initiatives to improve hiring timeliness such as using plain language in vacancy announcements, sending periodic notification to applicants on their status, and updating job questionnaires for key MSPB occupations. We also updated the category rating policy and the merit promotion plan. We took several initiatives to improve the diversity of our applicant pools and reviewed methods of measuring employee understanding of diversity management and its link to agency mission and productivity. We administered an internal survey of HR and EEO customers and appointed a group to review and propose recommendations from MSPB studies appropriate for implementation at MSPB. Beginning in FY 2012, the internal functions of the performance goal will be administered under the internal RMP. Also in FY 2012, MSPB will restructure its internal customer service/customer satisfaction survey program to ensure we are collecting valid and reliable data to measure the success of these functions and set future targets.

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

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

Results

FY 2006 New measure in FY 2007.

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

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

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

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

Performance Goal 3.2: Measure 3.2.a (Continued)

FY 2011 48% of initial appeals (3,067/6,374) and 44% of pleadings (19,483/43,828) were filed electronically. MSPB implemented e-Government applications such as an MSPB Office of Appeals Counsel (OAC) Production Application, e-Requisition, and e-Inventory. The Electronic Case File Pilot expanded to include AJs from all regional and field offices and attorneys at headquarters. Added content or tools to the MSPB public website including information about Oral Arguments, the Meeting in the Sunshine Act, Open Government, rotating information on the Merit System Principle of the Month, audio and video content, and links to Twitter and RSS feeds. Improved the intranet portal including an updated office calendar, improved search capability for Precedential and non-Presidential orders, a learning management system, and a cloud based FOIA tracking system.

Developed and deployed a mobile app for Android and iPhone devices to display MSPB press releases, case reports, decisions, studies, and newsletters. The app has been downloaded over 100 times. In the first year since establishing the MSPB Twitter account, we tweeted 296 times to share all types of information and respond to questions from stakeholders, and sent a live tweet during a Federal News Radio interview. Our tweets were carrying in blogs and forwarded by others expanding our reach. At the end of FY 2011, our 286 Twitter followers include agencies, professional organizations, labor unions, appellants, appellant representatives, good government groups, media outlets, and others.

Targets

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

FY 2012 44% or more of initial appeals are filed electronically and 38% or more of pleadings are filed electronically.

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

Results

FY 2006 New measure in FY 2007.

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

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

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: Measure 3.2.b (Continued)

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

FY 2011 99.8% of tickets were resolved in one business day.

Targets

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

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

Results

FY 2006 New measure in FY 2007.

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

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

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

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

FY 2011 79% of the 89 survey respondents were satisfied or very satisfied with IRM meeting their needs.

Targets

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

3.2.d: Comply with information management regulatory requirements.

Results

FY 2006 New measure in FY 2007.

Performance Goal 3.2: Measure 3.2.d (Continued)

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 (including posting of data sets on data.gov), began 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 to increase the number of secure, remote connections to the network. All MSPB employees completed Annual Information Security Awareness training.

FY 2011 Complied with FISMA, Open Government Directory, Section 508, agency web plan, and IPv6 requirements. 100 percent of MSPB employees completed annual security awareness training. Completed transition to Networx contract, implemented Managed Trusted Internet Protocol Services (MTIPS) which moved spam filtering, malware/spyware blocking and firewall functions to the cloud, and implemented a new cloud based FOIA tracking system. Selected a vendor for moving MSPB email services to the cloud, and began moving many MSPB systems to a virtual machine (VM) environment to consolidate resources and improve overall management, performance, and reliability.

Performance Goal 3.2: Measure 3.2.d (Continued)

Targets

FY 2011 Comply with information management regulatory requirements.

This performance goal was **MET**. The 48% of initial appeals filed electronically was 8 raw percentage points (48%-40%) and 20 relative percentage points (8%/40%) more than the target. The 44% of pleading filed electronically was 14 raw percentage points (44%-30%) and 47 relative percentage points (14%/30%) more than the target. Almost 100% of IT help desk tickets were resolved within one business day, 14% raw percentage points (100%-86%) and 16 relative percentage points higher than the target. The 79% of respondents who agreed that IRM met their needs was 6 raw percentage points (85%-79%) and 7 relative percentage points lower than the target. MSPB continued to comply with IT policy requirements, made many improvements to the website and portal, and began moving many applications to the cloud or to a VM environment. MSPB developed and implemented a mobile app for display of key MSPB information on Android and iPhone devices which was downloaded by over 100 people. During the first year on Twitter, we tweeted 296 times, sharing all types of MSPB information and acquired 286 Twitter followers including academic, HR policy, practice and good government groups, unions, and media outlets. In FY 2012, MSPB will raise the targets for the proportion of initial appeals and pleadings filed electronically to 44% and 38%, respectively. Beginning in FY 2012, all other IT and information service functions will be administered under the internal RMP, including restructuring of its internal customer service/ satisfaction survey program to measure the success of selected internal functions and set future targets.

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

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

FY 2006 New measure for FY 2007.

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

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

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

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

FY 2011 Achieved unqualified opinion on the FY 2010 financial audit.

Performance Goal 3.3: Measure 3.3.a (Continued)

Targets

FY 2011 Achieve unqualified opinion on the annual financial audit.

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

Results

FY 2006 New measure for FY 2007.

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

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 for procurement issues regarding spending during the fourth quarter, which will be addressed in the next FY. MSPB began pilot-testing a new electronic purchase requisition system, which will provide a more efficient procurement process and better tracking of orders from inception of order to receipt of item. Agency video conferencing equipment was updated to include Internet Protocol access, which will allow MSPB to connect to sites that were previously unavailable.

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

FY 2011 Drafted and administered an internal customer satisfaction survey for administrative functions. Information to inform baseline customer service was collected.

Targets

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

This performance goal was **MET**. MSPB obtained an unqualified opinion of its financial statements for the ninth straight year, and administered an updated version of customer satisfaction survey to internal employees. Beginning in FY 2012, these functions will be managed under the RMP, and setting future targets will be accomplished in conjunction with restructuring our internal customer service/customer satisfaction survey program.

Financial Accountability Report

Message from the Chief Financial Officer

U.S. MERIT SYSTEMS PROTECTION BOARD
Financial and Administrative Management
1615 M Street, NW
Washington, DC, 20419
Phone: (202) 254-4408; Fax: (202) 653-7831; E-Mail: ernest.cameron@mspb.gov

Message from the Chief Financial Officer

I am pleased to present the U.S. Merit Systems Protection Board (MSPB) financial statements for fiscal year 2011 and to report that MSPB has earned an unqualified opinion on its FY 2011 consolidated financial statements. I am also particularly pleased to report that, once again, under the leadership of our Chairman, Susan Tsui Grundmann, no material weaknesses were identified in the auditor's report on internal controls. We are proud of our accomplishments in receiving this unqualified opinion as it validates our efforts in preserving the integrity of our financial reporting.

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

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

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

Ernest A. Cameron
Chief Financial Officer
November 1, 2011

Letter to the Auditor on Management Controls

U.S. MERIT SYSTEMS PROTECTION BOARD

1615 M Street, NW
Washington, DC, 20419
Phone: (202) 254-4408; Fax: (202) 653-7831

November 9, 2011

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

Dear Mr. Brown:

This letter is written in connection with your audit of the U.S. Merit Systems Protection Board's Principal Statements (also referred to as "financial statements") as of September 30, 2011 and for the year then ended for the purposes of (1) expressing an opinion as to whether the Principal Statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America and (2) reporting whether the agency's financial management systems substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level as of September 30, 2011.

Certain representations in this letter are described as being limited to matters that are material. For purposes of this letter, matters are considered material if they involve $226,000 or more. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following representations made to you during your audit that these representations are as of the date of your auditor's report, and pertain to the periods covered by the financial statements.

1. We are responsible for the fair presentation of the Principal Statements and Required Supplementary Stewardship Information in conformity with accounting principles generally accepted in the United States of America.

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

3. We have made available to you:

   a. financial records and related data;

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

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

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

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

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

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

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

9. All intra-entity transactions and activities have been appropriately identified and eliminated for financial reporting purposes, unless otherwise noted. All intra-governmental transactions and balances have been appropriately recorded, reported, and disclosed. We have reconciled intra-governmental transactions and balances with the appropriate trading partners for the four fiduciary transactions identified in Treasury's *Intra-governmental Fiduciary Transactions Accounting Guide,* and other intra-governmental asset, liability and revenue amounts as required by OMB Circular A-136.

10. There are no:

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

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

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

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

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

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

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

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

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

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

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

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

15. The financial management systems complied substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the SGL at the transaction level as of September 30, 2011.

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

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

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

19. We believe that the effects of the uncorrected financial statement misstatements summarized in the accompanying schedule (if any) are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

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

21. No material events or transactions have occurred subsequent to September 30, 2011 that have not been properly recorded in the financial statements and required supplementary stewardship information or disclosed in the notes thereto.

22. We have used the materiality threshold of $226,000 for reporting items in this management representation letter. Items below this threshold would not be considered exceptions or reported as such in the representation letter.

23. The information presented on the agency's Statement of Budgetary Resources agrees with the information submitted on the Agency's year-end Reports on Budget Execution and Budgetary Resources (SF 133). This information will be used as input for the FY 2011 actual column of the Program and Financing Schedules reported in the FY 2011 Budget of the U.S. Government. Such information is supported by the related financial records and related data.

Susan Tsui Grundmann
Chairman

Ernest A. Cameron
Chief Financial Officer

U. S. MERIT SYSTEMS PROTECTION BOARD
BALANCE SHEET
AS OF SEPTEMBER 30, 2011 AND 2010
(In Dollars)

		2011		2010
Assets :				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	9,070,597	$	8,279,100
Accounts Receivable (Note 3)		2,877		910
Total Intragovernmental		9,073,474		8,280,010
Accounts Receivable, Net (Note 3)		3,093		1,924
Property, Equipment, and Software, Net (Note 4)		151,721		227,733
Total Assets	$	9,228,288	$	8,509,667
Liabilities (Note 5)				
Intragovernmental				
Accounts Payable	$	27,405	$	68,711
Other (Note 7)		444,466		451,258
Total Intragovernmental		471,871		519,969
Accounts Payable		291,255		637,544
Federal Employee and Veterans' Benefits (Note 6)		631,564		621,682
Other (Note 7)		4,017,109		3,951,337
Total Liabilities	$	5,411,799	$	5,730,532
Commitments and Contingencies				
Net Position:				
Unexpended Appropriations - Other Funds	$	6,892,918	$	5,805,644
Cumulative Results of Operations - Other Funds		(3,076,429)		(3,026,509)
Total Net Position	$	3,816,489	$	2,779,135
Total Liabilities and Net Position	$	9,228,288	$	8,509,667

The accompanyiing notes are an integral part of these statements.

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

	2011	2010
Program Costs: (Note 9)		
Adjudication:		
Gross Costs	$ 37,171,238	$ 37,621,216
Less: Earned Revenue	(9,010)	(12,175)
Net Program Costs	$ 37,162,228	$ 37,609,041
Management Support		
Gross Costs	$ 4,810,044	$ 4,775,546
Net Program Costs	$ 4,810,044	$ 4,775,546
Merit Systems Studies		
Gross Costs	$ 2,184,905	$ 2,090,593
Net Program Costs:	$ 2,184,905	$ 2,090,593
Net Cost of Operations	$ 44,157,177	$ 44,475,180

The accompanying notes are an integral part of these statements.

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

	2011	2010
Cumulative Results of Operations:		
Beginning Balances	$ (3,026,509)	$ (2,740,673)
Budgetary Financing Sources:		
Appropriations Used	39,079,442	38,976,771
Transfers In/Out Without Reimbursement	2,579,000	2,579,000
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources (Note 10)	2,448,815	2,633,573
Total Financing Sources	44,107,257	44,189,344
Net Cost of Operations	(44,157,177)	(44,475,180)
Net Change	(49,920)	(285,836)
Cumulative Results of Operations	$ (3,076,429)	$ (3,026,509)
Unexpended Appropriations:		
Beginning Balances	$ 5,805,644	$ 5,189,555
Budgetary Financing Sources:		
Appropriations Received	40,339,000	40,339,000
Other Adjustments	(172,284)	(746,140)
Appropriations Used	(39,079,442)	(38,976,771)
Total Budgetary Financing Sources	1,087,274	616,089
Total Unexpended Appropriations	$ 6,892,918	$ 5,805,644
Net Position	$ 3,816,489	$ 2,779,135

The accompanying notes are an integral part of these statements.

U. S. MERIT SYSTEMS PROTECTION BOARD
STATEMENT OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

	2011	2010
Budgetary Resources:		
Unobligated Balance:		
Unobligated Balance Brought Forward, October 1	$ 3,000,932	$ 2,460,381
Recoveries of Prior Year Unpaid Obligations	257,577	230,820
Budget Authority		
Appropriation	40,339,000	40,339,000
Spending Authority From Offsetting Collections		
Earned		
Collected	7,042	14,831
Change In Receivables From Federal Sources	1,967	(2,656)
Expenditure Transfers From Trust Funds	2,579,000	2,579,000
Subtotal	42,927,009	42,930,175
Permanently Not Available	(172,284)	(746,140)
Total Budgetary Resources	$ 46,013,234	$ 44,875,236
Status of Budgetary Resources:		
Obligations Incurred (Note 12)		
Direct	$ 40,025,609	$ 39,283,129
Reimbursable	2,588,010	2,591,175
Subtotal	42,613,619	41,874,304
Unobligated Balance		
Apportioned	857,209	1,145,989
Unobligated Balance Not Available	2,542,406	1,854,943
Total Status of Budgetary Resources	$ 46,013,234	$ 44,875,236
Change in Obligated Balance:		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	$ 5,279,078	$ 4,589,728
Uncollected Customer Payments From Federal Sources, Brought Forward, October 1	(910)	(3,566)
Total Unpaid Obligated Balance, Net	5,278,168	4,586,162
Obligations Incurred Net	42,613,619	41,874,304
Gross Outlays	(41,961,261)	(40,954,134)
Recoveries of Prior Year Unpaid Obligations, Actual	(257,577)	(230,820)
Change In Uncollected Customer Payments From Federal Sources	(1,967)	2,656
	5,670,982	5,278,168
Obligated Balance, Net, End of Period		
Unpaid Obligations	5,673,859	5,279,078
Uncollected Customer Payments From Federal Sources	(2,877)	(910)
Total, Unpaid Obligated Balance, Net, End of Period	$ 5,670,982	$ 5,278,168
Net Outlays:		
Gross Outlays	$ 41,961,261	$ 40,954,134
Offsetting Collections	(2,586,042)	(2,593,831)
Net Outlays	$ 39,375,219	$ 38,360,303

The accompanying notes are an integral part of these statements.

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

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

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

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

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

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

B. Basis of Presentation

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

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit the MSPB to incur obligations for specified purposes. In fiscal years 2011 and 2010, the MSPB was accountable for general fund appropriations. The MSPB recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

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

E. Revenues & Other Financing Sources

Congress enacts annual, multi-year, and no-year appropriations to be used, within statutory limits, for operating and capital expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

Appropriations are recognized as a financing source when expended. Revenues from service fees associated with reimbursable agreements are recognized concurrently with the recognition of accrued expenditures for performing the services.

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

F. Taxes

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

G. Fund Balance with Treasury

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

H. Accounts Receivable

Accounts receivable consists of amounts owed to the MSPB by other Federal agencies and the general public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

I. Property, Equipment, and Software

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

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

Description	Useful Life (years)
Office Equipment	10
Software	5

J. Advances and Prepaid Charges

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

K. Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by the MSPB as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation or other funding. Liabilities for which an appropriation

has not been enacted or other funds received are, therefore, classified as not covered by budgetary resources. There is no certainty that the appropriation will be enacted. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

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

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to OPM upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees effective at 50% beginning FY2010 and 100% in 2014.

N. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by the MSPB employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the MSPB terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

O. Retirement Plans

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

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

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

The MSPB recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits

expected to be paid in the future and communicate these factors to the MSPB for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. The MSPB recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

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

P. Other Post-Employment Benefits

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

Q. Use of Estimates

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

R. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. The MSPB recognized imputed costs and financing sources in fiscal years 2011 and 2010 to the extent directed by OMB.

S. Expired Accounts and Cancelled Authority

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

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2011 and 2010, were as follows:

	2011	2010
Fund Balances:		
Appropriated Funds	$ 9,070,597	$ 8,279,100
Total	$ 9,070,597	$ 8,279,100
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 857,209	$ 1,145,989
Unavailable	2,542,406	1,854,943
Obligated Balance Not Yet Disbursed	5,670,982	5,278,168
Total	$ 9,070,597	$ 8,279,100

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

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

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the cash balance on hand. (see also Note 13)

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2011 and 2010, were as follows:

	2011	2010
Intragovernmental		
Accounts Receivable	$ 2,877	$ 910
Total Intragovernmental Accounts Receivable	$ 2,877	$ 910
With the Public		
Accounts Receivable	3,093	1,924
Total Public Accounts Receivable	$ 3,093	$ 1,924
Total Accounts Receivable	$ 5,970	$ 2,834

The accounts receivables are primarily made up of Employee Receivables and Outreach Travel Reimbursements.

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2011 and 2010.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Schedule of Property, Equipment, and Software as of September 30, 2011

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 1,702,413	$ 1,550,692	$ 151,721
Furniture & Equipment	73,776	73,776	-
Software	9,415,576	9,415,576	-
Total	$ 11,191,765	$ 11,040,044	$ 151,721

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

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

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the MSPB as of September 30, 2011 and 2010, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2011	2010
Intragovernmental – FECA	$ 117,277	$ 147,544
Intragovernmental – Unemployment Insurance	-	12,184
Unfunded Leave	2,482,401	2,474,757
Actuarial FECA	631,564	621,682
Total Liabilities Not Covered by Budgetary Resources	$ 3,231,242	$ 3,256,167
Total Liabilities Covered by Budgetary Resources	2,180,557	2,474,365
Total Liabilities	$ 5,411,799	$ 5,730,532

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

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

NOTE 6. ACTUARIAL FECA LIABILITY

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

The MSPB bases its estimate for FECA actuarial liability on the DOL's FECA model. The model considers the average amount of benefit payments incurred by the MSPB for the past three fiscal years, multiplied by the medical and compensation liability to benefits paid (LBP) ratio for the whole FECA program. For the fiscal years ending September 30, 2011 and 2010, the MSPB uses the overall average percentages of the LBP ratios to calculate the $631,564 and $621,682 FECA actuarial liabilities for those years, respectively.

NOTE 7. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2011 were as follows:

	Current	Non Current	Total
Intragovernmental			
FECA Liability	$ 71,295	$ 45,982	$ 117,277
Payroll Taxes Payable	327,189	-	327,189
Total Intragovernmental Other Liabilities	$ 398,484	$ 45,982	$ 444,466
With the Public			
Payroll Taxes Payable	$ 51,049	$ -	$ 51,049
Accrued Funded Payroll and Leave	1,483,659	-	$ 1,483,659
Unfunded Leave	2,482,401	-	$ 2,482,401
Total Public Other Liabilities	$ 4,017,109	$ -	$ 4,017,109

Other liabilities account balances as of September 30, 2010 were as follows:

	Current	Non Current	Total
Intragovernmental			
FECA Liability	$ 39,069	$ 108,475	$ 147,544
Unemployment Insurance Liability	12,184	-	$ 12,184
Payroll Taxes Payable	291,530	-	$ 291,530
Total Intragovernmental Other Liabilities	$ 342,783	$ 108,475	$ 451,258
With the Public			
Payroll Taxes Payable	$ 44,873	$ -	$ 44,873
Accrued Funded Payroll and Leave	1,431,708	-	$ 1,431,708
Unfunded Leave	2,474,756	-	$ 2,474,756
Total Public Other Liabilities	$ 3,951,337	$ -	$ 3,951,337

NOTE 8. LEASES

Operating Leases

The MSPB occupies office space or warehouse space at three locations with lease agreements that are accounted for as operating leases. The first lease for office space Washington Regional Office (WRO) began on September 15, 2000 and expired on September 14, 2010. The lease has been extended by executing a Supplemental Lease Agreement (SLA) for 3 years. The SLA for WRO expires on September 8, 2013. The agency pays an annual rent of $212,528. Operating costs are subject to annual adjustments, based on the percentage change in the Cost of Living Index.

The second agreement (Denver Field Office) began on November 1, 2001 and expires on December 31, 2011. Currently, the agency pays annual rent of $119,475. The agency is in negotiations to renew the lease, however no final agreement has been made.

The third lease (Washington, DC warehouse) began on April 1, 2003 and expires on March 31, 2013. The agency pays annual rent of $30,703, increased each year by 4% beginning with the first anniversary of the lease commencement date.

Below is a schedule of future payments for the terms of the leases.

Fiscal Year	Building
2012	$ 273,998
2013	228,754
Total Future Payments	$ 502,752

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

Note: MSPB pays its pro-rata share of any property tax increases.

NOTE 9. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

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

		2011		2010
Adjudication				
Intragovernmental Costs	$	10,784,418	$	9,230,516
Public Costs		26,386,821		28,390,700
Total Program Costs		37,171,238		37,621,216
Intragovernmental Earned Revenue		(3,410)		(12,175)
Public Earned Revenue		(5,600)		-
Net Program Costs	$	37,162,228	$	37,609,041
Management Support				
Intragovernmental Costs	$	1,206,871	$	1,059,761
Public Costs		3,603,173		3,715,785
Total Program Costs		4,810,044		4,775,546
Net Program Costs	$	4,810,044	$	4,775,546
Merit Systems Studies				
Intragovernmental Costs	$	356,785	$	335,007
Public Costs		1,828,120		1,755,586
Total Program Costs		2,184,905		2,090,593
Net Program Costs	$	2,184,905	$	2,090,593
Total Intragovernmental costs	$	12,348,073	$	10,625,284
Total Public costs		31,818,114		33,862,071
Total Costs		44,166,187		44,487,355
Total Intragovernmental Earned Revenue		(3,410)		(12,175)
Total Public Earned Revenue		(5,600)		-
Total Net Cost	$	44,157,177	$	44,475,180

NOTE 10. IMPUTED FINANCING SOURCES

The MSPB recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. Amounts paid from the U.S. Treasury's Judgment Fund in settlement of claims or court assessments against the MSPB are also recognized as imputed financing. For the fiscal years ended September 30, 2011 and 2010, respectively, imputed financing was as follows.

	2011	2010
Office of Personnel Management	$ 2,448,365	$ 2,633,028
Treasury Judgment Fund	450	546
Total Imputed Financing Sources	$ 2,448,815	$ 2,633,574

NOTE 11. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include FY11 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2012 and can be found at the OMB Web site: *http://www.whitehouse.gov/omb/*. The 2012 Budget of the United States Government, with the "Actual" column completed for 2010, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 12. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources in 2011 and 2010 consisted of the following:

	2011	2010
Direct Obligations, Category A	$ 40,025,609	$ 39,283,129
Reimbursable Obligations, Category A	2,588,010	2,591,175
Total Obligations Incurred	$ 42,613,619	$ 41,874,304

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 13. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the fiscal years ended September 30, 2011 and 2010, undelivered orders amounted to $3,493,301 and $2,804,712 respectively.

NOTE 14. CUSTODIAL ACTIVITY

The MSPB's custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are neither primary to the mission of the MSPB nor material to the overall financial statements. The MSPB's total custodial collections are $1760 and $338 for the fiscal years ended September 30, 2011, and 2010, respectively.

NOTE 15. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

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

	2011	2010
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 42,613,619	$ 41,874,304
Spending Authority From Offsetting Collections and Recoveries	(2,845,586)	(2,821,995)
Net Obligations	39,768,033	39,052,309
Other Resources		
Imputed Financing From Costs Absorbed By Others	2,448,815	2,633,573
Net Other Resources Used to Finance Activities	2,448,815	2,633,573
Total Resources Used to Finance Activities	42,216,848	41,685,882
Resources Used to Finance Items Not Part of the Net Cost of Operations	1,847,959	2,503,671
Total Resources Used to Finance the Net Cost of Operations	44,064,807	44,189,553
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period:	92,370	285,627
Net Cost of Operations	$ 44,157,177	$ 44,475,180

BROWN & COMPANY CPAs, PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

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

We have audited the accompanying balance sheet of the U.S. Merit Systems Protection Board (MSPB) as of September 30, 2011 and 2010 and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of MSPB's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the MSPB as of September 30, 2011 and 2010 and its net costs, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *U.S. Government Auditing Standards* and OMB Bulletin No. 07-04, as amended, we have also issued reports our dated November 9, 2011 on our consideration of the MSPB internal control over financial reporting and its compliance with certain provisions of laws and regulations. Those reports are an integral part of an audit performed in accordance with *U.S. Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

Accounting principles generally accepted in the United States of America require that the Management Discussion and Analysis (MD&A) be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by OMB Circular A-136, *Financial Reporting Requirements*, as revised, that considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

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

Brown & Company

Largo, Maryland
November 9, 2011

BROWN & COMPANY CPAs, PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

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

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2011 and have issued our report thereon dated November 9, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended.

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

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

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

Brown & Company

Largo, Maryland
November 9, 2011

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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

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

We have audited the financial statements of the U.S. Merit Systems Protection Board (MSPB) as of and for the year ended September 30, 2011 and have issued our report thereon dated November 9, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended.

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

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

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

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

Brown & Company

Largo, Maryland
November 9, 2011

Appendix: Abbreviations and Acronyms

ADA	Americans with Disabilities Act
ADR	Alternative Dispute Resolution
AJ	Administrative Judge
ALJ	MSPB Office of Administrative Law Judge
APHIS	U.S. Department of Agriculture Animal and Plant Health Inspection Service
ATDA	Accountability of Tax Dollars Act of 2002
BPD	Department of the Treasury Bureau of Public Debt
CHCO	Chief Human Capital Officer
CFO	Chief Financial Officer's Act of 1990
COR	Contracting Officer's Representative
CPDF	OPM's Central Personnel Data File
CSC	Civil Service Commission
CSRA	Civil Service Reform Act of 1978
DoD	Department of Defense
DHS	Department of Homeland Security
DNSSEC	Domain Name Service Security
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EPA	Environmental Protection Agency
FAM	MSPB Office of Financial and Administrative Management
FCC	Federal Communications Commission
FDCC	Federal Desktop Core Configuration
FEW	Federal Employed Women
FISMA	Federal Information Security Management Act of 2002
FFMIA	Federal Financial Management Improvement Act of 1996
FLRA	Federal Labor Relations Authority
FMFIA	Federal Managers' Financial Integrity Act of 1982
FOIA	Freedom of Information Act
FTE	Full Time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
GPRA	Government Performance and Results Act of 1993
GPRAMA	Government Performance and Results Act Modernization Act of 2010
HR	Human Resources
IPIA	Improper Payments Information Act of 2002
IPv6	Internet Protocol Version 6
IRM	MSPB Office of Information Resources Management
MAP	Mediation Appeals Program
MPS	Merit Principles Survey
MSP	Merit Systems Principle
MSPB	Merit Systems Protection Board
MTIPS	Managed Trusted Internet Protocol Services
NAPA	National Academy of Public Administration

NASPAA	National Association of School of Public Affairs and Administration
NFFE	National Federation of Federal Employees
NLRB	National Labor Relations Board
NRP	USPS National Reassessment Project
NTEU	National Treasury Employees Union
OAC	MSPB Office of Appeals Counsel
OCB	MSPB Office of the Clerk of the Board
OGC	MSPB Office of General Counsel
OMB	Office of Management and Budget
OPE	MSPB Office of Policy and Evaluation
OPF	Official Personnel Folder
OPM	Office of Personnel Management
ORO	MSPB Office of Regional Operations
PAR	Performance and Accountability Report
PFR	Petition for Review
PIO	Performance Improvement Officer
POAMS	Plan of Action Milestones
PPP	Prohibited Personnel Practice
RIF	Reduction in Force
SEA	Senior Executives Association
SES	Senior Executive Service
SGL	United States Government Standard General Ledger
TIC	Trusted Internet Connections
USERRA	Uniformed Services Employment and Reemployment Rights Act
USPS	United States Postal Service
VEOA	Veterans Employment Opportunity Act
VM	Virtual Machine
WPA	Whistleblower Protection Act

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