



# **U.S. Merit Systems Protection Board**

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## **APR-APP** for **FY 2015-2017**

**Annual Performance Results for  
FY 2015  
and  
Annual Performance Plan for  
FY 2016 (Final) and 2017 (Proposed)**

February 9, 2016

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**United States**  
**Merit Systems Protection Board**



**Annual Performance Report for FY 2015  
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## Foreword

The U.S. Merit Systems Protection Board (MSPB) submits this Annual Performance Report and Annual Performance Plan (APR-APP). The APR-APP combines the Annual Performance Report for FY 2015 with the Annual Performance Plan for FY 2016 (Final)–2017 (Proposed) as required by the Government Performance and Results Act Modernization Act of 2010 (GPRAMA). It also contains information about MSPB appeals processing as required by Section 7701(i)(1) and (2) of Title 5 United States Code, and information about whistleblower cases processed by MSPB in accord with the Whistleblower Protection Enhancement Act of 2012 (WPEA, see Appendix A).

The APR-APP contains information about MSPB including its origin in relation to civil service history; role and functions; scope of responsibility; organization and structure; and how it brings value to the merit systems, Federal agencies, the workforce, and the public. It also provides information about the Merit System Principles (MSPs) and Prohibited Personnel Practices (PPPs). The APR-APP also contains the annual performance report for FY 2015 comparing actual results to performance targets and includes prior year results for comparative purposes; the final performance goals, measures, and targets for FY 2016 and proposed targets for FY 2017 along with explanatory information on changes; and an overall summary of the external trends and internal challenges that have affected or may continue to affect MSPB's performance and information about performance measurement and program evaluation.

The APR-APP has been prepared in accordance with guidance provided by the Office of Management and Budget (OMB) and other sources. The APR-APP was prepared by Government employees in accordance with the GPRAMA. The APR-APP is available on the MSPB website at [www.mspb.gov](http://www.mspb.gov).

We invite customers and stakeholders to send comments to improve the APR-APP to:

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Go to [www.mspb.gov](http://www.mspb.gov) to follow us on Twitter @USMSPB or download the MSPB application (for android or iPhone).

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**U.S. Merit Systems Protection Board**  
**APR-APP for FY 2015-2017**  
**Annual Performance Results for FY 2015 and**  
**Annual Performance Plan for FY 2016 (Final) and FY 2017 (Proposed)**

## **Introduction**

A highly qualified, diverse Federal workforce managed in accordance with the Merit System Principles (MSPs), and in a manner free from Prohibited Personnel Practices (PPPs) is critical to ensuring agency performance and service to the public. The MSPs are good management practices that help ensure that the Federal Government is able to recruit, select, develop, and maintain a high-quality workforce and thereby reduce staffing costs and improve organizational results for the American people. The PPPs are specific proscribed behaviors that undermine the MSPs and adversely impact the effectiveness and efficiency of the workforce and the Government. The fundamental function of MSPB is to ensure that the Federal workforce is managed in a manner consistent with the MSPs and protected from PPPs.

This APR-APP contains performance goals, measures, and targets for the strategic and management objectives defined in MSPB's Strategic Plan for FY 2016–2018. The APP includes revised performance targets for FY 2016 and proposed targets for FY 2017. The APR includes performance results for FY 2015 and prior years.

## **Summary of Results and Critical External and Internal Issues**

Highlights of MSPB's recent results, and its most significant external factors and internal challenges are presented here. Complete performance results are provided in the section on [Performance Goals, Measures, Results, and Targets](#). More information about external and internal issues is provided in the section on [Trends and Challenges that May Affect Agency Performance](#).

**Accomplishments in FY 2015.** In FY 2015, MSPB's regional and field offices processed 93 percent of the over 32,400 furlough initial appeals filed in 2013 because of Federal sequestration, and 70 percent of its nonfurlough appeals. The regional and field offices closed a new record of almost 25,400 cases, a 55% increase (9,013 more cases) than the record number closed in all of FY 2014. MSPB Headquarters (HQ) staff processed nearly 3,120 cases, almost three times the number of cases processed in FY 2014. MSPB also processed five cases filed with MSPB under the new Veterans Access, Choice, and Accountability Act of 2014. The quality of decisions issued in the regional and field offices and at HQ exceeded the targets for FY 2015. MSPB also expanded the number of mediators in its Mediation Appeals Program (MAP). Further, MSPB finalized its regulations regarding establishing jurisdiction in cases filed with MSPB.

MSPB published four merit systems study reports including reports on: veterans' employment redress laws; the impact of recruitment strategy on fair and open competition; due process in Federal civil service employment; and a summary of its research agenda for FY 2015-2018. MSPB published three editions of its newsletter, and four online articles including one on taking adverse actions in the civil service. MSPB study reports were cited in a wide range of sources, including Government Accountability Office (GAO) reports, Office of Personnel Management (OPM) guidance, and Congressional testimony. MSPB made important information available to policymakers and others about due process in the civil service and the potential impact of pending legislation on the civil service. MSPB conducted over 140 outreach events with its stakeholders, almost 40 percent more than were conducted in FY 2014.

MSPB exceeded its human capital management objectives in part evidenced by MSPB's results on the Federal Employee Viewpoint Survey (FEVS). MSPB showed increases in the positive responses for almost every question on the survey including perceptions about having the necessary resources to do their jobs and improved perceptions about agency managers and leaders. In addition, MSPB ranked 8<sup>th</sup> and had the 2<sup>nd</sup> most improved employee engagement score among small agencies. MSPB also ranked 8<sup>th</sup> in 2015 and was the 5<sup>th</sup> most improved among small agencies in Best Places to Work rankings released by the Partnership for Public Service.

**Significant External Trends and Issues.** Significant external trends affecting MSPB's mission include recent and anticipated changes to law and jurisdiction, changes in the demographics of the Federal workforce, and potential budget reductions (including possible sequestration) in FY 2018 and beyond.

For reasons explained later in this report, the Veterans Access, Choice, and Accountability Act of 2014 has slowed the processing of other cases assigned to the MSPB staff processing the VA appeal. These other cases may involve other non-Veterans Administration (VA) Senior Executive Service (SES) employees, whistleblowers, veterans, retirees, and others who have the right to file appeals with MSPB. Recent legislation passed in the House and Senate expands the VA SES appeals procedures to the rest of the Department's General Schedule employees (S. 1082; S. 1117; and H.R. 1994).<sup>1</sup> Chairman Susan Tsui Grundmann provided expert testimony to the Senate Committee on Veterans' Affairs on the potential effect this legislation will have on due process for these employees in relation to those provided generally to other Federal civil servants.<sup>2</sup> As it relates to MSPB, the new legislation would require that MSPB AJs issue a decision within 45 days, without affording subsequent appeal to the Presidentially appointed and Senate confirmed MSPB Board Members, nor to the Court. The legislation also expands MSPB appeal rights to tens of thousands of medical personnel in the VA who do not currently have the right to appeal to MSPB. MSPB does not have the resources to meet the requirements of the new VA legislation should it be enacted and signed as it is currently written.

Furloughs conducted by agencies in response to budget sequestration in FY 2013 led to an historic increase in the number of appeals filed with MSPB. Although sequestration is not likely for FY 2016-2017, it is unclear if other Governmentwide budget reductions may occur in FY 2018 and beyond. Budget reductions could mean a large increase in the number of appeals which could involve furloughs, reductions in force (RIFs), or early retirements (through Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP)).

Among other changes in the demographics of the Federal workforce, the number of Federal employees eligible to retire, and the number of employees being added to the retirement rolls is increasing. Retirement appeals filed with MSPB rose to 1,274 in 2015, from 937 and 968 in 2013 and 2014, respectively. MSPB likely is to continue to see increases in the number of retirement appeals filed with MSPB, thus increasing our adjudication workload. Reduced budgets and changes in Federal workforce demographics also emphasizes the importance of our merit systems studies and OPM review functions to help ensure the workforce is managed under the MSPs and free from PPPs.

**Significant Internal Issues and Challenges.** MSPB's greatest internal challenges include human capital issues and ensuring a stable and viable IT infrastructure to support current mission and administrative functions to ensure effective implementation of modernization initiatives (i.e., MSPB's e-Adjudication initiative and obtaining a secure, cloud-based survey platform).

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<sup>1</sup> Legislation recently introduced in the House (H.R. 4358) expands the VA SES provisions to all SES members across Government.

<sup>2</sup> Chairman Grundmann's testimony is available on MSPB's website at [www.mspb.gov](http://www.mspb.gov).

Fortunately, MSPB's FY 2014 and FY 2015 appropriations enabled an increase the number of on-board employees to 220 at the end of FY 2015 (a 12% increase over the 196 positions filled at the end of FY 2013). We appreciate Congressional support of those requests, and our enacted appropriations for FY 2016, which will support retaining this staffing level. Even so, over 20 percent of MSPB employees, including almost one-third of MSPB AJs, are eligible to retire in the next 2 years. Although MSPB has been able to fill these positions with well-qualified candidates, it takes 2-3 years for adjudication and other agency professionals to reach journey-level performance. If no significant increases in workload occur, MSPB must be able to retain its Full Time Equivalent (FTE) level in FY 2017 and beyond in order to perform its statutory functions effectively and efficiently. MSPB is beginning a strategic human capital planning process focused on its highest priority workforce issues. MSPB is beginning a sustained strategic human capital planning process focused on its highest priority issues, including the high percentage of employees eligible to retire. MSPB currently has two Board Members – Chairman Susan Tsui Grundmann and Member Mark Robbins. The President has nominated Mark P. Cohen to fill the third Board Member position (vacated in February 2015 by Vice Chairman Anne Wagner).

The furlough appeals reinforced the need for MSPB to shift from paper to electronic appeals processing (internally and externally) and records management to improve efficiency and customer service. The transition to e-Adjudication also supports Governmentwide initiatives on paperwork elimination, electronic records management, operational efficiency, effectiveness, and customer service. The e-Adjudication project will yield important potential improvements in efficiency, but will require a significant and sustained initial investment of resources. Although MSPB will be conducting the next Merit Principles Survey (MPS) through contractor support, MSPB's current ability to improve the collection of important customer service information and its long-term ability to conduct surveys to support merit systems studies requires obtaining an automated survey platform that provides flexibility in survey design and administration and works securely in a cloud-based environment.

In late June 2015, MSPB experienced a significant disruption in its IT infrastructure resulting in the loss of MSPB's virtual environment as well as the loss of employee working and archived documents. The IT outage also adversely affected on the achievement of MSPB objectives related to implementation of surveys of current web-users, progress on e-Adjudication, and progress on obtaining a secure, cloud-based survey platform essential for our studies and customer survey functions. We know this event was not the result of a malicious internal or external action and did not result in release of sensitive data or the loss of official adjudication documents. However, recovering from the event, recreating the virtual environment, and re-establishing confidence in the IT systems and processes will take time.

## About MSPB

**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 on their suitability and qualifications to perform particular jobs.<sup>3</sup> 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 Federal 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

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<sup>3</sup> Bogdanow, M., and Lanphear, T., History of the Merit Systems Protection Board, Journal of the Federal Circuit Historical Society, Vol. 4, 2010, pages 109-110.

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 capable and 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. Concern over the inherent or perceived conflict of interest in the CSC's role as both the rule-maker and adjudicator of those same rules was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA).<sup>4</sup> The CSRA replaced the CSC with three new agencies: MSPB as the successor to the Commission;<sup>5</sup> OPM as the President's agent for Federal workforce policy and procedure; and the Federal Labor Relations Authority to oversee Federal labor-management relations.

**Current Organization.** MSPB is an independent Federal agency within the Executive Branch. Its three Board Members (the Chairman, Vice Chairman, and Board Member), are appointed by the President and confirmed by the Senate. The Board Members serve overlapping, nonrenewable 7-year terms and they only can be removed for cause. No more than two of the three Board Members can be from the same political party. The Board Members' primary role is to adjudicate the cases brought to the Board. The Chairman, by statute, is the chief executive and administrative officer. MSPB also has independent budgetary authority and hiring authority for its GS employees. The third Board Member position is currently vacant following Vice Chairman Wagner's departure on February 28, 2014. On July 8, 2015 President Barack Obama nominated Mark P. Cohen as Board Member (upon confirmation to be designated Vice Chairman) for the term to expire on March 1, 2021.

MSPB headquarters, located in Washington, DC, has eight offices that are responsible for conducting MSPB's statutory and support functions. The Directors of these eight offices report to the Chairman through the Executive Director. MSPB also has eight regional and field offices located throughout the United States. These offices process initial appeals and report through the Director of Regional Operations. The agency is currently authorized to employ approximately 226 Full-time Equivalents (FTEs) to conduct and support its statutory duties. Many support functions are performed by other Federal agencies through interagency agreements. More information about MSPB's functions and scope of responsibilities; office responsibilities and MSPB organizational chart; how MSPB brings value to the merit systems, the Federal workforce and the public; and the MSPs and PPPs is provided in Appendix B.

## Linking this Plan to Other Agency Documents

This APP is based on the strategic and management objectives contained in MSPB's Strategic Plan updated for FY 2016–2018. Individual performance plans for MSPB's senior executives are linked to agency annual performance and management goals, as applicable. MSPB reports program performance results compared to performance targets in accordance with GPRAMA and Office of Management and Budget (OMB) guidance. MSPB's plans and reports are posted on MSPB's website at [www.mspb.gov](http://www.mspb.gov).<sup>6</sup>

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<sup>4</sup> Ibid. page 113.

<sup>5</sup> Ibid. page 114.

<sup>6</sup> In accordance with the GPRAMA and OMB guidance, MSPB does not define priority goals, does not have low priority program activities, nor does it have a specific role in achieving Federal cross-agency priority goals. MSPB does not have any duplicative, overlapping, or fragmented programs as referenced in the Executive Order on 'Delivering an Efficient, Effective, and Accountable Government.' MSPB also does not have any internal management challenges reported in the GAO High Risk List.

The performance goals, measures, and targets describe what MSPB can accomplish with the budgetary and FTE resources enacted for FY 2016 and proposed for FY 2017. The extraordinary increase in furlough appeals filed in FY 2013 has affected targets for case processing timeliness in other cases. Conduct of merit systems studies, review of OPM significant actions, outreach (especially if it involves travel), and the program evaluation schedule are competing for fewer analytic resources. MSPB adjusted the FY 2016 targets from those contained in the FY 2016 [APP](#) based on recent changes in external and internal factors. MSPB proposed 2017 performance goals, measures, and targets based on current agency performance, external factors such as recent legislation, internal challenges, and OMB and Congressional budget actions.

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# MSPB Performance Framework

## Mission

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

## Vision

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

## Organizational Values

- Excellence:** We will base our decisions on statutes, regulations, and legal precedents; use appropriate scientific research methods to conduct our studies and make practical recommendations for improvement; and develop and use appropriate processes to oversee the regulations and significant actions of the Office of Personnel Management. We will interact with our customers and stakeholders in a professional, respectful, and courteous manner. We will strive to be a model merit-based organization by applying the lessons we learn in our work to the internal management of MSPB.
- Fairness:** We will conduct our work in a fair, unbiased, and objective manner. We will be inclusive in considering the various perspectives and interests of stakeholders in our work, and in our external and internal interactions with individuals and organizations.
- Timeliness:** We will issue timely decisions in accordance with our performance goals and targets. We will issue timely reports on the findings and recommendations of our merit systems studies. We will respond promptly to inquiries from customers and stakeholders.
- Transparency:** We will make our regulations and procedures easy to understand and follow. We will communicate with our customers and stakeholders using clear language. We will make our decisions, merit systems studies, and other materials easy to understand, and widely available and accessible on our website. We will enhance the understanding of our processes and the impact of our products through outreach efforts.

## Strategic Goals and Objectives

**Strategic Goal 1: Serve the public interest by *protecting* Merit System Principles and *safeguarding* the civil service from Prohibited Personnel Practices.**

**Strategic Objectives:**

- 1A: Provide understandable, high-quality resolution of appeals, supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes.
- 1B: Enforce timely compliance with MSPB decisions.
- 1C: Conduct objective, timely studies of the Federal merit systems and Federal human capital management issues.
- 1D: Review and act upon the rules, regulations, and significant actions of the Office of Personnel Management, as appropriate.

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

**Strategic Objectives:**

- 2A: Inform, promote, and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit systems laws and regulations.
- 2B: Support and improve the practice of merit, adherence to MSPs, and prevention of PPPs in the workplace through outreach.
- 2C: Advance the understanding of the concepts of merit, MSPs, and PPPs through the use of educational standards, materials, and guidance established by MSPB.

## Management Objectives

**Management Objectives: Effectively and Efficiently . . .**

- M1: Lead and manage employees to ensure a diverse, inclusive, and engaged workforce with the competencies to perform MSPB's mission and support functions.
- M2: Manage budget and financial resources and improve adjudication efficiency to ensure necessary resources now and in the future.
- M3: Manage information technology and information services programs to support agency mission and administrative functions and implement modernization initiatives.
- M4: Ensure employee and workplace safety and security.

## Tabular Summary of Current Progress and Future Targets

Summary of MSPB FY 2015 Performance Results			
<b>Strategic Goal 1: Serve the public interest by <i>protecting</i> Merit System Principles and <i>safeguarding</i> the civil service from Prohibited Personnel Practices.</b>			
<b>Strategic Obj. 1A: Provide understandable, high-quality resolution of appeals, supported by fair and efficient adjudication and alternative dispute resolution (ADR) processes.</b>		Substantially Met	
Performance Goal	Performance Measure	2015 Target	2015 Result
<a href="#">1A-1</a> : Quality of initial decisions	Percent initial decisions reversed/remanded on PFR	10% or fewer	2%
<a href="#">1A-2</a> : Quality of Board/PFR decisions	Percent decisions unchanged by the reviewing court	92% or greater	96%
<a href="#">1A-3</a> : Participant perceptions of the adjudication <i>process</i>	Percent participant agreement	Administer customer surveys	See report
<a href="#">1A-4</a> : Initial appeals processing timeliness	Average processing time	Decide majority of furlough cases, track other cases	Closed 93% of furloughs & 70% of nonfurloughs
<a href="#">1A-5</a> : PFR processing timeliness	Average processing time	260 days and track inventory	190 days
<a href="#">1A-6</a> : Participant perceptions of the ADR <i>process</i>	Percent participant agreement	Administer customer surveys	See report
<b>Strategic Obj. 1B: Enforce timely compliance with MSPB decisions.</b>		Not Met	
<a href="#">1B-1</a> : Compliance case processing timeliness	Weighted average processing time for all compliance cases	135 days or fewer	161 days
<b>Strategic Obj. 1C: Conduct objective, timely studies of Federal merit systems and Federal human capital management issues.</b>		Met	
<a href="#">1C-1</a> : Number/scope of <i>Issues of Merit (IoM)</i> newsletter editions	Number/scope of newsletters editions published	Publish 3-4 <i>IoM</i> editions	3 <i>IoM</i> & 4 online articles published
<a href="#">1C-2</a> : Number/scope of study reports	Number/scope of reports published	3-5 reports completed	4 reports published
<a href="#">1C-3</a> : Conduct surveys of Federal employees to assess & report on health of merit system	Conduct/analyze periodic surveys of Federal employees	Design next Merit Principles Survey (MPS)	See report
<b>Strategic Obj. 1D: Review and act upon the rules, regulations, and significant actions of OPM, as appropriate.</b>		Met	
<a href="#">1D-1</a> : Review OPM rules/regulations	Number/scope of OPM regulations reviewed	Track and report activity	See report
<a href="#">1D-2</a> : Review OPM significant actions	Number/scope of OPM significant actions reviewed	Maintain scope; publish review	Published 2014 Annual Report
<b>Strategic Goal 2: Advance the public interest through <i>education</i> and <i>promotion</i> of stronger merit systems, adherence to Merit System Principles, and the <i>prevention</i> of Prohibited Personnel Practices.</b>			
<b>Strategic Obj. 2A: Inform, promote, and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit system laws &amp; regulations.</b>		Exceeded	
<a href="#">2A-1</a> : References to MSPB's work	Scope of references to MSPB's work	Maintain scope	Citations in over 115 sources
<a href="#">2A-2</a> : Create policy-related products	Number/scope of policy-related products	Post new study report highlights	Highlights posted for new reports

<b>Strategic Goal 2: Continued</b>			
<b>Strategic Obj. 2B: Support &amp; improve the practice of merit, adherence to MSPs, &amp; prevention of PPPs in the workplace through outreach.</b>		<b>Exceeded</b>	
<b>Performance Goal</b>	<b>Performance Measure</b>	<b>2015 Target</b>	<b>2015 Result</b>
<b>2B-1:</b> Conduct merit-based outreach events	Number/scope of merit-based outreach events	70 events, improve tracking	>140 outreach events conducted
<b>Strategic Obj. 2C: Advance the understanding of the concept of merit, MSPs, &amp; PPPs through the use of educational standards, materials &amp; guidance established by MSPB.</b>		<b>Substantially Met</b>	
<b>2C-1:</b> Practice/educational website materials accessed	Number of visits/accesses from website	Within $\pm$ 5% of previous year	>655,400 visits to selected webpages
<b>2C-2:</b> Create/update electronic educational materials	Number/type of new or updated educational materials	5 or more products	8 types of new products
<b>2C-3:</b> MSPB website meets customer needs	Percent agreement with website survey questions	Administer customer surveys	Postponed
<b>Management Obj. M1: Lead &amp; manage employees to ensure an engaged workforce with competencies to perform mission.</b>		<b>Exceeded</b>	
<b>M1-1:</b> Ensure workforce competencies	Percent agreement FEVS competency questions	65% or more	79% agreement
<b>M1-2:</b> Maintain perceptions of diversity & inclusion	Percent agree with FEVS diversity & Internal Survey inclusion questions	Diversity, + at least 3% or more; Inclusion, 68% $\leq$	Percent Agree.: Diversity 71% Inclusion 77%
<b>M1-3:</b> Maintain employee engagement	Percent agreement FEVS engagement questions	Increase 3% or more from 2014	74% agreement
<b>Management Obj. M2: Manage budget and financial resources and improve adjudication efficiency to ensure necessary resources now and in the future.</b>		<b>Partially Met</b>	
<b>M2-1:</b> Ensure justified budgets & resource accountability	Average of percent funded positions vacant at end of each month	10% or fewer positions vacant	4% average vacancy rate
<b>M2-2:</b> Improve adjudication processing efficiency	Proportion of cases processed entirely electronically	Track e-filing, Develop RFI for e-Adjudication	See report
<b>Management Obj. M3: Manage IT and information services programs to support mission.</b>		<b>Not Met</b>	
<b>M3-1:</b> Ensure IT application and system availability	Average percent downtime of key systems	1.75 % or less mean downtime	See report
<b>M3-2:</b> Maintain internal/external IT customer support	Percent of internal and external tickets resolved within SLA	85% or more	See report
<b>Management Obj. M4: Ensure individual and workplace safety and security.</b>		<b>Exceeded</b>	
<b>M4-1:</b> Employees prepared to ensure safety and security	Average % agree on Internal Survey (IS) safety and security questions	75% or more	87 % Positive

## Summary of MSPB FY 2016 (Final) and FY 2017 (Proposed) Performance Plan

**Strategic Goal 1: Serve the public interest by *protecting* Merit System Principles and *safeguarding* the civil service from Prohibited Personnel Practices.**

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

Performance Goal	Performance Measure	2016 Target (Revised)	2017 Target (Proposed)
<a href="#">1A-1</a> : Quality of initial decisions	Percent initial decisions reversed/ remanded on PFR	10% or fewer	
<a href="#">1A-2</a> : Quality of Board/PFR decisions	Percent decisions unchanged by the reviewing court	92% or greater	
<a href="#">1A-3</a> : Participant perceptions of the adjudication <i>process</i>	Percent participant agreement	Begin automated customer surveys	Continue surveys, address issues
<a href="#">1A-4</a> : Initial appeals processing timeliness	Average processing time	Complete furloughs, decrease inventory of nonfurlough cases	TBD
<a href="#">1A-5</a> : PFR processing timeliness	Average processing time	220 days	TBD
<a href="#">1A-6</a> : Participant perceptions of the ADR <i>process</i>	Percent participant agreement	Begin automated customer surveys	Continue surveys, address issues

**Strategic Obj. 1B: Enforce timely compliance with MSPB decisions.**

<a href="#">1B-1</a> : Compliance case processing timeliness	Weighted average processing time for all compliance cases	135 days or fewer
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**Strategic Obj. 1C: Conduct objective, timely studies of Federal merit systems and Federal human capital management issues.**

<a href="#">1C-1</a> : Number/scope of <i>Issues of Merit</i> newsletter editions	Number/scope of newsletters published	3-4 newsletter editions or on-line articles	
<a href="#">1C-2</a> : Number/scope of study reports	Number/scope of reports published	3-4 merit systems study reports published	
<a href="#">1C-3</a> : Conduct surveys of Federal employees to assess & report on health of merit system	Conduct/analyze periodic surveys of Federal employees	Conduct MPS; plan survey platform procurement	Analyze MPS results; obtain survey platform

**Strategic Obj. 1D: Review and act upon the rules, regulations, and significant actions of OPM, as appropriate.**

<a href="#">1D-1</a> : Review OPM rules/regulations	Number/scope of OPM regulations reviewed	Track and report activity	
<a href="#">1D-2</a> : Review OPM significant actions	Number/scope of OPM significant actions reviewed	Maintain scope; publish review of OPM significant actions	

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

**Strategic Obj. 2A: Inform, promote, and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit system laws & regulations.**

<a href="#">2A-1</a> : References to MSPB's work	Scope of references to MSPB's work	Maintain scope	
<a href="#">2A-2</a> : Create policy-related products	Number/scope policy-related products	Post highlights for all new study reports	

<b>Strategic Goal 2: Continued</b>			
<b>Strategic Obj. 2B: Support &amp; improve the practice of merit, adherence to MSPs, &amp; prevention of PPPs in the workplace through outreach.</b>			
<b>Performance Goal</b>	<b>Performance Measure</b>	<b>2016 Target (Revised)</b>	<b>2017 Target (Proposed)</b>
<b>2B-1:</b> Conduct merit-based outreach events	Number/scope of merit-based outreach events	90 outreach events or more	
<b>Strategic Obj. 2C: Advance the understanding of the concept of merit, MSPs, &amp; PPPs through the use of educational standards, materials &amp; guidance established by MSPB.</b>			
<b>2C-1:</b> Practice/educational website materials accessed	Number visits to the MSPB website	Within $\pm$ 5% of previous year	
<b>2C-2:</b> Create/update electronic educational materials	Number/type of new or updated educational materials	Post 5 or more new or updated educational materials	
<b>2C-3:</b> MSPB website meets customer needs	Percent agreement website survey questions	Begin automated customer surveys	Continue surveys, address issues
<b>Management Obj. M1: Lead &amp; manage employees to ensure a diverse, inclusive, &amp; engaged workforce with competencies to perform MSPB's mission &amp; support functions.</b>			
<b>M1-1:</b> Ensure workforce competencies	Average percent agreement EVS competency questions	Maintain competency agreement within 5% points from previous year	
<b>M1-2:</b> Maintain perceptions of diversity & inclusion	Average percent agree with EVS diversity & IS inclusion questions	Maintain diversity and inclusion within 5% points from previous year	
<b>M1-3:</b> Maintain employee engagement	Average percent agreement EVS engagement questions	Maintain engagement within 5% points from previous year	
<b>Management Obj. M2: Manage budget and financial resources and improve adjudication efficiency to ensure necessary resources now and in the future.</b>			
<b>M2-1:</b> Ensure justified budgets & resource accountability	Percent of funded positions vacant at end of each month, averaged over the year.	8% or fewer	
<b>M2-2:</b> Improve adjudication processing efficiency	Proportion of cases processed entirely electronically	Assess IT infrastructure and mission needs for e-Adjudication	Design e-Adj. system and implementation plan
<b>Management Obj. M3: Manage information technology and information services programs to support agency mission and administrative functions and implement modernization initiatives.</b>			
<b>M3-1:</b> Ensure IT application and system availability	Average percent downtime of key systems	Stabilize IT infrastructure; achieve IT related objectives	TBD based 2016 results
<b>M3-2:</b> Maintain internal/external IT customer support	Percent of internal and external tickets resolved within SLA	Stabilize IT infrastructure; achieve IT related objectives	TBD based 2016 results
<b>Management Obj. M4: Ensure individual and workplace safety and security.</b>			
<b>M4-1:</b> Employees prepared to ensure safety and security	Average % agree on Internal Survey (IS) safety and security questions	Maintain agreement within 5% of previous year.	

## Means and Strategies Needed to Accomplish our Objectives

MSPB will continue to use the means and strategies delineated in its Strategic Plan for FY 2016-2018 (as revised).

### Strategic Goal 1

#### **Strategic Objective 1A: Provide Understandable, high-quality resolution of appeals, supported by fair and efficient adjudication and alternative dispute resolution.**

1. Provide effective, efficient, and appropriately transparent adjudication of appeals in our regional and field offices and at headquarters.
2. Effectively and efficiently, implement changes in adjudication and reporting of cases in accordance with changes in statute, regulation, or policy (e.g., the Veterans' Access, Choice, and Accountability Act of 2014).
3. Examine and assess current adjudication and agency records management processes, and IT infrastructure, applications, resources and expertise, and in consideration of recent data breaches in other agencies and potential changes in Governmentwide IT procurement and security requirements, develop requirements and a plan for implementing e-Adjudication – a permanent shift from paper-based to automated electronic adjudication and records management. (Also a strategy for M2 and M3.)
4. Ensure adequate adjudication expertise and capacity through strategic workforce planning.
5. Ensure continuity of legal expertise in legal and procedural issues through effective and efficient knowledge sharing and appropriate legal training of adjudication staff.
6. Review Board and Court decisions, share significant changes with stakeholders, and determine and implement necessary changes to adjudication processes and procedures.
7. Monitor adjudication performance and ensure accountability for the adjudication process, the quality of adjudication decisions, timeliness of case processing, and customer satisfaction with the appeals process, within available resources.
8. Provide effective and impartial ADR services (including settlement and mediation) to meet the needs of the involved parties.
9. Ensure effective representation of MSPB in cases brought before other adjudicatory bodies, such as the U.S. Court of Appeals for the Federal Circuit and the U.S. Supreme Court.
10. Implement an automated process to sample and invite feedback from adjudication and ADR customers with electronic input to a secure, cloud-based survey platform, or other electronic survey capability. (Also a strategy for 1C, 2C, and M3.)

#### **Strategic Objective 1B: Enforce timely compliance with MSPB decisions.**

1. Provide effective and efficient processing of requests for enforcement of MSPB decisions and improve the transparency of the enforcement process.

#### **Strategic Objective 1C: Conduct objective, timely studies of the merit systems and Federal human capital management issues.**

1. Conduct independent, objective, and timely studies of the Federal merit systems and Federal management issues and practices in accordance with accepted research practices.

2. Periodically conduct a transparent process to develop and update the merit systems studies research agenda that includes feedback from studies stakeholders and customers. (See the recently published merit systems studies [research agenda](#) for FY 2015-2018.
3. Expeditiously and appropriately report findings and recommendations from merit systems studies that provide value to the President, Congress, Federal human resources (HR) policy-makers, practitioners, and other stakeholders and that positively impact the merit systems and Federal human capital management.
4. Publish *Issues of Merit* newsletter editions, research highlights, articles, and other products that address timely, focused information about Federal merit systems and workforce management issues.
5. Obtain and maintain a survey platform with flexible survey design and administration that will operate Governmentwide in a secure, cloud-based environment to conduct research surveys to support MSPB's merit systems studies mission, and automated customer service and customer satisfaction surveys required for agency performance goals. (Also a strategy for 1A, 2C, and M3.)
6. Administer periodic Merit Principle Surveys (MPS), and other specialized surveys to assess and report on the overall health of the Federal merit systems, practice and understanding of merit in the workplace, and occurrence of PPPs.
7. Ensure MSPB has the analytic workforce needed to conduct high-quality objective studies, ensure the value and impact of study findings and recommendations, and perform essential program evaluation responsibilities through strategic workforce management.

**Strategic Objective 1D: Review and act upon the rules, regulations, and significant actions of OPM, as appropriate.**

1. Maintain the review of OPM rules, regulations, and significant actions and take action, as appropriate, to ensure adherence to MSPs and avoidance of PPPs.
2. Publish the MSPB Annual Report including a review of the significant actions of OPM.

**Strategic Goal 2**

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

1. Translate and deliver information from adjudication, merit systems studies, and OPM review into products designed to inform and influence actions by policy-makers that will support merit, improve adherence to MSPs, and prevent PPPs.
2. Track citations of and references to MSPB's work in professional, academic, trade, and media publications (print and electronic) to ensure information about MSPB's work in protecting merit is disseminated appropriately.

**Strategic Objective 2B: Support and improve the practice of merit, adherence to MSPs, and prevention of PPPs in the workplace through outreach.**

1. Translate information from adjudication, merit systems studies, and OPM review into outreach and other products designed to inform and influence actions by practitioners and other stakeholders that will improve adherence to MSPs, prevent PPPs, and/or improve the understanding of a merit-based civil service or of MSPB, its functions and processes.

2. Conduct outreach activities within available resources (e.g., conference presentations, practitioner forums, briefings, etc.) designed to improve the practice and understanding of merit, MSPs and PPPs, and that provide value to participants.
3. Consider a centralized catalog of presentations and the electronic, web-based delivery of outreach presentations to improve efficiency of outreach and reduce travel costs.
4. Update the process for tracking outreach events, including when MSPB presents material that results in Continuing Legal Education (CLE)/Continuing Education Unit (CEU) credits to audience members, and supporting effective audience feedback to improve outreach effectiveness.

**Strategic Objective 2C: Advance the understanding the concepts of merit, MSPs, and PPPs, through the use of educational standards, materials, and guidance established by MSPB.**

1. Develop educational standards, materials, and guidelines on merit, MSPs, PPPs, and the merit-based civil service to ensure excellent Government service to the public.
2. Develop and make available information and materials about MSPB's adjudication processes, outcomes, and legal precedents to support the parties' ability to prepare and file thorough and well reasoned cases with MSPB.
3. Encourage agencies to use MSPB's educational standards, materials, and guidelines to implement educational programs for Federal employees and the public by recognizing agencies' merit systems educational efforts on MSPB's website, or in MSPB reports.
4. Develop and make MSPB products and educational information widely available through the website, social media outlets, and other appropriate avenues.
5. Ensure the MSPB website meets the needs of our customers by implementing an automated process to sample and invite web user customers to provide feedback through the new secure, flexible survey platform or into another web-based survey application. (Also a strategy under 1A, 1C, and M3.)

## Management Objectives

**Management Objectives M1: Lead & manage employees to ensure a diverse, inclusive, and engaged workforce with the competencies to perform MSPB's mission and support functions.**

1. Hire and retain a diverse and highly qualified legal, analytic/research, and administrative workforce that can effectively accomplish and support MSPB's knowledge-based work.
2. Provide employee orientation, on-the-job training, and other developmental and training experiences to ensure employees have the competencies necessary to perform MSPB's work, within budget constraints.
3. Use results from the Employee Viewpoint Survey, Internal Survey, and MSPB IdeaScale Community, and apply leadership and management skills to strengthen and maintain a culture to support a diverse, inclusive, and engaged workforce.
4. In consideration of the external factors and internal challenges that may affect MSPB's mission and operations, initiate and maintain a sustained strategic human capital planning process to consider MSPB's most critical human capital requirements needed to achieve its mission and support functions and achieve its human capital management objectives.

**Management Objective M2: Manage budget and financial resources and improve adjudication efficiency to ensure necessary resources now and in the future.**

1. Establish and communicate operational priorities to ensure achievement of objectives.
2. Use people and budgetary resources effectively and efficiently to ensure adequate staff are available and prepared to accomplish our goals and provide value.
3. Communicate justification of resources (funds, people, operational requirements, and contingencies) necessary to accomplish MSPB objectives (mission and support) including how resource levels and external factors (such as sequestration) may impact MSPB performance.
4. Ensure access to and encourage increased use of e-Appeal Online; and continue to improve efficiency by shifting from paper-based work processes and products to automated electronic work processes and products.
5. Examine and assess current adjudication and agency records management processes, and IT infrastructure, applications, resources and expertise, and in consideration of recent data breaches in other agencies and potential changes in Governmentwide IT procurement and security requirements, develop requirements and a plan for implementing e-Adjudication – a permanent shift from paper-based to automated electronic adjudication and records management. (Also a strategy for 1A and M3.)

**Management Objective M3: Manage information technology and information services programs to support agency mission and administrative functions and implement modernization initiatives.**

1. Develop, implement, and maintain stable and secure IT infrastructure (hardware, software, applications, processes, and systems) and information services programs, with sufficient resources and expertise, to support effective and efficient MSPB adjudication, enforcement, studies, OPM review, and administrative support programs.
2. Examine and assess current adjudication and agency records management processes, and IT infrastructure, applications, resources and expertise, and in consideration of recent data breaches in other agencies and potential changes in governmentwide IT procurement and security requirements, develop requirements and a plan for implementing e-Adjudication – a permanent shift from paper-based to automated electronic adjudication and records management. (Also a strategy for 1A and M2.)
3. Obtain and maintain a survey platform with flexible survey design and administration that will operate Governmentwide in a secure, cloud-based environment to conduct research surveys to support MSPB's merit systems studies mission, and automated customer service and customer satisfaction surveys required for agency performance goals. (Also related to strategies for 1A, 1C, and 2C.)
4. Begin and maintain an automated process to sample and invite customers to provide feedback required for agency performance goals with input to the new secure survey platform or another automated survey application. (Also a strategy for 1A and 2C.)
5. Ensure effective and efficient support of internal and external IT customers.

**Management Objective M4: Ensure employee and workplace safety and security.**

1. Develop policies and practices, educate and train MSPB employees, and conduct drills to ensure all know their roles in ensuring employees and the workplace are safe from natural and man-made threats to safety and security.

## Performance Goals, Measures, Results, and Targets

**Strategic Goal 1: Serve the public interest by *protecting* Merit System Principles and *safeguarding* the civil service from Prohibited Personnel Practices.**

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

**Results and Targets:** This objective was **SUBSTANTIALLY MET**. The performance goals related to quality of initial appeals and PFRs were exceeded. The percent of initial appeals remanded or reversed due to error or oversight was 80 relative percentage points ((10-2)/10) lower than the target. The percent of cases left unchanged by the Court was 50 relative percentage points between the target and the maximum possible of 100% ((96-92)/(100-92)). MSPB's regional and field offices processed a new record of nearly 25,400 initial and addendum appeals, 55 percent more (9,013 cases) than the record number set in FY 2014 (16,354). MSPB HQ staff processed nearly 3,120 cases, almost three times the number processed in 2014 (1,101). Although no target was set for timeliness of initial processing, data indicate that the average processing time for initial appeals was 499 days, longer than in FY 2014 due to furlough appeals. However, the regional and field offices processed 93 percent of furlough appeals and 70 percent of nonfurlough appeals. In addition, MSPB processed five cases under the VA SES law passed in FY 2014.<sup>7</sup>

The average processing time for PFRs was 190 days, 70 processing days and 27 relative percentage points ((260-190)/260) below the target. There were 516 PFR and PFR addendum cases pending at HQ at the end of the year, within 10 percent of the target of 500 pending cases. There were 33 PFRs that were 300 days or older pending at the end of the year, 17 cases fewer and 34 relative percentage points ((50-33)/50) below the target of 50 cases. MSPB expanded the number of mediators available for the MAP thus increasing the resources available for the parties who wish to use those services. Feedback from PFR customers and from ADR participants was obtained in FY 2015, however setting targets was delayed until an automated process to sample and invite adjudication and ADR customers to provide feedback can be implemented. Progress was made in obtaining a survey platform to collect automated feedback from adjudication and ADR customers. However, further progress on obtaining the survey platform and automation of sampling and inviting feedback was delayed due to resource constraints and the IT outage.

In FY 2015, MSPB continued to fill adjudication vacancies and maintained the level of adjudication staff achieved in FY 2014. Even with these new hires, almost one-third of AJs are eligible to retire in the next two years. If the adjudication workload remains stable, we need to maintain the level of adjudication staff to work through the larger than average inventory of nonfurlough initial appeals and continue to process HQ cases. Although e-Adjudication plans were delayed due to the IT outage, MSPB will continue this initiative to ensure that MSPB adjudicates (internally processes) cases electronically at least for all cases that are filed electronically. E-Adjudication will result in long-term efficiencies but will require an initial and sustained investment of resources to develop requirements and an implementation plan for this shift. (This initiative is specified in Management Goal M2-2.) MSPB will continue to focus on issuing high quality decisions. Therefore, FY 2015-2016 targets for decision quality will remain as they were for FY 2014. In FY 2016, MSPB is committed to beginning automated process to sample and invite adjudication and ADR customers to provide feedback through the new survey platform on another web-based platform.

<sup>7</sup> Case processing details as required under 5 U.S.C. §7701(i)(1) and (2) are contained in Appendix C.

Due to the larger than normal inventory of nonfurlough appeals in the regional and field offices, MSPB will track, but is not establishing, FY 2016 – 2017 average processing time targets for initial appeals. Because furlough initial appeals will be completed in FY 2016, we will discontinue tracking interim indicator 1A-4a. To convey the status of initial appeals processing in the absence of an overall average processing time target, MSPB will track, but not set a target for, the percent of initial decisions issued of the nonfurlough initial appeals workload (workload equals the number on hand at the beginning of the time period plus the number received). The number of this indicator was changed from 1A-4b, to 1A-4a. We will always have an inventory of nonfurlough appeals on-hand because new appeals are always arriving. However, this indicator provides information about the changes in the inventory and processing pace of nonfurlough appeals. For FY 2016, the target for average processing time for PFRs is set at 220 days, and is TBD for FY 2017 based on FY 2016 results. The FY 2016 target will be challenging because we expect to see additional furlough PFR cases once the final furlough initial appeals are completed. Because the PFR inventory has returned to a manageable level, MSPB will discontinue the PFR processing interim indicators. In addition, MSPB is completing its program evaluation of the PFR process, which will provide information about how various changes in resources and/or processing may affect PFR processing.

<b>Performance Goal 1A-1: Maintain quality of initial decisions.</b>			
<b>Measure:</b> Percent of initial decisions that are reversed or remanded on Petition for Review (PFR) due to error or oversight.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2009</b>	5%	<b>FY 2015</b>	10% or fewer
<b>FY 2010</b>	9%	<b>FY 2016</b>	10% or fewer
<b>FY 2011</b>	7%	<b>FY 2017</b>	10% or fewer
<b>FY 2012</b>	6%		
<b>FY 2013</b>	8%		
<b>FY 2014</b>	7%		
<b>FY 2015</b>	2%		

<b>Performance Goal 1A-2: Maintain quality of decisions reviewed by reviewing authority.</b>			
<b>Measure:</b> Percent of MSPB decisions left unchanged (affirmed or dismissed) upon review by the U.S. Court of Appeals for the Federal Circuit.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2009</b>	92%	<b>FY 2015</b>	92% or more
<b>FY 2010</b>	92%	<b>FY 2016</b>	92% or more
<b>FY 2011</b>	98%	<b>FY 2017</b>	92% or more
<b>FY 2012</b>	94%		
<b>FY 2013</b>	93%		
<b>FY 2014</b>	96%		
<b>FY 2015</b>	96%		

**Performance Goal 1A-3: Maintain participants' positive perceptions of the adjudication process.**

**Measure:** Percent of adjudication participants surveyed who agree MSPB adjudication processes are fair, open, accessible, understandable, and easy to use.

Results		Targets	
<b>FY 2012</b>	Survey development and search for platform continued, implementation of new surveys postponed until FY 2013 due to resource limitations and competing priorities. (New in FY 2012.)	<b>FY 2015</b>	Administer routine adjudication customer service/customer satisfaction surveys using new survey platform or another survey application, set future targets.
<b>FY 2013</b>	Worked with contractor to assess hosting and security requirements and reviewed responses to Request for Information (RFI) designed to obtain information on current solutions for secure web-based survey platform. Further progress limited by competing priorities and the state of emerging web-based survey solutions.	<b>FY 2016</b>	Begin an automated process to sample and invite customer service and satisfaction feedback from adjudication customers with input via the new survey platform or other automated cloud-based survey capability; consider results and take appropriate action to address issues that do not meet targets.
<b>FY 2014</b>	Dept. of Interior National Business Center published an RFI to assess availability and drafted a Request for Quote (RFQ) to be issued to several cloud service providers.	<b>FY 2017</b>	Continue to obtain automated customer service and customer satisfaction feedback, consider results and take appropriate action to address issues that do not meet targets.
<b>FY 2015</b>	Customer survey data collected from PFR customers in support of the PFR program evaluation.		

**Performance Goal 1A-4: Maintain processing timeliness for initial appeals.**

**Measure:** Average case processing time for initial appeals.

Results		Targets	
<b>FY 2009</b>	83 days	<b>FY 2015</b>	Issue a vast majority of furlough appeal initial decisions. Track interim indicators below.
<b>FY 2010</b>	89 days	<b>FY 2016</b>	Complete furlough appeals, reduce inventory of nonfurlough appeals.
<b>FY 2011</b>	94 days	<b>FY 2017</b>	TBD based on FY 2016 results.
<b>FY 2012</b>	93 days		
<b>FY 2013</b>	93 days		
<b>FY 2014</b>	262 days*		
<b>FY 2015</b>	499 days*		

\* A weighted average including all initial appeals closed.

**Interim Indicators for Initial Appeals Processing:**

1A-4a: Percent of individual furlough appeals processed. (Sequester furlough appeals cumulative over years)

FY 2013	0.7%	(229/32,279)
FY 2014	34%	(11,046/32,437)
FY 2015	93%	(30,797/33,111)

1A-4b: Percent of initial decisions issued for nonfurlough initial appeals. (e.g., cases dismissed, settled, or adjudicated on the merits, and including cases filed because of the Government shutdown in October 2013.)

FY 2013	75%	(5,538/7,396)
FY 2014	70%	(5,212/7,480)
FY 2015	70%	(5,418/7,752)

Performance Goal 1A-5: Maintain processing timeliness for PFRs.			
Measure: Average case processing time for petitions for review (PFRs) of initial appeals.			
Results		Targets	
<b>FY 2009</b>	94 days	<b>FY 2015</b>	260 days or fewer; track indicators.
<b>FY 2010</b>	134 days	<b>FY 2016</b>	220 days or fewer
<b>FY 2011</b>	213 days	<b>FY 2017</b>	TBD based on FY 2016 results.
<b>FY 2012</b>	245 days*		
<b>FY 2013</b>	281 days		
<b>FY 2014</b>	287 days**		
<b>FY 2015</b>	190 days		

\* 74 PFR cases were impacted by the *Latham vs. USPS* oral argument case. The average overall PFR processing time, not counting these *Latham* cases, was 237 days.

\*\* 20 PFR cases were impacted by the decisions issued by the U.S. Court of Appeals for the Federal Circuit related to *Conyers and Gargiolo*. If those cases are removed from the calculations, the average processing time is 279 days.

#### Interim Indicators for PFR Processing:

1A-5a: Number of PFR and PFR addendum cases **pending** at HQ at the end of the year.

FY 2013	620
FY 2014	411 (not including furlough PFRs received late in FY 2014)
FY 2015	516 (273 cases were PFRs of furlough appeals)
Target FY 2015	500

1A-5b: Number of PFRs **pending** at HQ for more than 300 days.

FY 2013	100
FY 2014	23
FY 2015	33
Target FY 2015	50

Performance Goal 1A-6: Maintain participants' positive perceptions of the ADR <u>process</u> .			
Measure: Percent of participants in the ADR programs, including initial appeals settlement and the Mediation Appeals Program (MAP), surveyed who agree the ADR process was helpful, valuable, and noncoercive, even if no agreement was reached.			
Results		Targets	
<b>FY 2012</b>	Survey development and search for platform continued, implementation of surveys postponed until FY 2013 due to resource limitations and competing priorities. (New in FY 2012.)	<b>FY 2015</b>	Administer routine ADR customer service/customer satisfaction surveys using new survey platform or another survey application, set future targets.

<b>FY 2013</b>	Worked with contractor to assess hosting and security requirements and reviewed responses to Request for Information (RFI) designed to obtain information on current solutions for secure web-based survey platform. Further progress limited by competing priorities and the state of emerging web-based survey solutions.	<b>FY 2016</b>	Begin an automated process to sample and invite customer service and satisfaction feedback from ADR customers with input via the new survey platform or other automated cloud-based survey capability, consider results and take appropriate action to address issues that do not meet targets.
<b>FY 2014</b>	Dept. of Interior National Business Center published an RFI to assess availability and drafted a Request for Quote (RFQ) to be issued to several cloud service providers.	<b>FY 2017</b>	Obtain ADR customer service and customer satisfaction feedback, consider results and take appropriate action to address issues that do not meet targets.
<b>FY 2015</b>	Collecting feedback from participants in the Mediation Appeals Program (MAP).		

**Strategic Objective 1B: Enforce timely compliance with MSPB decisions.**

**Results and Targets:** This objective was **NOT MET**. Although the results were 19 relative percentage points higher (161-135 days/135 days) than the target, it reflected a 25% decrease in the average processing time in FY 2014, and a 55% improvement from FY 2013. Results are moving toward shorter average processing times, so we will maintain the target for FY 2016 and 2017.

<b>Performance Goal 1B-1: Maintain timeliness of processing compliance/enforcement cases.</b>			
<b>Measure:</b> Weighted average processing time for all enforcement cases.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2009</b>	171 days	<b>FY 2015</b>	135 days or fewer.
<b>FY 2010</b>	180 days	<b>FY 2016</b>	135 days or fewer.
<b>FY 2011</b>	288 days	<b>FY 2017</b>	135 days or fewer.
<b>FY 2012</b>	244 days		
<b>FY 2013</b>	355 days		
<b>FY 2014</b>	215 days		
<b>FY 2015</b>	161 days		

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

**Results and Targets:** This objective was **MET**. MSPB published 3 editions of the *Issues of Merit (IoM)* newsletter and 4 studies online flash articles including timely articles on fair and open competition and adverse actions in the civil service thus exceeding performance goal 1C-1. All together, the articles covered all of the MSPs, and 8 of 13 PPPs. MSPB published three merit systems study reports: *Veterans' Employment Redress Laws in the Federal Civil Service*; *The Impact of Recruitment Strategy on Fair and Open Competition for Federal Jobs*; and *What is Due Process in Federal Civil Service Employment*; and completed and published its research agenda for FY 2015-2018, thus meeting

the target for 1C-2. The four reports covered 7 of 9 MSPs, and 9 of 13 PPPs. Performance Goal 1C-3 was met. MSPB is on track to administer the 2016 Merit Principle Survey (MPS) early in calendar 2016. MSPB worked with the Department of Interior National Business Center (DOI), resulting in DOI's issuance of a request for information for MSPB's survey platform. Unfortunately, no responses were received. Further progress on obtaining a secure cloud-based survey platform was delayed due to resources needed to meet milestones for development and administration of the 2016 MPS, and because of the MSPB IT infrastructure outage. The target for number of IoM newsletters and online flash articles will remain the same for FY 2016 and 2017. Over the last several years, MSPB has issued an average of 3.5 studies per year. Therefore, the target for the number of study reports published will be changed to 3-4 reports per year for FY 2016 and 2017. In FY 2016, the target for 1C-3 will include administering the 2016 MPS and begin analyzing results of the MPS. In addition, MSPB will assess the requirement for a secure, cloud-based survey platform in light of the IT outage and potential changes in Federal IT procurement and security requirements. We will determine how to ensure sufficient resources, including IT infrastructure and operational and cyber security expertise, and consider next steps in acquiring the critical agency survey capability. In FY 2017, MSPB will continue to analyze 2016 MPS results, and planned progress on the survey platform will be determined based on 2016 results.

<b>Performance Goal 1C-1: Maintain the number and scope of <i>Issues of Merit</i> newsletter editions or other articles.</b>			
<b>Measure:</b> Number and scope of <i>Issues of Merit</i> (IoM) newsletter editions or other articles published.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2013</b>	3 editions of the <i>IoM</i> newsletter and 1 article related to 8 MSPs. (New in FY 2013.)	<b>FY 2015</b>	Publish 3–4 <i>IoM</i> eds. or articles.
<b>FY 2014</b>	3 <i>IoM</i> newsletter editions and 6 online flash articles published relating to all MSPs and 4 PPPs.	<b>FY 2016</b>	Publish 3–4 <i>IoM</i> eds. or articles.
<b>FY 2015</b>	3 <i>IoM</i> newsletter editions and 4 studies online flash articles relating to all MSPs and 8 PPPs.	<b>FY 2017</b>	Publish 3–4 <i>IoM</i> eds. or articles.

<b>Performance Goal 1C-2: Maintain the number and scope of MSPB study reports.</b>			
<b>Measure:</b> Number and scope (percent of the workforce, agencies, or policy areas impacted) of merit systems studies reports published each year.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2009</b>	6 reports completed.	<b>FY 2015</b>	3-5 study reports published.
<b>FY 2010</b>	5 reports completed.	<b>FY 2016</b>	3-4 study reports published.
<b>FY 2011</b>	4 reports completed.	<b>FY 2017</b>	3-4 study reports published.
<b>FY 2012</b>	3 reports completed.		
<b>FY 2013</b>	1 report (3 MSPs) completed.		
<b>FY 2014</b>	4 reports approved and published.		
<b>FY 2015</b>	4 reports published. (7 MSPs & 9 PPPs)		

<b>Performance Goal 1C-3: Conduct surveys of Federal employees to assess and report on health of the Federal merit systems.</b>			
<b>Measure:</b> Conduct periodic Governmentwide and focused surveys of Federal employees and others (including interrogatories directed to agencies), as appropriate.			

Results		Targets	
FY 2014	(New measure in FY 2015.)	FY 2015	Continue the process to procure and implement a secure, cloud-based survey capability; develop the next Merit Principles Survey (MPS).
FY 2015	Content for the next MPS to support the new FY 2015-2018 research agenda was developed, & a survey vendor was selected to program and administer the next MPS, on track for administration in early 2016. An RFQ for the MSPB survey platform was issued by the DOI National Business Center; procurement of survey platform was put on hold in order to accomplish key milestones for the MPS, and as a result of the IT outage and changing Federal IT requirements.	FY 2016	Administer next MPS and analyze MPS & other survey results; assess platform procurement requirement in light of IT outage and potential changes in Federal IT procurement and security requirements and determine how to ensure sufficient resources and expertise for the platform and determine next steps in acquiring this critical agency survey capability.
		FY 2017	Continue analyzing MPS & other survey results and prepare study reports on selected topics; target for procurement and implementation of the new secure, cloud-based survey platform TBD based on 2016 results.

**Strategic Objective 1D: Review and act upon the rules, regulations, and significant actions of the Office of Personnel Management, as appropriate.**

**Results and Targets:** This objective was **MET**. MSPB continued to track activity related to review of OPM regulations, and issued one decision related to a request for review of OPM regulations. MSPB published its Annual Report for FY 2014, which contained a review of OPM significant actions for FY 2014 including new actions related to implementing the Hatch Act Modernization Act of 2012, implementing phased retirement, issuing guidance on Governmentwide strategies on gender pay equity, issuing guidance on veterans' recruitment and employment, and updating progress on previous significant actions. MSPB tracked a broad scope of OPM significant actions for FY 2015 and is on track to publish the Annual Report for FY 2015, which will contain a summary and review of those actions. The target for these two performance goals will remain the same for FY 2016 and 2017.

Performance Goal 1D-1: Maintain program for review of OPM regulations.			
Measure: Number and scope (e.g., percent of the workforce, agencies, or policy areas impacted) of OPM rules and regulations (or implementation of the same) reviewed.			
Results		Targets	
FY 2012	After-action review of MSPB internal processes for review of OPM regulations postponed due to resource limitations and competing priorities. (New in FY 2012.)	FY 2015	Track program activity and scope.
FY 2013	Reviewed MSPB internal procedures for reviewing OPM rules and regulations.	FY 2016	Track program activity and scope.
FY 2014	Decisions issued on 3 cases on review of OPM regulations.	FY 2017	Track program activity and scope.
FY 2015	One decision issued in response to a request for OPM regulation review.		

<b>Performance Goal 1D-2: Maintain program for review and reporting of OPM significant actions.</b>			
<b>Measure:</b> Number and scope (e.g., percent of the workforce, agencies, or policy areas impacted) of OPM significant actions reviewed and reported.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	Published FY 2011 Annual Report, which contained a broader range of OPM significant actions, updates of earlier actions, and added contextual information. After-action review of MSPB procedures of at least one OPM significant action postponed due to resource limitations, staff changes, and competing priorities. (New in FY 2012.)	<b>FY 2015</b>	Maintain scope of review, publish review of OPM significant actions in MSPB Annual Report.
<b>FY 2013</b>	Published MSPB's FY 2012 Annual Report, which included summary of OPM's significant actions. After-action review completed and submitted to Executive Director.	<b>FY 2016</b>	Maintain scope of review, and publish review of OPM significant actions for previous year in MSPB Annual Report.
<b>FY 2014</b>	Published FY 2013 Annual Report containing summary of FY 2013 OPM significant actions equal in scope to previous years.	<b>FY 2017</b>	Maintain scope of review, publish review of OPM significant actions for previous year in MSPB Annual Report.
<b>FY 2015</b>	Published MSPB FY 2014 Annual Report including summary of 2014 OPM significant actions.		

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

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

**Results and Targets:** This objective was **EXCEEDED**. MSPB was cited in over 115 sources, 22 percent more than in FY 2014. Notably, MSPB work was cited in a number of policy-making sources including two GAO reports, one on using the probationary period to manage poor performers and one on improving employee engagement, and in GAO testimony on improving engagement of Federal employees. MSPB's report on due process in the civil service was cited in Congressional testimony and in a Congressional blog by Representative Mark Takano regarding the pending legislation on the VA Accountability Act of 2015. OPM also cited MSPB engagement reports in a white paper on how to engage the Federal workforce. MSPB posted research highlights for study reports on veterans' redress laws, fair and open competition, and due process rules and reality. MSPB also posted the Chairman's record testimony to the Senate Committee on Veterans Affairs on pending legislation on the VA Accountability Act (S. 1082, S. 1117, and S. 1856). The FY 2016 and 2017 targets for these performance goals will remain the same as for FY 2015.

**Performance Goal 2A-1: Maintain scope of references to MSPB work and products.**

**Measure:** Scope (location or identity of citing organization) of references to MSPB decisions, reports, newsletters, web content, or other materials in policy papers, Federal legislation, professional literature, Executive Orders, the media, or other sources.

Results		Targets	
<b>FY 2012</b>	MSPB legal and studies work were referenced in electronic and print sources (e.g., the Washington Post, GovExec.com, & Fed News Radio); in testimony by Special Counsel Carolyn Lerner about OSC's education and legislative efforts, in her presentation at the Federal Dispute Resolution conference, and in an OSC 11/22/2011 press release; a cost-effective method to automatically track references to MSPB work was not identified. (New in FY 2012.)	<b>FY 2015</b>	Maintain scope of references.
<b>FY 2013</b>	MSPB studies or legal work was cited in over 70 online or print media sources, trade publications (e.g., published by legal, employee, management, or union groups), and scientific journals from around the world; and several blogs and websites. MSPB's study on training supervisors was cited in OPM's guidance on supervisory training; and reports on employee engagement were referenced in a book about engaging Government employees published by the American Management Association.	<b>FY 2016</b>	Maintain scope of references.
<b>FY 2014</b>	MSPB was cited in over 94 sources including 24 professional or trade sources; 38 city print or online newspapers; 16 wire services including AP, UPI, and CNN Wire; 7 Congressional sources; and 9 blogs or other sources. Congress cited MSPB's <i>The Power of Employee Engagement</i> report in its request for the GAO to study Federal employee morale and engagement. MSPB work was also cited in legislation on sensitive positions and the new VA legislation.	<b>FY 2017</b>	Maintain scope of references.
<b>FY 2015</b>	MSPB was cited in at least 115 different sources including 48 professional and trade publications, 36 print or online city newspapers, 7 Congressional sources, 16 wire services, and 9 blogs and other sources. MSPB legal work and/or studies reports were cited in a GAO report and GAO testimony on engagement and in a GAO report on using probationary period to manage poor performers. MSPB's report on due process was cited in Congressional testimony and in a Congressional blog by Congressman		

	Mark Takano regarding the pending legislation on the VA Accountability Act of 2015. OPM also cited MSPB engagement reports in a white paper on how to engage the Federal workforce.	
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Performance Goal 2A-2: Maintain the number and scope of MSPB products focused on policy-makers or changing Governmentwide policy.			
Measure: Number, type, and scope of MSPB products created and made available to inform policy makers on issues and potential improvements to merit systems policies, laws, and/or regulations.			
Results		Targets	
FY 2012	Products include text and video links on MSPB's website of the Chairman's testimony for the Senate oversight hearing. (New in FY 2012.)	FY 2015	Develop and post highlights from all new MSPB studies that focus on policy issues, as appropriate.
FY 2013	Developed and posted 3 one-page 'Research Highlights' - brief summaries of the findings & recommendations of merit system study reports related to policy issues.	FY 2016	Develop and post highlights from all new MSPB studies that focus on policy issues, as appropriate.
FY 2014	Posted <i>Research Highlights</i> for the <i>Clean Records, Favoritism, Training and Experience, Sexual Orientation, and Veterans Hiring Policies and Practices</i> and four previously published reports. Compiled highlights into a "catalog" of MSPB studies including an introduction by the Chairman.	FY 2017	Develop and post highlights from all new MSPB studies that focus on policy issues, as appropriate.
FY 2015	Posted <i>Research Highlights</i> for reports on <i>Veterans Redress Laws, Fair and Open Competition, and Due Process</i> ; and a monograph on Federal employee due process rules and reality and the Chairman's record testimony on S. 1082, S. 1117, and S. 1856.		

**Strategic Objective 2B: Support and improve the practice of merit, adherence to MSPs, and prevention of PPPs in the workplace through outreach.**

**Results and Targets:** This objective was **EXCEEDED**. MSPB conducted 144 outreach events even in the midst of processing a record number of appeals and publishing timely reports and articles regarding merit systems issues. Events included presentations at professional conferences, legal and academic organizations, international groups, and five radio interviews. Although audience feedback was available to presenters from formal conferences, additional collection of audience feedback is postponed until the process for tracking outreach events is updated. MSPB outreach helps improve and maintain understanding of merit systems issues, MSPs, PPPs, how to manage effectively within the merit systems, and MSPB's legal precedent and adjudication procedures. Given recent interest in legislation related to the merit systems in selected Federal agencies, changes in workforce demographics, especially the potential for increased retirements and hiring new employees, as well as the upcoming Presidential transition, MSPB is increasing its outreach target to 90 events in FY 2016 and 2017. In FY 2016, MSPB also will update the outreach portion of the office calendar to improve the quality of outreach data.

Performance Goal 2B-1: Maintain the number and scope of outreach contacts.			
<b>Measure:</b> Number and scope of MSPB contacts with practitioners and stakeholders focused on improving the understanding or practice of merit, improving adherence to MSPs, and preventing PPPs in the workplace.			
Results		Targets	
<b>FY 2012</b>	Almost 150 events were recorded in the outreach calendar on legal, merit system studies, and other topics; events included visits by the Federal Circuit and sister agencies (OSC, OPM, and Dept. of Labor/Appeals Review Board), and several events involving MSPB regulations. (New in FY 2012.)	<b>FY 2015</b>	Conduct or participate in 70 outreach events. Collect audience surveys from official conference or event host. (Postponed)
<b>FY 2013</b>	Conducted 94 outreach events on topics related to MSPB studies, legal cases and processes, merit/MSPs/ PPPs, and other issues.	<b>FY 2016</b>	Conduct or participate in 90 outreach events. Update outreach portion of the office calendar to improve quality of outreach data and consider efficient methods to collect customer feedback.
<b>FY 2014</b>	Conducted 100+ outreach events on legal, studies, merit/MSPs/PPP, administrative, and other issues.	<b>FY 2017</b>	Conduct or participate in 90 outreach events. Implement collection of customer feedback, as appropriate.
<b>FY 2015</b>	Conducted 144 outreach events on legal, studies, merit/MSPs/PPP, and administrative and other issues. Participant surveys from formal conferences were available.		

**Strategic Objective 2C: Advance the understanding of the concept of merit, MSPs, and PPPs through the use of educational standards, materials, and guidance established by MSPB.**

**Results and Targets:** This objective was **SUBSTANTIALLY MET**. The result of over 655,400 visits to selected MSPB webpages was within 5% of the number of visits in FY 2014. Educational materials or documents in eight categories, including *Research Highlights* for three studies, final regulations governing MSPB jurisdiction, the Chairman’s testimony on pending VA Accountability legislation, updates on the pro bono page, and appellant Q&A on review of Board decisions by the Federal Circuit were posted on the website exceeded the target by at least 60%. In addition, because MSPB had a significant role in developing new guidance released by OPM on LGBT Discrimination Protections for Federal Workers, the guide also is linked on the MSPB website. Beginning the collection of web user customer feedback and continued work on obtaining a new secure cloud-based survey platform was postponed due to resources needed to accomplish key milestones for the next MPS and because of the IT outage. The targets for web page visits, and posting educational materials will remain the same for FY 2016 and 2017 as they were in FY 2015. In FY 2016, we will begin a process for sampling and inviting web users to participate in customer surveys with input via the new survey platform or another automated survey application. The target for web user surveys for FY 2017 is to be determined based on 2016 results.

**Performance Goal 2C-1: Maintain the number & scope of materials viewed or accessed from MSPB's website that are designed to improve the practice and understanding of merit.**

**Measure:** Number of visits to the MSPB website pages involving information, materials, or guidance related to improving the practice and understanding of merit from MSPB's website.

Results		Targets	
<b>FY 2012</b>	Recorded almost 260,000 visits and almost 3,800,000 hits to documents linked on the MSPs, PPPs, <i>IoM</i> newsletter, and training webpages. (New in FY 2012.)	<b>FY 2015</b>	Number of visits within $\pm 5\%$ of FY 2014 results.
<b>FY 2013</b>	Recorded over 554,000 visits and over 16 million hits to documents linked on the MSPs, PPPs, <i>IoM</i> newsletter, case report, and training webpages.	<b>FY 2016</b>	Number of visits within $\pm 5\%$ of FY 2015 results.
<b>FY 2014</b>	Recorded over 634,000 visits (12% more than in 2013) and nearly 11.8 million hits (30% fewer than in 2013) to documents linked on practice of merit and education webpages.	<b>FY 2017</b>	Number of visits within $\pm 5\%$ of FY 2016 results.
<b>FY 2015</b>	>655,400 visits; within $\pm 5\%$ of the total visits for FY 2014.		

**Performance Goal 2C-2: Maintain number and scope of available educational materials and guidance.**

**Measure:** Number and type of merit system educational materials and guidance MSPB makes available electronically or on MSPB's website.

Results		Targets	
<b>FY 2012</b>	Materials include 11 PPPs of the month, 4 training videos, and several significant case reports. Additional materials include the Chairman's interview and article following the Senate hearing, live radio interviews of MSPB officials and staff, and oral argument page for <i>Latham v. USPS</i> . (New in FY 2012.)	<b>FY 2015</b>	Post or distribute electronically 5 new or updated textual or multimedia educational products.
<b>FY 2013</b>	13 or more new or revised documents related to merit/MSPs/ PPPs, and at least that many documents related to legal process and appeals issues were made available on the website including: 3+ on the WPEA and changes to the Hatch Act 2 PPP summaries including a summary of new PPP 13; 8 <i>Research Highlights</i> from MSPB study reports 4+ on MSPB's new adjudication regulations 4+ on MSPB's new appeal form 5+ on furlough appeals	<b>FY 2016</b>	Post or distribute electronically 5 new or updated textual or multimedia educational products.

FY 2014	Posted 8 <i>Research Highlights</i> (also counted under 2A-2); 9 radio interviews; letter and report regarding the VA SES legislation; webpage and training video for those interested in providing pro bono representation; materials for the studies research agenda (2); materials for the Special Panel oral argument (2); items related to updating MSPB's jurisdictional regulations; 12 informational updates or agency administrative files related to furlough cases.	FY 2017	Post or distribute electronically 5 new or updated textual or multimedia educational products.
FY 2015	Posted 3 <i>Research Highlights</i> for merit systems study reports; final regulations governing MSPB's jurisdiction; FY 2014 Annual Report; the Chairman's testimony on proposed VA legislation (S. 1082, S. 1117, and S. 1856); and updated the pro bono page and appellant Q&A on review of Board decisions by the Federal Circuit. Also included links to the new Guide on LGBT Discrimination Protections for Federal Workers because MSPB played a significant role in developing the guidance.		

**Performance Goal 2C-3: Website contains complete, accurate, timely, well-organized, easy-to-use, searchable, and accessible information.**

**Measure:** Proportion of website users surveyed who agree website information is complete, accurate, timely, well organized, easy-to-use, searchable, and accessible (including Section 508 compliant) (external survey).

Results		Targets	
FY 2012	Survey platform under consideration, no survey data collected in 2012. (New in FY 2012.)	FY 2015	Administer routine website customer service/customer satisfaction surveys using new survey platform or another survey application, set future targets. (Postpone to FY 2016 due to resource issues and MSPB IT outage.)
FY 2013	Survey platform operability and security requirements developed; reviewed results from RFI containing industry availability of solutions. General Service Administration conducted usability test of the website and provided a report.	FY 2016	Implement routine automated website customer service/customer satisfaction surveys using new survey platform or another survey application, set future targets. Assess platform procurement requirement in light of IT outage and potential changes in Federal IT procurement and security requirements and determine how to ensure sufficient resources and expertise for the platform and determine next steps in acquiring this critical agency survey capability.

<b>FY 2014</b>	Dept. of Interior National Business Center published an RFI to assess availability and drafted a Request for Quote (RFQ) to be issued to several cloud service providers.	<b>FY 2017</b>	Continue to obtain automated website customer service and customer satisfaction feedback, consider results, and take appropriate action to address issues that do not meet targets.
<b>FY 2015</b>	An RFI for the MSPB survey platform was issued by the DOI National Business Center; Implementation of web user surveys and further work on the procuring a new survey platform was postponed due to resources needed to accomplish key milestones for the next MPS and because of MSPB IT infrastructure outage.		

## Management Objectives

**Management Objective M1: Lead & manage employees to ensure a diverse, inclusive, and engaged workforce with competencies to perform MSPB’s mission and support functions.**

**Results and Targets:** This objective was **EXCEEDED**. MSPB results for workforce competencies (M1-1) was 79 percent positive, 14 absolute (79 – 65) and 22 relative (14/65) percentage points higher than the target of 65 percent or more. The percent agreement for diversity was 71 percent, 7 absolute (71– 64) and 11 relative (7/64) percentage points higher than the target of 64 percent or more. The percent agreement for inclusion was 77 percent positive, 12 absolute (77 – 65) and 18 relative (12/65) percentage points higher than the target of 65 percent or more. The result for engagement was 74 percent positive, 9 absolute (74 – 65) and 14 relative (9/65) percentage points higher than the target of 75 percent or more. MSPB also ranked 8<sup>th</sup> and had the 2<sup>nd</sup> most improved engagement score among all small agencies. Of note, MSPB was the 5<sup>th</sup> most improved among all small agencies in the Best Places to Work rankings. In addition, although MSPB does not use the new OPM Inclusion Quotient (IQ) index for diversity reporting, MSPB’s score was the 1<sup>st</sup> most improved among small agencies (12 points higher than in 2014 and tied with two other agencies). Because employee perceptions of agency competencies, diversity, inclusion, and engagement are higher, or near the highest they have been in recent years, MSPB will set FY 2016 and FY 2017 targets to maintain these scores within 5 absolute percent of the scores in the previous year. In addition, MSPB is beginning a strategic human capital planning process to address its most critical workforce issues. The focus is to ensure MSPB is has the workforce necessary to achieve the performance goals under the human capital objective taking into account the external factors and internal challenges we face.

<b>Performance Goal M1-1: Ensure MSPB’s workforce has competencies needed to perform its mission.</b>			
<b>Measure:</b> Percent employees who report that they have and that others in the workforce have the appropriate competencies needed to perform MSPB’s mission on the (FEVS or EVS).			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	2012 EVS average composite of competency questions 68%	<b>FY 2015</b>	65% average agreement or more.
<b>FY 2013</b>	2013 EVS average composite of competency questions 63%	<b>FY 2016</b>	Maintain competency agreement within 5 points from previous year.

<b>FY 2014</b>	2014 EVS average composite of competency questions 64%	<b>FY 2017</b>	Maintain competency agreement within 5% points from previous year.
<b>FY 2015</b>	2015 EVS average composite of competency questions 79%		

<b>Performance Goal M1-2: Maintain positive perceptions of diversity and inclusion by MSPB employees.</b>			
<b>Measure:</b> Average percent agreement on diversity (FEVS questions) and workplace inclusion questions (Internal Survey questions).			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	Conducted several events and MSPB Unity Day with activities designed to improve understanding of diversity and inclusion. 2012 EVS Diversity Comp. 66% 2012 EVS Inclusion Comp. 67% 2012 IS Inclusion Comp. 73%	<b>FY 2015</b>	Improve average percent agreement on EVS Diversity questions by 3% or more over the previous year; 65% average percent agreement or more for IS Inclusion questions.
<b>FY 2013</b>	Conducted 9 diversity awareness events designed to improve inclusion and understanding of diversity. 2013 EVS Diversity Comp. 72% 2013 EVS Inclusion Comp. 65% 2013 IS Inclusion Comp. 75%	<b>FY 2016</b>	Maintain diversity and inclusion within 5% points from previous year.
<b>FY 2014</b>	Held events or issued information about numerous diversity/inclusion topics; held Unity Day with six different sessions; supervisors completed mandatory training on ADR and reasonable accommodation; issued revised Anti-Harassment Policy and Procedures. 2014 EVS Diversity Comp. 61% 2014 IS Inclusion Comp. 77%	<b>FY 2017</b>	Maintain diversity and inclusion within 5% points from previous year.
<b>FY 2015</b>	2015 EVS Diversity Comp. 71% 2015 IS Inclusion Comp. 77%		

<b>Performance Goal M1-3: Strengthen and maintain employee engagement and address engagement issues identified in the EVS.</b>			
<b>Measure:</b> Average percent agreement on EVS engagement questions.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	Employee engagement was discussed in Chairman's all-hands meeting and individual office briefings by the Executive Director & Performance Improvement Officer. An engagement ombudsman was appointed to track agency engagement efforts; Executive Committee subcommittees established and began work. 2012 EVS Engagement 68%	<b>FY 2015</b>	Improve average agreement by 5% or more over 2014 results.

<b>FY 2013</b>	Small group of agency leaders (ED, OEEG, GC, CB, PIO) established to review survey results and recommend appropriate actions; most subcommittee recommendations were approved and implemented or were under development. (e.g., 'Kudos' page, & Languages of Appreciation training for leaders and supervisors); MSPB IdeaScale Community implemented to improve the suggestions process; will use EVS scores because 2012 EVS & IS scores were consistent; 2013 EVS Engagement composite 68% positive.	<b>FY 2016</b>	Maintain engagement within 5% points from previous year.
<b>FY 2014</b>	2014 EVS Engagement composite 62% positive.	<b>FY 2017</b>	Maintain engagement within 5% points from previous year.
<b>FY 2015</b>	2015 EVS Engagement composite 74% positive.		

**Management Objective M2: Manage budget and financial resources and improve adjudication efficiency to ensure necessary resources now and in the future.**

**Results and Targets:** This objective was **PARTIALLY MET**. The result for the proportion of funded positions that were vacant at the end of each month, averaged over the year, was 4 percent. This was 60 relative percentage points  $((10 - 4)/10)$  better than the target of 10 percent or fewer. Given the significantly lower result in FY 2015, the FY 2016 and 2017 targets for percent of vacant funded positions is lowered from 10 percent or fewer to 8 percent or fewer. In 2015, 56 percent of initial appeals and 80 percent of pleadings were filed electronically. An RFI for e-Adjudication, guidance for archiving electronic case files, and a timeline for expanding e-case files and implementing mandatory e-filing was established. Further progress on e-Adjudication and electronic record-keeping was delayed as a result of the IT outage. In FY 2016, we will assess e-Adjudication and electronic record-keeping requirements in light of the IT outage, recent data breaches in other agencies, and potential changes in Federal IT procurement and security requirements and consider how to ensure sufficient resources and expertise to support e-Adjudication, and determine next steps in acquiring this essential agency capability. We will continue progress in FY 2017.

<b>Performance Goal M2-1: Develop fully-justified budgets &amp; ensure resource accountability</b>			
<b>Measure:</b> Percent of funded positions vacant at the end of each month, averaged over the year.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	6% of 226 funded positions vacant, averaged over 12 months.	<b>FY 2015</b>	10% or fewer of funded positions vacant averaged over 12 months.
<b>FY 2013</b>	12% of 226 funded positions vacant, averaged over 12 months.	<b>FY 2016</b>	8% or fewer of funded positions vacant averaged over 12 months.
<b>FY 2014</b>	12% of funded positions vacant, averaged over 12 months. Will use the percent of funded positions vacant at the end of each month, averaged over 12 months; targets for 2015-2016 set as indicated.	<b>FY 2017</b>	8% or fewer of funded positions vacant averaged over 12 months.

<b>FY 2015</b>	4% of funded positions vacant, averaged over the 12 months (including temporary hires).	
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<b>Performance Goal M2-2: Improve efficiency of adjudication case processing.</b>			
<b>Measure:</b> Proportion of cases processed entirely electronically.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	Interim indicators: 55% of initial appeals and 56% of pleadings filed electronically.	<b>FY 2015</b>	Issue RFI/RFQ and select vendor for assessing MSPB adjudication process, tools, and systems, recommend improvements in process, and assist in initial planning for the e-Adjudication.
<b>FY 2013</b>	Interim indicators: 47% of initial appeals and 66% of pleadings filed electronically.	<b>FY 2016</b>	Assess e-Adjudication and electronic record-keeping requirements in light of the IT outage, recent data breaches in other agencies, and potential changes in Federal IT procurement and security requirements and consider how to ensure sufficient resources and expertise to support e-Adjudication, and determine next steps in acquiring this critical agency capability.
<b>FY 2014</b>	Interim indicators: 55% of initial appeals and 83% of pleadings were filed electronically. Furlough cases were processed electronically in selected regional offices, 37 PFRs of furlough cases were filed electronically, and one furlough Board decision was filed electronically with the Court. An RFI for e-Adjudication was drafted.	<b>FY 2017</b>	Continue incremental implementation of the shift to e-Adjudication and electronic record-keeping, assess progress at key points, adjust plan to ensure effective and successful execution of this initiative.
<b>FY 2015</b>	Interim indicators: 56% of initial appeals and 80% of pleadings were filed electronically. RFI on e-Adjudication was issued. Guidance on archiving electronic case files was issued. A timeline for expanding e-case files and implementing mandatory e-filing for agencies and representatives was developed. Timeline and project has been suspended as a result of the IT outage in June 2015.		

**Management Objective M3: Manage information technology and information services programs to support agency mission and administrative functions and implement modernization initiatives.**

**Results and Targets:** This objective was **NOT MET**. The results for the performance measures for this objective were within the target values. However, the IT outage and the resulting loss of the

MSPB virtual environment, permanent loss of many employees' working and archived documents, and the adverse effect the outage had on several MSPB strategic and management objectives, make it impossible to rate this objective as met. MSPB stabilized its virtual environment after the outage and took many steps toward improving its IT infrastructure. In FY 2016, MSPB will enhance and strengthen the IT infrastructure (hardware, software, applications, network, systems, processes, and expertise) and perform the IT and information services actions needed to ensure achievement of the FY 2016 targets for performance goals (1A-1, 1A-3, 1A-5, 1C-3, 2B-1, 2C-3 and M2). We will also consider the effects and aftermath of the IT outage, changes in Governmentwide IT procurement and security requirements, electronic records requirements, survey requirements (related to 1A-1, 1A-3, 1A-5, 1C-3, 2B-1, and 2C-3), and modernization requirements (e-Adjudication under M2 and the survey platform under 1C), in order to ensure adequate resources and expertise for current operations and modernization of IT in support of MSPB mission and administrative functions. We will also consider these factors and requirements and assess and adjust the performance goals, measures, and targets under this objective to account more accurately and completely for effective and efficient IT and information services operations. In particular, we will consider new performance goals and measures related to ensuring the right IT infrastructure for our mission and administrative functions, and the effective and efficient implementation of modernization efforts (including e-Adjudication and electronic record-keeping, and a secure cloud-based survey platform). FY 2017 goals, measures, and targets are to be determined based on FY 2016 results.

Performance Goal M3-1: Ensure availability of IT applications and systems.			
<b>Measure:</b> Average percent unscheduled key system downtime (and related cost of lost work) at HQ, regional and field offices (including network, Office 365, public website, e-Appeal, DMS, CMS/LM, Phone, and VTC, etc.).			
Results		Targets	
<b>FY 2012</b>	Prioritized systems to make tracking unscheduled downtime more meaningful and manageable; redesigned MSPB data center to minimize electrical, AC, and cabling issues; procured disaster recovery site (not yet operational).	<b>FY 2015</b>	1.75% or less average downtime.
<b>FY 2013</b>	Average unscheduled downtime for key systems was 0.48%.	<b>FY 2016</b>	Enhance and strengthen the IT infrastructure, and perform the IT and information services actions needed to ensure achievement of performance goals (1A-1, 1A-3, 1A-5, 1C-3, 2B-1, 2C-3 and M2). We will also consider internal and external factors to ensure adequate resources and expertise for current operations and modernization initiatives to support MSPB mission and administrative functions, and assess and adjust goals, measures, and targets to account for IT and information services operations and performance accurately and effectively.
<b>FY 2014</b>	Average unscheduled downtime for key systems was 1.13%.	<b>FY 2017</b>	TBD based on 2016 results.

<b>FY 2015</b>	Although the target for average unscheduled downtime was met (1.16), MSPB experienced a significant disruption in its IT infrastructure resulting in the loss of the virtual environment and permanent loss of significant employee working and archived documents.	
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<b>Performance Goal M3-2: Ensure effective customer support for internal and external IT customers.</b>			
<b>Measure:</b> Proportion of internal and external IT service help-desk tickets resolved within required service level agreement (SLA) (C-support ticketing system).			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	92% of all tickets were resolved within SLA. (97% (3412/3502) of external tickets and 81% (2403/2870) of internal tickets).	<b>FY 2015</b>	85% or more.
<b>FY 2013</b>	94% of all tickets were resolved within SLA. (98% (6097/6234) of external tickets and 87% (2334/2677) of internal tickets).	<b>FY 2016</b>	Enhance and strengthen the IT infrastructure, and perform the IT and information services actions needed to ensure achievement of performance goals (1A-1, 1A-3, 1A-5, 1C-3, 2B-1, 2C-3 and M2). We will also consider internal and external factors to ensure adequate resources and expertise for current operations and modernization initiatives to support MSPB mission and administrative functions, and assess and adjust goals, measures, and targets to account for IT and information services operations and performance accurately and effectively.
<b>FY 2014</b>	92% (10,712/11,621) of all tickets were resolved within SLA.	<b>FY 2017</b>	TBD based on 2016 results.
<b>FY 2015</b>	Although help-desk tickets were resolved within SLA (85%), the IT outage resulted in the loss of the IT virtual environment and the permanent loss of a significant number of employees' working and archived documents.		

**Management Objective M4: Ensure individual and workplace safety and security.**

**Results and Targets:** This objective was **EXCEEDED**. The FY 2015 result was 87 percent positive for the safety and security questions, 12 absolute (87%-75%) and 16 relative (12%/75%) percentage points above the target of 75 percent or more. Given the high results on this measure for

the last three years, the FY 2016 and 2017 targets are adjusted to maintain the percent positive agreement within 3 percent of the results in the previous year.

<b>Performance Goal M4-1: Offices, employees, and visitors are safe and secure from internal and external natural or man-made threats or emergencies.</b>			
<b>Measure:</b> Average percent of MSPB employees who agree with questions on the IS about their preparedness to ensure safety and security.			
<b>Results</b>		<b>Targets</b>	
<b>FY 2012</b>	Established a Safety and Security sub-committee of the Executive Committee based on EVS results and recent security issues; developed an interim emergency protocol; all employees completed required Workplace Security Awareness training; rewrote Continuity of Operations Plan (COOP) and participated in Eagle Horizon exercise; conducted shelter-in-place drill. 2012 IS average agreement 72%.	<b>FY 2015</b>	75% or more average agreement.
<b>FY 2013</b>	Trained all employees on Active Shooter and Workplace Violence Awareness; implemented Visible Visitor badge program; conducted earthquake and shelter-in-place drills; updated and briefed COOP to all offices. 2013 IS average agreement 78%.	<b>FY 2016</b>	Maintain percent agreement within 5% of the result from the previous year.
<b>FY 2014</b>	2014 IS average agreement 89%.	<b>FY 2017</b>	Maintain percent agreement within 5% of the result from the previous year.
<b>FY 2015</b>	2015 IS average agreement 87%.		

# Trends and Challenges that May Affect Agency Performance

## Significant External Trends and Issues

The most significant external trends or issues affecting MSPB's ability to carry out its mission to protect the Federal merit systems include changes in law and jurisdiction, changes in the demographics of the Federal workforce, and Governmentwide budget reductions (including possible sequestration in FY 2018 and beyond) and related consequences such as furloughs and RIFs. MSPB is committed to performing its functions to the best of its ability and to justifying and requesting only those resources necessary to carry out its statutory responsibilities effectively and efficiently. MSPB is appreciative that enacted budgets for FY 2014-2016 have enabled MSPB to rebuild its workforce, address mission requirements, and begin to prepare for the future. If pending legislation does not change MSPB's workload or adjudication complexity, MSPB will require stable and sufficient resources in future years to be able to perform its statutory functions effectively and efficiently. However, additional resources will be needed to meet any new legislative changes to MSPB's adjudication procedures and simultaneously meet potential workload increases caused by other external factors.

**Changes in law and jurisdiction.** Changes in law and jurisdiction that have a direct impact on MSPB include the Veterans Access, Choice, and Accountability Act of 2014, recent proposed legislation that expands the VA SES provisions, and the WPEA.

The recently enacted Veterans Access, Choice, and Accountability Act of 2014 changes the appeal rights of members of the SES at the VA. In particular, the Act stipulates that VA SES appeals must be adjudicated by MSPB AJs within 21 days, without possible subsequent review by the full MSPB Board or by the Courts as is provided for most other Federal employees. MSPB has processed five cases under this law. In our experience, to meet the timeline and ensure each party is afforded due process and full and fair adjudication, the MSPB AJ assigned to the case, and often a team of other MSPB legal staff members, have had to suspend processing of other adjudicatory work until a decision is issued in the VA SES case. This naturally slows the processing of the other non-VA SES cases in which these legal staff members are involved.

Legislation passed in the House and Senate expanding the VA SES appeals procedures to the rest of the VA's General Schedule employees (S. 1082; S. 1117; S. 1856, and H.R. 1994) will affect the due process rights of these employees. It also will affect MSPB's ability to adjudicate these appeals within the timelines contained in the law, and simultaneously process appeals from non-VA appellants who have the right to file appeals with MSPB. Chairman Grundmann provided expert testimony to the Senate Committee on Veterans' Affairs on the potential effect these bills will have on the due process procedures for these employees in relation to the due process procedures provided for almost all other Federal civil servants.<sup>8</sup> The new due process procedures would require MSPB to issue a decision within 45 days without subsequent appeal to the Presidentially appointed and Senate confirmed MSPB Board Members or to Federal court; due process procedures that have been long afforded almost all other Federal employees. In addition to changing the due process procedures for VA employees who can currently appeal to MSPB, the legislation also expands MSPB appeal rights to tens of thousands of medical personnel in the VA. Even with the recent increases in adjudication staff, MSPB does not have the resources to meet the requirements of the new VA legislation should it be enacted and signed into law as it is currently written. Legislation introduced in the Senate (S. 627) requires the VA Secretary to revoke bonuses paid to employees involved in the electronic wait-list manipulations. The employees would have a right to appeal to MSPB. If enacted, this legislation

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<sup>8</sup> Chairman Grundmann's testimony is available on MSPB's website at [www.mspb.gov](http://www.mspb.gov).

also could affect MSPB's adjudication workload. Legislation recently introduced in the House (H.R. 4358) expands the VA SES provisions to all SES members across Government. If enacted, this legislation would compound the effects of the original VA SES legislation.

The WPEA provided additional rights to whistleblowers and others who engage in protected activity in the Federal Government. The law expanded the scope of protected disclosures, broadened MSPB's whistleblower jurisdiction, expanded options for granting corrective action, and permitted review of MSPB decisions by multiple Federal Courts of Appeals.<sup>9</sup> These changes have increased the number of whistleblower cases filed with MSPB and increased the processing complexity of whistleblower cases.<sup>10</sup> Many whistleblower cases are being resolved formally or informally at the Office of Special Counsel. The more complex and contentious cases that remain unresolved are often the cases filed with MSPB. Thus, based on what we have seen so far, we still anticipate that the WPEA may lead to more and lengthier hearings in these cases and more addendum appeals.

Changes in law emphasize the importance of MSPB's responsibility to conduct studies of Federal merit systems and exercise its statutory authority to review OPM rules, regulations, and significant actions to ensure the workforce continues to be managed in accordance with MSPs and free from PPPs. Changes in law, appeal rights, and appellate jurisdiction also increase the importance of MSPB's responsibility to promote merit and educate employees, supervisors, managers, and leaders on the merit systems, MSPs, PPPs, and MSPB appellate procedures, processes, and case law. These important functions improve workforce management over time and reduce the cost of appeals to agencies, appellants, and the Government.

**Changes in Demographics of the Federal Workforce.** For a number of years, the proportion of Federal employees who are eligible to retire has been increasing along with the average age of the Federal workforce. More recently, other demographic changes have occurred such as an increase in the number of new employees who are veterans<sup>11</sup> and the number of new employees who are disabled.<sup>12</sup> There also has been a decrease in the proportion of women in the Federal workforce.<sup>13</sup> All of these demographic changes can alter workforce culture, employee engagement, and methods of work. The demographic shifts can also change the range of experience and perspectives represented by the Federal workforce, and that are available to contribute to the achieving agency missions and serving the American people.

Directly or indirectly, these demographic changes can impact the strength of merit systems, and the degree to which employees are managed under the MSPs, and free from PPPs. The potential impact of demographic changes increases the importance of ensuring that MSPB has sufficient tools and resources to perform effectively its statutory responsibility to conduct merit systems studies and review the rules, regulations, and significant actions of OPM. To carry out these statutory functions, MSPB must ensure it has sufficient analytic staff, and a stable, flexible, cloud-based capability to conduct surveys of the Federal workforce, including periodic Merit Principles Surveys, other studies surveys, and customer satisfaction surveys.

According to a 2014 GAO report, the proportion of retirement-eligible Federal employees is increasing and by September 2017, nearly 600,000 (about 31 percent) will be eligible to retire

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<sup>9</sup> The original two-year pilot for MSPB whistleblower decisions to be appealed to other circuit courts beyond the U.S. Court of Appeals for the Federal Circuit was extended for an additional three years by the All Circuit Review Extension Act (P.L. 113-170).

<sup>10</sup> As noted in Appendix A, the number of whistleblower initial appeals filed in 2015 increased to 583 cases, over 130 more whistleblower cases than the 451 cases filed in 2014.

<sup>11</sup> <http://www.fedshirevets.gov/hire/hrp/reports/EmploymentOfVets-FY14.pdf>

<sup>12</sup> <http://federalnewsradio.com/hiringretention/2015/08/record-number-people-disabilities-blue-government/>

<sup>13</sup> [http://www1.eoc.gov/federal/reports/fsp2011\\_2/index.cfm](http://www1.eoc.gov/federal/reports/fsp2011_2/index.cfm)

Governmentwide.<sup>14</sup> However, according to a representative from the Thrift Savings Board, the average age at which Federal employees are eligible to retire is about 55 years old, but the average retirement age of Federal employees is about 61 years old.<sup>15</sup> Although Federal employees usually do not retire immediately when they become eligible, data indicate that Federal retirements are increasing. OPM data indicate that an average of over 118,000 new annuitants (Civil Service Retirement System and Federal Employee Retirement System retirees only, not including Postal Service employees or military members) were added to the Annuity Roll Processing Systems each year between 2012-2014.<sup>16</sup> This is over 35,000 more annuitants on average added per year than the average number added in the preceding three-year period (2009-2011), and at least 24,000 more added on average per year than the average added for any other earlier sequential three-year period beginning in 2000.

As stated earlier, sequestration and repeated furloughs may add to the number of retirements as employees retire rather than work under conditions of persistent resource uncertainty. As retirements increase, for whatever reason, we expect to see an increase in retirement appeals. Indeed, MSPB has had slight increases each year in the number of retirement initial appeals received beginning in 2011. OPM's backlog of retirement claims varies considerably, but it generally has decreased since 2012, thus increasing the number of retirement decisions that may be appealable to MSPB.<sup>17</sup> As the Government replaces retiring employees with relatively younger, less experienced employees, the average age of the workforce is likely to decrease. As this occurs, we may see an increase in appeals as historical information indicates that employees with less work experience are typically involved in more appealable actions than are employees with more work experience.

Several recent statutory changes in Federal retirement programs also may affect the rate of Federal retirements. For example, the opportunity for employees covered by FERS to claim service credit toward retirement for their sick leave balance,<sup>18</sup> and the authority to allow full-time Federal employees to phase their retirements or work in part-time status,<sup>19</sup> may alter retirement rates and thus may affect the number of retirement appeals. Proposed legislation to base annuities on the average high-five instead of the average high-three salary years,<sup>20</sup> especially if applied to current retirement-eligible employees, could lead to a surge in retirements, followed by a surge in retirement appeals filed with MSPB.

Increased Federal retirements, depending on how they are managed, may adversely affect agencies' ability to retain important workforce competencies and transfer key knowledge from very experienced employees to others. In addition, new employees need to understand their responsibilities as public employees working in a merit-based system. It is important to be able to conduct merit systems studies, outreach, and education to ensure the workforce continues to be managed under the MSPs and to avoid PPPs.

**Budget reductions, sequestration, and related consequences such as furlough appeals.** In FY 2013, sequestration led to a huge increase in the number of appeals filed with MSPB. Although 93 percent of furlough initial appeals were closed by the end of FY 2015, there is a larger than average

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<sup>14</sup> Government Accountability Office, *Federal Workforce: Recent Trends in Federal Civilian Employment and Compensation* (GAO-14-215), January 2014.

<sup>15</sup> Federal News Radio, *Feds ride the money, benefits wave longer than expected*, April 29, 2015; <http://federalnewsradio.com/pay-benefits/2015/04/feds-ride-the-money-benefits-wave-longer-than-expected/>

<sup>16</sup> Office of Personnel Management, *Retirement Statistics* (for 2000-2013), at <https://www.opm.gov/retirement-services/retirement-statistics/> and data by email for 2014.

<sup>17</sup> See current retirement claims processing statistics at <https://www.opm.gov/about-us/budget-performance/strategic-plans/retirement-processing-status.pdf>.

<sup>18</sup> [www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-general-information/](http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-general-information/)

<sup>19</sup> [www.opm.gov/retirement-services/phased-retirement/](http://www.opm.gov/retirement-services/phased-retirement/)

<sup>20</sup> Government Employee Pension Reform Act of 2015, at [www.congress.gov/bill/114th-congress/house-bill/1230](http://www.congress.gov/bill/114th-congress/house-bill/1230)

inventory of nonfurlough appeals that must be adjudicated in FY 2016, along with the regular workload of initial appeals that continue to be received. Furlough appeals will continue to affect MSPB's HQ workload through most of FY 2016. We also understand that selected agencies are actively implementing steps to reduce their workforces to achieve savings.<sup>21</sup>

Should sequestration or other budget reductions occur in FY 2018 or beyond, agencies may again furlough their employees. Repetitive use of furloughs may have adverse consequences such as encouraging employees to leave agencies that use furloughs repetitively, or retire from or otherwise leave the Federal Government entirely (see section on changing demographics). If widespread furloughs occur, MSPB could experience another spike in furlough appeals, but due to the body of newly developed case law regarding furloughs, the spike may not be as sizable as the one experienced in FY 2013. Agencies also may opt to adjust their workforces permanently through reductions in force (RIFs), or by offering early retirement options (VERA and VSIP).<sup>22</sup> RIF, VERA, and VSIP cases are also appealable to MSPB. Historical trends indicate that increasing RIFs would lead to increases in the number of appeals filed to MSPB, and RIF appeals are generally more complex than some other types of appeals. Taken together, these actions could lead to significantly more appeals filed with MSPB in future years.

## Internal Issues and Challenges

The most significant issues and challenges affecting MSPB's ability to carry out its mission to protect the Federal merit systems include human capital issues and information technology stability, security and modernization. MSPB is appreciative that enacted budgets for FY 2014-2016 have enabled MSPB to rebuild its workforce, address mission requirements, and begin to prepare for the future. MSPB is beginning a sustained strategic human capital planning process focused on its most critical human capital requirements and help ensure it has stable and sufficient resources to perform its statutory functions effectively and efficiently. MSPB is also focused on ensuring it has the IT infrastructure and IT and information services expertise to execute its mission and modernize its systems including implementing e-Adjudication and obtaining a viable, secure, cloud-based survey platform.

**Human Capital Issues.** MSPB appreciates Congressional support for its enacted FY 2014-2016 appropriations enabled MSPB to fill many long-standing vacancies and continue to fill positions when employees left the agency. MSPB was able to increase and stabilize the number of on-board positions from 196 to 220 positions at the end of FY 2013 and 2015, respectively, a 12 percent increase. Several of these permanent positions were filled by existing MSPB employees, enabling MSPB to use the expertise of its current workforce. However, these internal transfers also created new vacancies. Filling these vacancies was essential to MSPB's ability to work through furlough initial appeals, process nonfurlough appeals, reduce and maintain the inventory of PFRs at HQ, process furlough PFRs, provide ADR services, and conduct adjudication outreach. Now that furlough initial appeals are nearly complete, there is a larger than usual inventory of nonfurlough initial appeals to process along with the continuing arrival of new initial appeals. Processing furlough appeals at HQ will likely last through FY 2016.

Even with the increase in positions provided for in the FY 2014 and 2015 appropriations, nearly 20 percent of MSPB employees, including almost one third of our AJs who process initial appeals, are eligible to retire in the next two years. Several other MSPB employees who hold key leadership positions or who are the only employee serving in a key mission or support function are eligible to

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<sup>21</sup> Government Accountability Office, *Civilian and Contractor Workforces: Complete Information Needed to Assess DOD's Progress for Reductions and Associated Savings* (GAO-16-172), December 2015.

<sup>22</sup> The Air Force [announced](#) and civilian reduction in force on January 6, 2016, and the USDA Food and Inspection Service [announced](#) a plan to implement VERA and VSIP to reduce its workforce on June 30, 2015.

retire in the near future. Although MSPB has been able to recruit well-qualified individuals for its adjudicatory and other professional positions, it nevertheless takes 2-3 years for these new staff to reach full performance level. MSPB also needs to ensure it has the IT and information services resources and expertise to: ensure a stable and secure IT infrastructure; perform the IT and information services actions needed for agency performance goals; and to effectively implement MSPB's IT modernization efforts which include e-Adjudication and electronic record-keeping and a secure, cloud-based survey platform. MSPB is beginning a sustained strategic human capital planning process to focus on MSPB's most critical long-term human capital needs.

A less experienced MSPB workforce, coupled with the requirement to complete furlough cases through the PFR level, maintain processing of our normal adjudication workload, comply with the WPEA and VA appeals requirements, and maintain inventory of PFR cases may result in overall reductions in agency adjudication performance. MSPB is committed to maintaining the quality of its adjudication decisions. Therefore, processing appeals at all levels and for all types of cases, may take longer for the near future. MSPB's ability to conduct merit system studies, obtain a survey platform to improve the collection of important customer service information and support merit system studies, and conduct program evaluation currently is competing for fewer existing analytic resources. Resource limits also affect MSPB's ability to maintain its review of OPM rules, regulations, and significant actions.

Additional resources, including the ability to hire new employees, successfully working through a large portion of the initial furlough appeals, managing the PFR inventory, and publishing several important and timely merit system study reports may be having a positive impact on the perceptions and morale of MSPB employees. Results from the FY 2015 FEVS show increases in the positive responses for almost every question on the survey, including questions about having the necessary resources to do their jobs, and about agency managers and leaders. The result for engagement was 74 percent positive and MSPB had the 2<sup>nd</sup> most improved engagement score among all small agencies. MSPB was ranked 8<sup>th</sup> among small agencies, and was the 5<sup>th</sup> most improved among all small agencies in the 2015 Best Places to Work rankings. In addition, although MSPB does not use the new OPM IQ index for diversity reporting, MSPB's score was 1<sup>st</sup> most improved among small agencies (tied with two other agencies with results 12 points higher than in 2014). Continued stability in funding for FY 2017 and beyond will be necessary to sustain the improvement in employee engagement necessary to improve our processes and continue to perform our statutory functions effectively and efficiently.

**Information Technology Stability, Security, and Modernization.** The arrival of tens of thousands of furlough appeals at MSPB required significant changes to our adjudication processes, IT infrastructure, and automated applications. The furloughs also reinforced the need to shift from paper to electronic appeals processing and record-keeping. Transitioning to 100 percent e-Adjudication will allow MSPB to process cases more efficiently, and improve service to our customers. In addition, e-Adjudication will support MSPB's efforts to comply with Governmentwide initiatives involving improving efficiency, effectiveness, accountability, and customer service; Federal paperwork reduction; and records management directives requiring that agencies convert records to electronic format.<sup>23</sup> MSPB needs to identify, procure, and implement additional systems, components, and processes, and integrate them with our existing systems to convert to e-Adjudication as well as develop and document the processes and related procedures,

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<sup>23</sup> See <https://www.whitehouse.gov/the-press-office/2011/04/27/executive-order-13571-streamlining-service-delivery-and-improving-custom>, <https://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov>, [https://www.whitehouse.gov/omb/fedreg\\_gpea2/](https://www.whitehouse.gov/omb/fedreg_gpea2/), <https://www.whitehouse.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>, <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf>.

and provide the necessary training to our staff. In the long run, this effort will yield important potential improvements in efficiency, but will require a significant initial investment of resources. The e-Adjudication project will be a multi-year effort and the total costs are unknown at this point.

MSPB will be administering the next large merit principles survey (MPS) early in 2016 with contractor support. The survey will provide data to support several studies on the new research agenda. However, MSPB must have a more stable and flexible capacity to collect securely in a cloud-based environment survey and similar data to support merit system studies and to conduct customer satisfaction and customer service surveys. MSPB's ability to support procurement of a survey platform, improve the collection of important customer service information, and conduct program evaluation currently is competing for fewer existing analytic and IT resources, especially following the IT outage and its aftermath.

MSPB has been migrating from a physical to a virtual IT infrastructure environment. MSPB experienced a significant disruption in its IT infrastructure in the 4<sup>th</sup> quarter of FY 2015, resulting in the loss of its virtual environment infrastructure as well as the loss of employee archived and working documents. It has been determined that the outage did not involve malicious or intentional actions from internal or external sources and there was no release of sensitive information or loss of official adjudication documents. Even so, the entire virtual environment has to be rebuilt, and policies and practices implemented so that disruptions are prevented in the future. MSPB hired an external consultant to provide a comprehensive assessment of our IT environment including our virtual, network, and data center infrastructures, major business applications, operational processes, IT staffing, etc. Based on their recommendations and other factors, MSPB has made, and will continue to be making, changes to ensure system reliability, effectiveness, and efficiency. Some of these options may require considerable resources investments as well as changes in internal processes and procedures. Employee confidence in MSPB's IT systems, infrastructure design, and practices will be regained only after improvements are made and they have first-hand evidence over time of the efficacy of these improvements.

In addition to the IT outage, MSPB considered external factors in clarifying the need to continue to emphasize that we have the IT and information services resources and expertise necessary to meet our needs. These external factors include information security breaches in other agencies (especially the breaches of OPM's Federal employee and investigations databases), the need to meet (as applicable) the requirements of the Federal Cybersecurity Enhancement Act of 2015 (P.L. 115-113), and potential changes in Governmentwide IT procurement requirements. IT and information services resources and expertise are needed to ensure a stable, secure, and effective infrastructure (hardware, software, applications, network, systems, processes, and expertise) to support MSPB statutory and administrative functions. Resources and expertise also are needed to perform the IT and information services actions needed for agency performance goals (especially 1A-1, 1A-3, 1A-5, 1C-3, 2B-1, 2C-3 and M2) and effectively implement our modernization efforts involving procurement and implementation of both e-Adjudication and a viable, secure, cloud-based survey platform. MSPB's 2015 Internal Survey results may provide valuable information about the impact of the IT outage and input from employees on their IT needs and perceptions and feedback on how we are moving forward. In addition, MSPB has moved the program evaluation of its IT function forward in the Program Evaluation Schedule to take advantage of the lessons learned from the IT outage, and the potential changes in Governmentwide IT procurement requirements to help ensure we move forward effectively and efficiently.

# Program Evaluation and Performance Measurement

## Program Evaluation

MSPB programs broadly affect Federal merit systems and Federal management, and they generate significant value for Federal agencies and the public. Effective program evaluation is critical to ensuring that MSPB can continue to achieve its mission effectively and efficiently and to provide value now and in the future. MSPB is committed to high-quality program evaluation. However, ensuring our ability to perform our statutory mission, as well as ensuring compliance with requirements of the GPRAMA and recent program evaluation guidance from OMB, will require increased resources and program evaluation staff. A relatively small increase in MSPB's program evaluation resources and staff likely will yield a large return in efficiency and cost savings for MSPB. In turn, this will improve the value MSPB brings to agencies, Federal employees, individual parties to cases filed with MSPB, and to the public.

## Performance Measurement: Verification and Validation of Performance Information

Most of the quantitative measures of adjudication performance come from MSPB's case management system. Other quantitative and qualitative performance measures are reported by MSPB's program offices. MSPB also collects customer satisfaction data from adjudication and merit systems studies customers and stakeholders and from internal customers of our administrative programs. Better oversight, accountability, and coordination of performance measurement processes, including internal/external customer surveys, will help ensure the continued consistency, validity, and verifiability of the performance data that are used to manage MSPB programs and are included in agency reports.

## Proposed Program Evaluation and Performance Measurement System Review Schedule

Assuming sufficient resources are available, MSPB will develop an agency policy for performance measurement, verification, and validation beginning in FY 2016. Based on the availability of resources, MSPB will undertake independent program evaluations of its mission and administrative support programs and assess its performance measurement systems and processes over the next few years. A projected schedule for these activities in FY 2016 and FY 2017 is provided below.

<b>Program/Performance Measurement System</b>	<b>Evaluation Start Year</b>
Law manager case management system (as part of shift to e-Adjudication)	2016
IT program planning and implementation (in conjunction with e-Adjudication; moved from 2018 due to IT issues in 2015)	2016
Case processing in the regional and field offices	2017

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## Appendix A: Information about FY 2015 Whistleblower Appeals

In accordance with the Whistleblower Protection Enhancement Act (WPEA) of 2012, MSPB is providing this information about whistleblower appeals in FY 2014. These data reflect cases processed from October 1, 2014 through September 30, 2015. The WPEA requires that we report information about cases we receive with claims related to whistleblowing as well as the outcomes of whistleblower appeals. Adjudicating appeals is an ongoing process and appeals are often closed in a different year than that in which they were received. Therefore, the figures for cases received (for example in Figure 1 for initial appeals) and outcomes of cases processed (for example Figures 3-5) in any given year, will not be comparable. We have used bar graphs in Figures 1 and 6 to make clear that these represent cases received, as opposed to cases processed.

There generally are two types of appeals that can involve claims of whistleblowing. An otherwise appealable action (OAA) appeal involves an adverse action that is directly appealable to the Board, such as a removal, demotion, or suspension of more than 14 days. In such an appeal, both the appealable action and the claim of reprisal for whistleblowing as an affirmative defense will be reviewed by the Board. In an individual right of action (IRA) appeal, the individual is subject to a personnel action and claims that the action was taken in reprisal for whistleblowing, but the personnel action itself is not one that is directly appealable to the Board (e.g., a reassignment with no reduction in pay or grade).<sup>24</sup> In this kind of case, the individual can appeal the claim of reprisal to the Board only if he or she files a complaint with OSC first, and OSC does not seek corrective action on the individual's behalf.<sup>25</sup> Figure 1 displays data on the number and percent of each type of whistleblower appeal that MSPB received in FY 2015.<sup>26</sup>

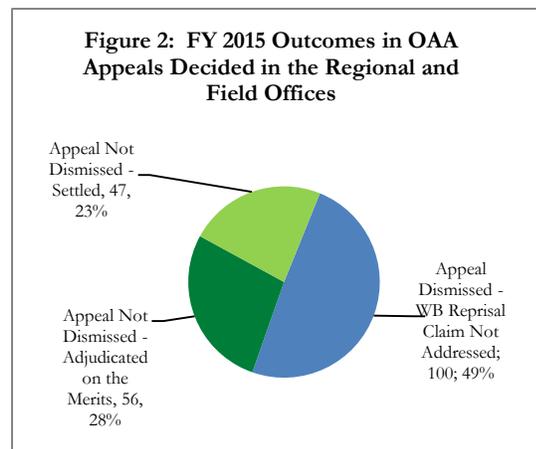
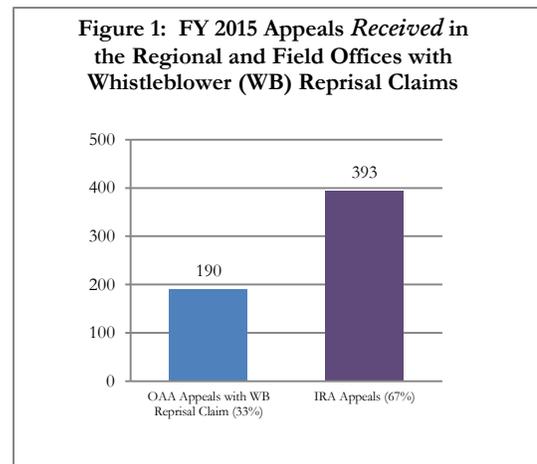


Figure 2 depicts the outcomes of the OAA appeals with claims of whistleblowing reprisal. It is important to note that an OAA appeal can be dismissed for a variety of reasons that have nothing to do with the merits of any whistleblower reprisal claim raised therein. For example, the appeal may be untimely filed, the action or the appellant might be outside the Board's appellate jurisdiction, or the appellant might have made a binding election to challenge the action in another forum (such as through a negotiated grievance or arbitration procedures). This figure excludes the appeals that were dismissed without prejudice (DWOP). DWOP is a procedural option

<sup>24</sup> In *Agoranos v. Department of Justice* (119 M.S.P.R. 498) the Board explained that an IRA appeal can also seek relief related to a personnel action that could have been appealed directly to the Board, when the appellant knowingly chooses to seek relief from OSC before filing at MSPB.

<sup>25</sup> Complaints in IRA appeals go first to OSC for review and, if warranted, an investigation is conducted by OSC. According to OSC, it is during this process that agencies often choose to take corrective action or settle an issue informally before OSC files a case with MSPB. MSPB adjudicates IRA appeals that have had the chance to be resolved while at OSC, but OSC did not seek corrective action.

<sup>26</sup> Thirty of the 190 OAA and 71 of the 393 IRA appeals received in the regional or field offices were dismissed without prejudice or were remands from the Board or from the Courts.

that allows for the dismissal and subsequent refile of an appeal, often to allow the parties more time to prepare for the litigation of their cases. These cases were not counted because outcomes in these cases would be determined only when the case is refiled. Cases are settled at the discretion of both parties. Settlement agreements consist of terms acceptable to both parties, thus the agreement resolves the dispute in a way that both parties achieve some positive result.

Figure 3 displays the resolution of the whistleblowing reprisal claim within the OAA appeal adjudicated on the merits in the regional and field offices. The fact that whistleblower reprisal is not found in an otherwise appealable action appeal does not necessarily mean that the appellant obtained no relief. For example, in a removal appeal in which the appellant alleges whistleblower reprisal, the Board could reverse the removal action because the agency failed to prove that the appellant committed the charged misconduct, or it could mitigate the removal penalty, while also finding that the appellant failed to establish whistleblower reprisal. In any appeal involving a whistleblower reprisal claim, the Board shall order corrective action if the appellant has demonstrated that: (1) he or she made a protected disclosure; (2) the agency has taken or threatened to take a personnel action against him or her; and (3) his or her protected disclosure was a contributing factor in the personnel action. However, corrective action shall not be ordered if, after a finding that a protected disclosure was a contributing factor, the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

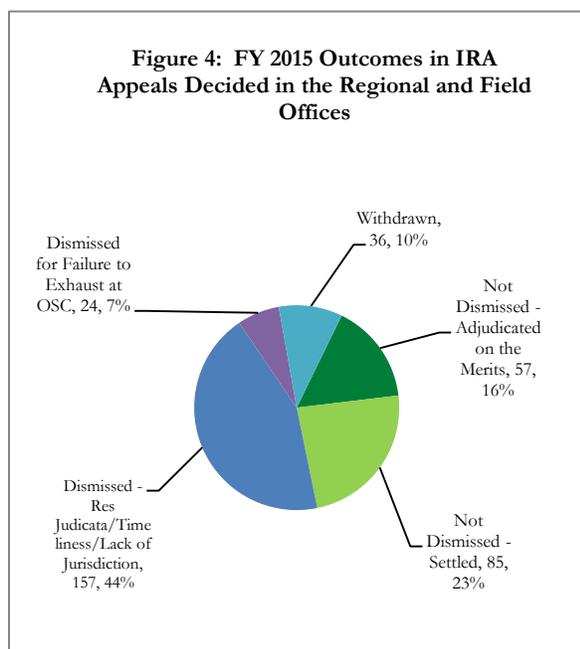
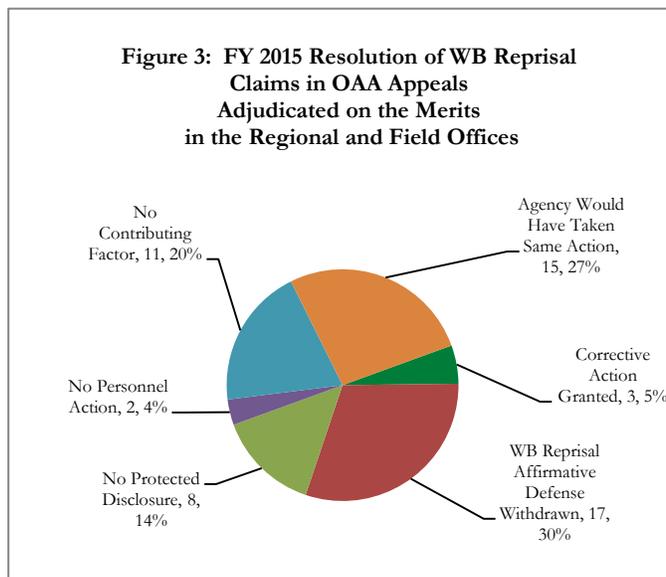
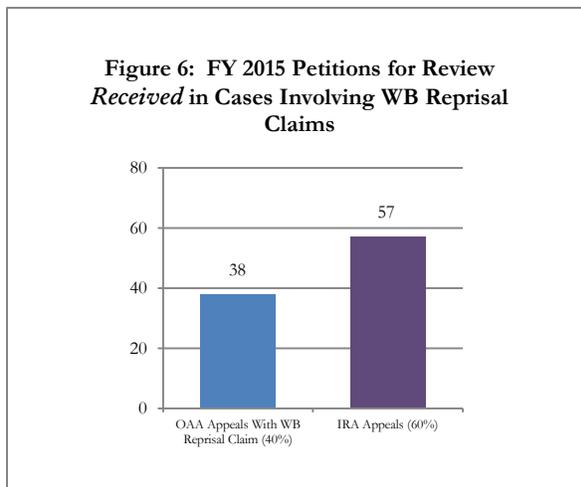
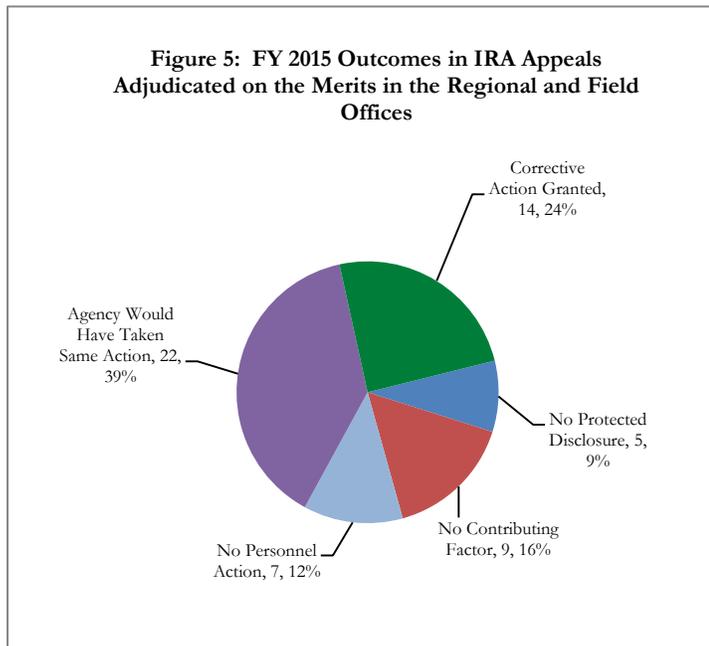


Figure 4 conveys the outcomes of IRA appeals decided in the regional and field offices. In an IRA appeal, an appellant “shall seek corrective action from the Office of Special Counsel before seeking corrective action from the Board.” 5 U.S.C. § 1214(a)(3). If an IRA appeal is dismissed for “failure to exhaust,” (i.e., because the appellant failed to first seek corrective action from OSC), the appellant can file a new IRA appeal after fulfilling the administrative exhaustion requirement. Again, this chart does not include IRA appeals that were DWOP’d because an outcome in those cases would be determined only when the appeal is refiled. Also, cases are settled at the discretion of both parties. Settlement agreements consist of terms acceptable to both parties, thus the agreement resolves the dispute in a way that both parties achieve some positive result.

Figure 5 depicts the outcomes of IRA appeals adjudicated on the merits in the regional and field offices. Just as in an OAA appeal, the Board shall order corrective action in an IRA appeal if the appellant has demonstrated that: (1) he or she made a protected disclosure; (2) the agency has taken or threatened to take a personnel action against him or her; and (3) his or her protected disclosure was a contributing factor in the personnel action. However, corrective action shall not be ordered if, after a finding that a protected disclosure was a contributing factor, the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

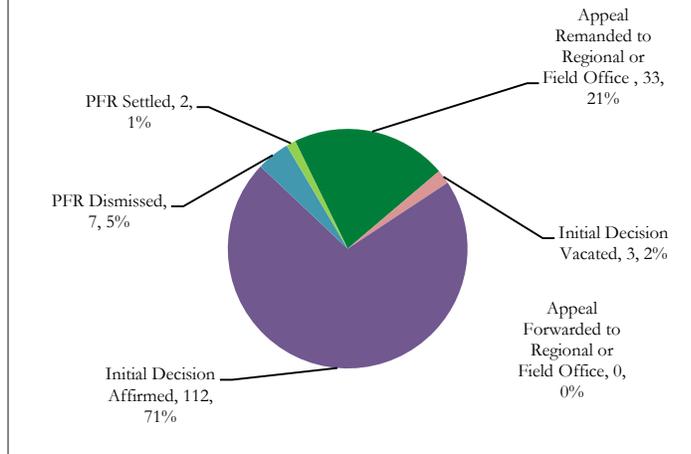


An appellant who, or agency that, is dissatisfied with an initial decision of an AJ on an OAA or IRA appeal may file a petition for review (PFR) for review of the initial decision by the full Board at MSPB headquarters. Figure 6 shows the number of PFRs (both OAA and IRA appeals) the Board received on appeals involving claims of whistleblowing.

Figure 7 (at the top of the next page) shows the outcomes of PFR cases involving whistleblower claims. It is important to note that PFR outcomes are the decisions of the Board relative to the initial decision issued by the AJ, not relative to the initial action taken by the agency. Under 5 C.F.R. § 1201.115, the Board may issue

a decision that denies or grants the PFR and affirms, reverses, or vacates, in whole or in part, the initial decision. Whether a PFR is denied or granted may have nothing to do with the claim related to whistleblowing. If the Board's decision is final, it will include an appropriate notice of appeal rights to the appellant. Alternatively, the Board may remand the appeal to the AJ for further proceedings, in which case the Board's decision is not yet final and no appeal rights are given. The Board forwards a matter to a regional or field office when there is an issue raised that should be addressed in the context of a separate Board appeal. When the Board forwards or remands a decision to the AJ, it generally means that the issues in the case are still under consideration, potentially including issues related to whistleblowing. The Board vacates an initial decision when it issues a final decision that reaches a different outcome from that reached in the initial decision.

**Figure 7: FY 2015 Outcomes of Petitions for Review in Cases Involving WB Reprisal Claims**



During FY 2015, the Board issued decisions on 157 PFRs of appeals that involved whistleblower claims. Thirty-three of the whistleblower appeals were remanded, of those, 10 were OAA appeals, and as such, the scope of the remand may or may not pertain to the whistleblower reprisal claim. Therefore, when a PFR in an OAA appeal is remanded to the regional or field office, it may present an opportunity for whistleblower claims within the case to be re-evaluated. The remaining 23 remands were for IRA appeals, in which the only issue before the Board was whether a personnel action was taken in reprisal for whistleblowing. It is relatively rare for cases to settle after an initial

decision has been issued and a party has subsequently filed a PFR. Settlements at the PFR level are voluntary and are reached at the discretion of the parties. The settlement agreements contain terms that are acceptable to both parties, thus the agreement resolves the dispute in a way that both parties achieve some positive result.

## Appendix B: More Information about MSPB

### MSPB's Role, Functions, and Scope of Responsibilities.

During hearings on the CSRA, various Members of Congress testified and described the role and functions of MSPB: “. . . [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.”<sup>27</sup> 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 (such as removals, furloughs, and certain suspensions) and retirement decisions. For matters within its jurisdiction, MSPB was granted the statutory authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and enforce compliance with MSPB decisions. Since the CSRA, Congress has given MSPB jurisdiction to hear appeals under a variety of other laws.<sup>28</sup> Congress also granted MSPB 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, Congress granted MSPB the authority and responsibility to review the rules, regulations, and significant actions of OPM. 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 United States Postal Service (USPS) employees and uniformed military service members.<sup>29</sup>

Findings and recommendations from MSPB's merit system studies help to strengthen merit and improve public management and administration in the Federal executive branch. Although MSPB's studies are focused on the Federal workforce and merit systems, they are generally applicable to the management of Federal legislative branch and judicial branch employees and even to public employees at the state and local levels. 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. MSPB's customers, partners, and stakeholders include a wide range of policy-makers; Federal agencies and councils; Federal employees and managers and groups that represent them; appellants, appellant representatives, and agency representatives; professional legal groups, academia, and management research organizations; and good Government groups.

### MSPB Offices and Their Functions.

MSPB is headquartered in Washington, DC and has eight regional and field offices located throughout the United States. The agency is currently authorized to employ 226 FTEs to conduct and support its statutory duties.

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<sup>27</sup> 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, (pages 5-6).

<sup>28</sup> Including 5 U.S.C. Chapters 43 and 75, and all those set out at 5 C.F.R. Part 1201.3; the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law No. 103-353, codified at 38 U.S.C. §§ 4301-4335; Whistleblower appeals including IRA appeals involving personnel actions listed in 5 C.F.R. § 1209.4(a) and otherwise appealable actions are listed in 5 C.F.R. §§ 1201.3 (a)(1) through (a)(19), and as amended by the WPEA (Public Law 112-199); the Hatch Act Modernization Act of 2012; and the Veterans Access, Choice, and Accountability Act of 2014, (Public Law 113-146).

<sup>29</sup> For most Federal employees under Title 5 U.S.C. and others such as certain Veterans Health Administration employees pursuant to 38 U.S.C. § 7403(f)(3) and reduction-in-force actions affecting a career or career candidate appointee in the Foreign Service pursuant to 22 U.S.C. § 4010a.

The **Board Members**, including the Chairman, Vice Chairman, and Board Member, are appointed by the President, confirmed by the Senate, and serve overlapping, non-renewable 7-year terms. No more than two of the three Board Members can be from the same political party. The Board Members adjudicate the cases brought to the Board. The Chairman, by statute, is the chief executive and administrative officer. The Office Directors report to the Chairman through the Executive Director.

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

The **Office of Appeals Counsel** conducts legal research and prepares proposed decisions for the Board to consider for cases in which a party files a PFR of an initial decision issued by an AJ and in most other cases decided by the Board. The office prepares proposed decisions on interlocutory appeals of AJ rulings, makes recommendations on reopening cases on the Board's own motion, and provides research, policy memoranda, and advice to the Board on legal issues.

The **Office of the Clerk of the Board** receives and processes cases filed at MSPB headquarters (HQ), rules on certain procedural matters, and issues Board decisions and orders. It serves as MSPB's public information center, coordinates media relations, operates MSPB's library and on-line information services, and administers the Freedom of Information Act (FOIA) and Privacy Act programs. It also certifies official records to the courts and Federal administrative agencies, and manages MSPB's records systems, website content, 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 MSPB's budget, accounting, travel, time and attendance, human resources, procurement, property management, physical security, and general services functions. It develops and coordinates internal management programs, including review of agency internal controls. It also administers the agency's cross-servicing agreements with the U.S. Department of Agriculture (USDA), National Finance Center for payroll services, U.S. Department of the Treasury, Bureau of the Public Debt for accounting services, and USDA's Animal and Plant Health Inspection Service for human resources services.

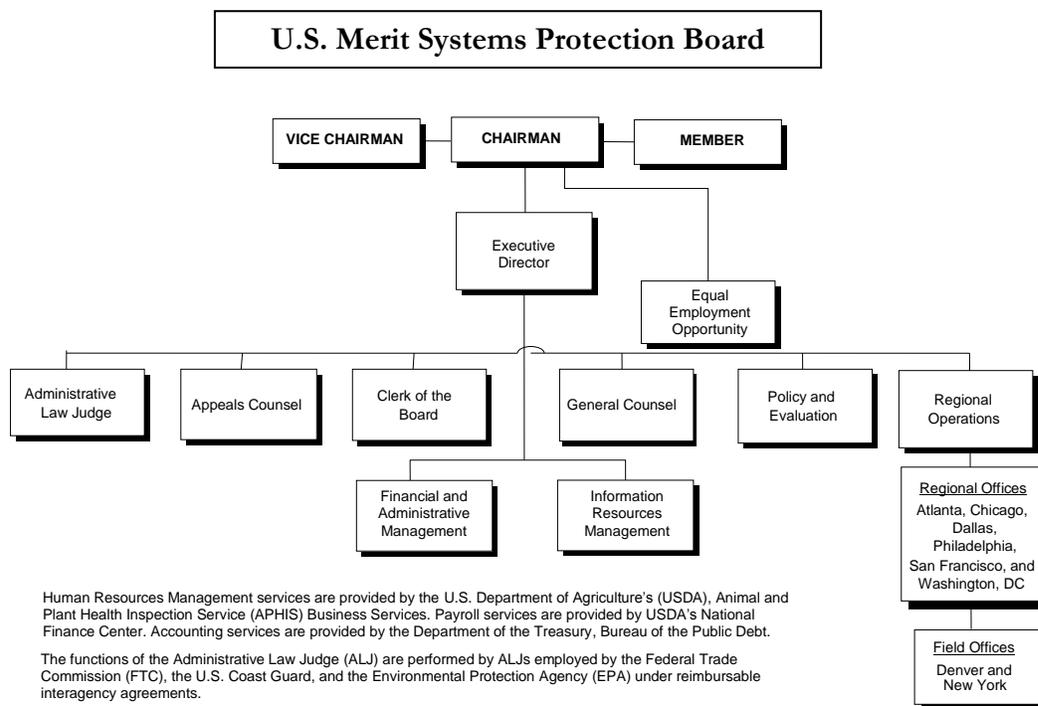
The **Office of the General Counsel**, as legal counsel to MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents MSPB in litigation; coordinates the review of OPM rules and regulations; prepares proposed decisions for the Board 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 also drafts regulations, conducts MSPB's ethics program, performs the Inspector General function, and plans and directs audits and investigations.

The **Office of Information Resources Management** develops, implements, and maintains MSPB’s automated information systems to help MSPB 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 an international audience. The office provides information and advice to Federal agencies on issues that have been the subject of MSPB studies. The office also carries out MSPB’s statutory responsibility to review and report on the significant actions of OPM. The office conducts special projects and program evaluations for MSPB and has responsibility for preparing MSPB’s strategic and performance plans and performance reports required by the Government Performance and Results Act Modernization Act of 2010.

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

### MSPB Organizational Chart



### How MSPB Brings Value to 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 merit system 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, incurs necessary costs (e.g., in time and effort) that are not

comparable to the private sector. For example, the Federal Government may require more time and effort to fill a Federal job than a private employer as a result of: (1) requirements for public notice to support the merit principle of fair and open competition to attain a workforce from all segments of society; (2) fair and rigorous assessment of applicants consistent with the merit principles of equal opportunity and selection based on relative ability; and (3) review and documentation of applicant eligibility and entitlements in compliance with laws and public policies such as those relating to veterans' preference and the disabled. These processes improve the overall quality of the workforce and help 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 in the future. These management costs are necessary to ensure the ultimate goal of a strong, highly qualified, stable merit-based civil service that serves in the public's interest over the long term rather than at the pleasure of current political leaders.

Despite our relatively small size and budget, MSPB provides enormous value to the Federal workforce, Federal agencies, and to the American taxpayer by helping to ensure a more effective and efficient merit-based civil service that provides better service to the public. 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. The quality of MSPB's decisions is evidenced by the high affirmance rate of its decisions by the Court. Centralized adjudication of appeals by a neutral, independent, third party, 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 provides guidance to agencies and employees on proper behavior and the ramifications of improper behavior. This adjudication information, shared through outreach and extensive material on our website, improves the long-term effectiveness and efficiency of the civil service and supports better adherence to MSPs and prevention of PPPs. This adjudication information also improves the effectiveness and efficiency of the adjudication process by helping the parties understand the law and how to prepare thorough and legally sound 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 by identifying and assessing innovative and effective merit-based management policies and practices and recommending improvements. For example, MSPB studies have shown that improved hiring and selection, improved merit-based management, and greater employee engagement lead to a highly qualified Federal workforce, improved organizational performance, and better service to the public. Results, findings, and recommendations from MSPB's merit systems studies function are shared through reports, newsletters, online flash articles posted to our website and through outreach. A recent MSPB report provides information on and dispels misconceptions about due process in the civil service, which is useful to policy makers, managers, legal practitioners, and other stakeholders. Effective management processes also help reduce the occurrence and costs of PPPs, which 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 and provides benefits similar to those related to merit systems studies. Better merit-based management helps improve employee and agency performance. It also logically leads to less employee misconduct and fewer adverse actions, which reduces costs in terms of fewer PPPs and fewer unsubstantiated appeals. This provides indirect value to the American taxpayer in decreased Governmentwide costs and confidence that the Government is doing its job well and appropriately managing the workforce.

## The Merit System Principles and Prohibited Personnel Practices

The CSRA 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.<sup>30</sup> 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; and training that improves organizational and individual performance. The MSPs also include: 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 further 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 bases of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation; consider information beyond the person's qualifications, performance, or suitability for public service; or coerce political activity or commit reprisal for refusal to engage in political activity. These actions also may not: deceive or willingly obstruct an individual's rights to compete for employment; influence a person to withdraw from competition to affect the prospects of another; or grant preference beyond that provided by law. The actions also may not be: based on or create nepotism; in retaliation or reprisal for whistleblowing—the lawful disclosure of a violation of law, rule or regulation, gross mismanagement or waste of funds, abuse of authority, or danger to public health or safety; in retaliation or reprisal for an employee's exercise of his or her rights and legal protections; or based on past conduct that does not adversely affect the job. The actions also must not: knowingly violate veterans' preference; violate the MSPs; or implement or enforce a nondisclosure policy, form, or agreement, which does not include a specific statement that its provisions are consistent with and do not supersede applicable statutory whistleblower protections.

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<sup>30</sup> Title 5 U.S.C. § 2301 and § 2302, respectively.

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## Appendix C: Information Required Under 5 U.S.C. § 7701(i)(1) and (2)

In accordance with 5 USC § 7701(i)(1) and (2), MSPB provides case processing information for FY 2015. In FY 2015, MSPB processed 28,475 total cases (not including ALJ and original jurisdiction cases at HQ). Fourteen percent of initial appeals (including addendum) were processed in 110 days or less (16 percent in 120 days or less). Fourteen percent of PFRs (including addendum) were processed in 110 days or less (27 percent in 150 days or less). Therefore, 86 percent of initial appeals took over 110 days to process, 84 percent took over 120 days to process; 86 percent of PFRs took over 110 days to process and 73 percent took 150 days or more to process.

In general, each case is adjudicated on its merits in accordance with law and legal precedent 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. Several factors 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 PFR issues or cases, the need to resolve disagreements or prepare separate opinions may increase the time needed for adjudication. Additional factors that affect processing time are discussed above in the performance results section of this APR-APP.

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## List of Abbreviations and Acronyms

AC	Air Conditioning
ADR	Alternative Dispute Resolution
AJ	Administrative Judge
APR-APP	Annual Performance Report and Annual Performance Plan
CB	Clerk of the Board
CEU	Continuing Education Units
CLE	Continuing Legal Education
CMS/LM	Case Management System/Law Manager
COOP	Continuity of Operations Plan
CSC	Civil Service Commission
CSRA	Civil Service Reform Act of 1978 (Pub. L. No. 95-454, 92 Stat. 1111)
CSRS	Civil Service Retirement System
DMS	MSPB's Document Management System
DOI	Department of Interior
DWOP	Dismissal Without Prejudice
ED	Executive Director
EVS	Federal Employee Viewpoint Survey
FERS	Federal Employees' Retirement System
FEVS	Federal Employee Viewpoint Survey
FLRA	Federal Labor Relations Authority
FTE	Full Time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
GC	General Counsel
GPRA	Government Performance and Results Act
GPRAMA	GPRA Modernization Act of 2010
GS	General Schedule
HQ	Headquarters
<i>IoM</i>	<i>Issues of Merit</i> newsletter
IRA	Individual Right of Action (type of whistleblower appeal)
IS	Internal Survey
IT	Information technology
LGBT	Lesbian, Gay, Bisexual, and Transgender
MAP	Mediation Appeals Program
MPS	Merit Principles Survey
MSP	Merit System Principles
OAA	Otherwise Appealable Action (type of whistleblower appeal)
OEEEO	Office of Equal Employment Opportunity
OMB	Office of Management and Budget

OPM	Office of Personnel Management
OSC	Office of Special Counsel
PFR	Petition for Review of an Initial Decision
PIO	Performance Improvement Officer
PPP	Prohibited Personnel Practices
RFI	Request for Information
RFQ	Request for Quote
RIF	Reduction-In-Force
SES	Senior Executive Service
SLA	Service Level Agreement
TBD	To be determined
USPS	U.S. Postal Service
VA	Department of Veterans Affairs
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Plan
VTC	Video-teleconference
WB	Whistleblower
WPEA	Whistleblower Protection Enhancement Act of 2012

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