



U.S. Merit Systems Protection Board

---

**Congressional  
Budget  
Justification  
FY 2018**

Prepared for the  
Committee on Appropriations

May 2017

---

## Table of Contents

<b>Introduction</b> .....	<b>1</b>
Events impacting MSPB operations .....	1
<b>FY 2018 Budget Request</b> .....	<b>2</b>
Appropriation Language.....	2
Strategic Goals and Strategic Objectives.....	3
FY 2018 request by Object Class .....	3
Schedule O Object Classification.....	8
Schedule Q Employment Summary .....	9
About MSPB .....	9
MSPB Organization .....	9
Adjudication .....	9
Mediation Appeals Program .....	10
Merit Systems Studies and OPM Oversight .....	11
Management Support.....	12
Information Technology.....	12
Human Resources .....	13
Financial Management .....	13
Equal Employment Opportunity .....	14
Organization Chart.....	15

## **U.S. Merit Systems Protection Board Congressional Budget Justification for Fiscal Year 2018**

### **Introduction**

The U.S. Merit Systems Protection Board (MSPB) FY 2018 budget request is \$46,835,000,<sup>1</sup> to support 235 Full Time Equivalents (FTEs). Our request will fund the anticipated FY 2018 pay raise, as well as continue our commitment to improve our information technology (IT) infrastructure including developing and maintaining the offsite data center migration and electronic adjudication projects. In addition to improving the security and reliability of MSPB's networks, these improvements will advance MSPB internal business processes.

In general, MSPB resources are dedicated primarily to processing appeals from Federal employees involving, among others, adverse actions, whistleblower claims and veterans issues. We estimate that MSPB's administrative judges (AJs) will receive their normal workload of approximately 6,200 appeals and other cases in our regional and field offices. MSPB also expects the Board members will receive a typical workload of approximately 1,100 petitions for review at headquarters.

MSPB has no control as to the number of cases that are filed, or over legislation that may affect our jurisdiction and the manner in which we adjudicate appeals. Therefore, it is imperative MSPB receives the requested funds to maintain and train the adjudication staff so that the number of cases and processing times remain at a manageable, effective and efficient level. Fully funding our request should ensure MSPB is able to attract and maintain staff at a time when approximately 20 percent of our current staff is eligible for retirement, including 30 percent of our AJs. Sufficient funds are also required to ensure our IT infrastructure is sound, secure, and efficient, which will help to facilitate processing of appeals and reduce costs.

MSPB is thankful for the appropriations it has received in the last several years and that the Congress recognizes the unique challenges MSPB faced recently in adjudicating over 32,000 furlough appeals (more than five times MSPB's normal workload) and the significant impact on its IT infrastructure. Below we discuss a few significant issues that have impacted, and may impact, MSPB's operations over the remainder of FY 2017 and in FY 2018.

### **Events Impacting MSPB Operations**

There are a number of events which have had, and could have, an effect on MSPB's operations: certain pending legislation in the Congress; budget reductions leading to appealable furloughs or reductions-in-force (RIFs); and the lack of a quorum of Board members.

Numerous bills have been introduced in the Congress which, if passed and signed by the President, would have a significant impact on MSPB operations. Specifically, several of these bills would more than likely: (1) increase the number of appeals and petitions for review to the MSPB by expanding the types of employees who may file an MSPB appeal; and (2) sharply decrease the amount of time in which MSPB has to adjudicate these appeals. For example, the VA Accountability First Act of 2017

---

<sup>1</sup> This amount includes \$2.345 million for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund.

would provide MSPB appeal rights to approximately 190,000 Department of Veterans Affairs (VA) employees who do not now have them. Currently, there are approximately 1.7 million Federal employees over whom the Board has jurisdiction, and those employees file appeals at a rate of 0.387 percent per year. Assuming that appeal rate holds true for the 190,000 newly covered VA employees that would yield approximately 735 additional initial appeals per year. Given the average petition for review rate of 17 percent of all initial appeals, we estimate that we will have to process an additional 125 petitions for review per year as a result of this legislation. The VA Accountability First Act would also require MSPB AJs to issue decisions within 45 days of the filing of the appeal.

Another VA-specific bill – the VA Accountability First and Appeals Modernization Act of 2017 – would require MSPB AJs to decide appeals filed by VA employees within 60 days of the appeal being filed. Yet another bill – the Federal Employees Accountability Act of 2017 – would require MSPB AJs to adjudicate appeals from all Federal employees within 45 days of the appeal being filed. Historically, the regional and field offices have adjudicated initial appeals in approximately 120 days. MSPB Headquarters currently adjudicates the petition for review component of the appeal within an average of 185 days. Thus, the timeframes being proposed by the Congress are vastly shorter.

The MSPB has had some recent experience with similarly shortened adjudication timeframes with appeals filed under the Veterans Access, Choice, and Accountability Act of 2014. That law requires MSPB AJs to adjudicate disciplinary actions against members of the Senior Executive Service at the VA within 21 days. While that Act does not permit filing petitions for review, Office of Appeals Counsel staff members have been called upon to assist with these cases. Experience has shown that to adjudicate an initial appeal within 21 days, several MSPB staff members, including administrative judges and attorneys, must work exclusively on that appeal for the entire 21-day period. We anticipate that a similar amount of work would be required to adjudicate a petition for review under the proposed time restrictions. If the number of employees who have MSPB appeal rights is expanded and the processing time strictly curtailed, MSPB would require either additional staffing, a radical change to the existing appeals process or both to handle the increased workload.

Additionally, it appears that there could be significant Government-wide budget reductions in FY 2018 and beyond. If that occurs, agencies may use furloughs and/or reductions in force (RIFs) to address budget shortfalls. Inasmuch as furloughs and RIFs are actions appealable to MSPB, the level of appeals could drastically increase over the next several years.

Finally, MSPB has lacked a quorum of Board members since early January 2017. Although agencies and appellants can file petitions for review of AJ decisions with the Board, the Board cannot issue decisions unless it has a quorum. With a quorum, the Board will issue on average approximately 90 PFR decisions each month. Without a quorum, those PFRs will simply wait for the nomination and confirmation of at least one additional Board member before decisions can be issued again. In short, there will be a backlog of PFR decisions until MSPB has a quorum.

## **FY 2018 Budget Request**

### **Appropriation Language**

For necessary expenses to carry out functions of the U.S. Merit Systems Protection Board pursuant to Reorganization Plan No. 2 of 1978, the Civil Service Reform Act of 1978, and the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note), including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, direct procurement of survey printing, and not to exceed \$2,000 for official reception and

representation expenses, \$44,490,000, to remain available until September 30, 2019, and in addition not to exceed \$2,345,000, to remain available until September 30, 2019, for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts to be determined by the Merit Systems Protection Board.

## **Strategic Goals**

Our FY 2018 Performance Budget Justification is structured on the basis of MSPB FY 2016– FY 2018 Strategic Plan. The agency’s performance goals cover the critical components of two strategic goals, and our performance measures support MSPB’s ability to manage and report performance over time. The strategic goals and objectives are:

### **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 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.

## **FY 2018 Request by Object Class**

The FY 2018 budget request covers the estimated costs for necessary operational needs. As reflected in the following tables, 81 percent of the MSPB FY 2018 budget request provides for payroll and benefit expenses. The remaining 19 percent is comprised of rent and internet services,

interagency agreements for various administrative services, supplies and equipment (including IT hardware and software), official travel, printing, maintenance, and miscellaneous services.

To the extent possible, most costs have been straight-lined or reduced. MSPB expects to continue to maintain quality services in support of the agency functions and meet the goals and objectives of the Strategic Plan. With the requested amount, MSPB is prepared to undertake mission critical tasks in FY 2018 that will allow MSPB to achieve its strategic goals in an efficient and cost-effective manner.

Our request assumes overall funding to remain at the same level in FY 2018 as was enacted for FY 2016. MSPB’s request has considered possible budget cutbacks to its spending while maintaining the performance and quality of the MSPB mission. A discussion of our more significant changes from the FY 2017 Continuing Resolution (CR) funding level follows:

***Personnel Compensation & Benefits – an increase of \$685,000***

<b>MOC</b>	<b>Description</b>	<b>FY 2017 CR (000)</b>	<b>FY 2018 Request (000)</b>	<b>Increase (decrease) over FY 2017 (000)</b>
11	<b>Personnel Compensation</b>	\$27,425	\$28,000	\$575
12	<b>Benefits</b>	\$7,590	\$7,700	\$110

Approximately 81 percent of the agency’s funding is for personnel compensation and benefit costs, which make up the largest amount of our budget submission. Thus, any reduction in resources affects our ability to hire and maintain a highly qualified staff at the requested FTE level. Our request assumes a 1.9 percent pay increases in FY 2018.

***Travel & Transportation of Persons – decrease of \$20,000***

<b>MOC</b>	<b>Description</b>	<b>FY 2017 CR (000)</b>	<b>FY 2018 Request (000)</b>	<b>Increase (decrease) over FY 2017 (000)</b>
21	<b>Travel &amp; Transportation of Persons</b>	\$300	\$280	(\$20)

To meet our mission, AJs must frequently travel to hearing sites located a considerable distance from the various regional and field offices. In the past two years travel costs have been decreasing and we believe the trend should continue with travel costs expected to stabilize at \$280,000 per year.

***Transportation of Things – decrease of \$5,000***

MOC	Description	FY 2017 CR (000)	FY 2018 Request (000)	Increase (decrease) over FY 2017 (000)
22	Transportation of Things	\$40	\$35	(\$5)

This category covers freight related costs and various courier services. Costs are expected to decrease as equipment purchases are scaled backed.

***Rent, Communications, & Utilities – decrease of \$50,000***

MOC	Description	FY 2017 CR (000)	FY 2018 Request (000)	Increase (decrease) over FY 2017 (000)
23	Rent, Communications & Utilities	\$4,215	\$4,165	(\$50)

The agency makes rental payments to the General Services Administrations (GSA) for office space in our Washington Headquarters as well as all of our regional and field offices. Our request includes an increase of \$25,000 to cover expected increases in rent. The balance of our request for this object class will be for the Internet services, and mandated Managed Trusted Internet Protocol services as well as other telecommunication services such as Voice Over Internet protocol and video conferencing. A change in vendors for various telecommunication services is expected to reduce costs by \$75,000.

***Printing – no increase requested***

MOC	Description	FY 2017 CR (000)	FY 2018 Request (000)	Increase (decrease) over FY 2017 (000)
24	Printing	\$75	\$75	\$0

The Government Printing Office (GPO) has two printing programs (printing of case files and our Issues of Merit newsletters) specifically designed for MSPB.

***Other Contractual Services – decrease of \$125,000***

<b>MOC</b>	<b>Description</b>	<b>FY 2017 CR (000)</b>	<b>FY 2018 Request (000)</b>	<b>Increase (decrease) over FY 2017 (000)</b>
<b>25</b>	<b>Other Contractual Services</b>	<b>\$3,710</b>	<b>\$3,585</b>	<b>(\$125)</b>

This object class includes the Agency’s Reimbursable Service Agreements (RSA) with BFS for accounting, purchasing, and travel-related services and our RSA with the Department of Agriculture Animal and Plant Health Inspections Service (APHIS) for personnel services.

Other RSAs included in this object class fund are Administrative Law Judges (agreements with the Coast Guard, Environmental Protection Agency, and Federal Trade Commission), as well as agreements with the National Archives and Records Administration for records management storage. This category includes court reporting services, employee training, ADP hardware and software maintenance renewals, license renewals for software, and the operation and maintenance of non-ADP equipment. Our request includes ongoing costs for our planned conversion to 100 percent electronic processing system to improve the delivery and efficiency of our adjudication services. MSPB plans to reduce training costs by \$125,000.

**IT Infrastructure**

Additionally, MSPB requests \$400,000 to complete the migration of our IT infrastructure to the cloud which began in FY 2017. The migration of MSPB’s data center from our headquarters building to the cloud is a complex project. The project involved up-front costs (requested in our FY 2017 Congressional Budget Justification) as well as annual recurring costs. All MSPB business application and database servers have been or will be migrated to the cloud. This migration, along with MSPB’s request for \$600,000 in support of modernizing our core business applications (the legacy, antiquated LawManager, eDocs document management system, and HotDocs document assembly system), enables MSPB to realize the full potential of 100 percent electronic adjudication. This results in more efficient case processing and compliance with Federal records management requirements. In an effort to accommodate the rapidly growing workloads and the new processing time requirements, MSPB needs to take advantage of the efficiencies that e-adjudication can provide. MSPB piloted mandated electronic filing of appeals and pleadings by agencies and appellant representatives in two of our eight regional/field offices a decade ago. With modernized systems functioning in the cloud, MSPB will mandate electronic filing in all eight of our offices and at headquarters as part of our e-adjudication efforts.

***Supplies & Materials – no increase requested***

		FY 2017 CR (000)	FY 2018 Request (000)	Increase (decrease) over FY 2017 (000)
MOC	Description			
26	Supplies & Materials	\$150	\$150	\$0

Expenses for supplies and materials are not expected to increase in FY 2018.

***Equipment – decrease of \$400,000***

		FY 2017 CR (000)	FY 2018 Request (000)	Increase (decrease) over FY 2017 (000)
MOC	Description			
31	Equipment	\$900	\$500	(\$400)

As in the past, most of our equipment expenditures will be for replacing items due to breakdowns as well as equipment that have exceeded its useful life such as servers, laptops, copiers, printers, scanners, and video conferencing equipment. Additionally, this category includes office furniture purchases. Many of these items (laptops and some printers) were replaced in FY 2016 and FY 2017 and their useful life should extend well into FY 2019. Therefore, we expect our purchases of equipment will decrease by approximately \$400,000.

**Budget Schedule – Schedule O - Object Classification (In Thousands of Dollars)**

	<b>FY 2016 Actual</b>	<b>FY 2017 CR</b>	<b>FY 2018 Request</b>	<b>Change</b>
Direct Obligations:				
Personnel Compensation	\$25,838	\$27,425	\$28,000	\$575
Civilian Personnel Benefits	7,337	7,590	7,700	110
Travel of Persons	289	300	280	(20)
Transportation of Things	69	40	35	(5)
Rental Payments to GSA	3,565	3,600	3,625	25
Rental Payments to Others	60	65	65	0
Communications, Utilities, and Miscellaneous Charges	496	550	475	(75)
Printing and Reproduction	50	75	75	0
Other Services	1,027	1,450	1,325	(125)
Other Purchases of Goods and Services from Government Accounts	1,635	1,650	1,650	0
Maintenance of Facilities	22	35	35	0
Maintenance of Equipment	575	575	575	0
Supplies & Materials	279	150	150	0
Equipment/Lease Improvements	1,130	900	500	(400)
Direct Obligations...	<u>\$42,372</u>	<u>\$44,405</u>	<u>\$44,490</u>	<u>\$85</u>
Reimbursable Obligations...	<u>2,345</u>	<u>2,341</u>	<u>2,345</u>	<u>4</u>
Total New Obligations...	<u>\$44,717</u>	<u>\$46,746</u>	<u>\$46,835</u>	<u>\$89</u>

A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114–254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.

## Schedule Q - Employment Summary

	FY 2016 Actual	FY 2017 CR	FY 2018 Request	Change
Direct:				
Civilian full-time equivalent employment	206	220	220	0
Reimbursable:				
Civilian full-time equivalent employment	<u>15</u>	<u>15</u>	<u>15</u>	<u>0</u>
<b>Total...</b>	<b>221</b>	<b>235</b>	<b>235</b>	<b>0</b>

### About MSPB

MSPB has its origin in the Pendleton Act of 1883, which established the Civil Service Commission (CSC) and a merit-based employment system for the Federal Government. The Pendleton Act was passed after the assassination of President Garfield by a disgruntled Federal job seeker and grew out of the 19<sup>th</sup> century reform movement to curtail the excesses of political patronage in Government and ensure a stable highly qualified workforce to serve the public. Over time, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate appeals. Concern over the inherent conflict of interest in the CSC's role as both rule-maker and judge was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA). The CSRA replaced the CSC with three new agencies: MSPB as the successor to the Commission; OPM to serve as the President's agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority to oversee Federal labor-management relations. The CSRA also codified for the first time the values of the merit systems as the MSPs and defined the PPPs.

### MSPB Organization

The **Board Members** include the Chairman, Vice Chairman, and Board Member. Board Members 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 of MSPB. The Office Directors report to the Chairman through the Executive Director. The agency has its headquarters in Washington, DC with six regional and two field offices located throughout the United States.

### Adjudication

The majority of the cases brought to MSPB are appeals of adverse actions – that is, removals, suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. The next largest number of cases involves appeals of OPM and some agency determinations in retirement matters. The Congress has given MSPB jurisdiction to hear cases and complaints filed under a variety of other laws to include the Uniformed Services Employment and Reemployment

Rights Act (USERRA), 38 U.S.C. § 4301 *et seq.*; the Veterans Employment Opportunity Act (VEOA), 5 U.S.C. § 3309 *et seq.*; the Whistleblower Protection Act (WPA), Pub. Law. No. 101-12, 103 Stat. 16; The Whistleblower Protection Enhancement Act of 2012 (WPEA), Pub. Law 112-199; Veterans Access, Choice and Accountability Act of 2014, Pub. Law 113-146; 5 U.S.C. § 4304; and 5 U.S.C. § 7513.

Other types of actions that may be appealed to MSPB include: performance-based removals or reductions in grade; denials of within-grade salary increases; reduction-in-force actions; suitability determinations; OPM employment practices (the development and use of examinations, qualification standards, tests, and other measurement instruments); denials of restoration or reemployment rights; and certain terminations of probationary employees.

An appellant files an appeal with the appropriate MSPB regional or field office having geographical jurisdiction. An AJ in the office assures that the parties receive the due process procedures called for in the law and MSPB's regulations and, after providing a full opportunity to develop the record on all relevant matters, issues an initial decision. Unless a party files a PFR with MSPB, the initial decision becomes final 35 days after issuance. Any party, or OPM or the Office of Special Counsel, may petition the full Board in Washington to review the initial decision. The Board's decision on a PFR constitutes the final administrative action on the appeal.

In appellate cases, the Board's final decision, whether it is an initial decision of an AJ that has become final or the Board's decision on a PFR, may be appealed to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) or, in cases involving allegations of discrimination, to a U.S. district court or the Equal Employment Opportunity Commission. Cases involving allegations of reprisal for whistleblowing may be appealed to any of the numbered US. Circuit Courts of Appeal.

If a party believes that the other party is not complying with an MSPB order or MSPB-approved settlement agreement, the party can file a Petition for Enforcement with the regional or field office that issued the initial decision. If the AJ finds compliance, that constitutes an initial decision and the party may file a PFR with MSPB. If the AJ finds non-compliance, the case is referred to MSPB's General Counsel, who is charged with enforcing compliance. The Board also has authority to award attorney fees pursuant to the WPA and WPEA. To the extent the law makes it easier to prove whistleblower retaliation, it is also likely that the Board will receive and adjudicate additional fee motions.

In addition to adjudicating cases on the merits, MSPB also provides Alternative Dispute Resolution (ADR) services to assist parties in resolving the case. Use of these services is voluntary, provides the parties more control of the process and can result in effective resolution of a case. In addition, resolving a case through ADR procedures can save time and reduce costs to the appellant, agency, MSPB, and Government-wide associated with the more formal regulations and procedures involved with adjudication on the merits.

### **Mediation Appeals Program**

The Mediation Appeals Program (MAP) offers the services of the agency's trained and certified mediators as an alternative to the formal appeal processes and procedures of MSPB's regulations. Mediators facilitate a discussion between the parties in a confidential setting to help them identify issues and barriers to agreement that will aid in resolving their disputes and settling the appeal quickly, economically, and to the benefit of all concerned. Unlike traditional mediation, MAP

charges no fees. Both parties must agree to its use before the appeal will be accepted for the MAP process, and both must agree on its resolution before any settlement is concluded. Unlike the traditional appeal process, the parties control the result of the case under the skilled guidance of the mediator, who plays no role in deciding the appeal, should accord not be reached. Importantly, because almost all mediations occur near the beginning of adjudication, MAP saves time and money for the Federal employees and agencies who resolve their cases through this process.

Because of these advantages, MAP has become a popular and successful program, as shown by the fact that a greater number of cases have been mediated almost each year since the program's inception. Moreover, while MAP had been settling approximately half the case mediated, in recent years the settlement rate in mediation has reached and exceeded 60 percent, and cases that settled after return to adjudication have added to that percentage. Even where the case is resolved by an AJ's decision, the mediation process often helps sharpen the parties' focus on the matters truly in dispute and the resolution they seek. Moreover, based on the evaluations the parties are asked to complete at the end of each mediation, more than 95 percent of the participants have stated that they would use MAP again.

### **Merit Systems Studies and OPM Oversight**

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

### **Reports Issued In FY 2016**

*Training and Development for the Senior Executive Service: A Necessary Investment* (December 2015). This report examines current practices on how career senior executives -- who manage major programs and organizations and provide continuity during Presidential transitions -- are trained and developed. Unfortunately, the review indicates that the "systematic development" envisioned in the Civil Service Reform Act of 1978 is more vision than reality. To that end, the report contains information to help agencies determine a development strategy that aligns with agency goals and resources and effectively addresses executives' training needs. In addition, the report discusses common barriers to SES training and offers strategies to mitigate them.

*Preventing Nepotism in the Federal Civil Service* (June 2016). Nepotism -- employing or advocating for the employment of a close relative -- is a serious offense that can reduce the effectiveness of an agency's operations and diminish the public's trust in Government. This report discusses the criminal and civil prohibitions against nepotism and outlines the steps that agencies should take to prevent nepotism.

*The Merit System Principles: Guiding the Fair and Effective Management of the Federal Workforce* (September 2016). Given MSPB's mission to protect the merit system principles (MSPs) and promote an effective

Federal workforce free of prohibited personnel practices (PPPs), MSPB can and should play a clear role in educating managers, human resources staff, and employees about the meaning and importance of the MSPs. This report assesses how well Federal employees believe they are protected by the MSPs, consolidates information on the MSPs to serve as a reference guide for supervisors and employees, and evaluates and summarizes current agency training practices regarding the MSPs and PPPs. The report recommends that agencies ensure that employees receive training on the MSPs and PPPs that is timely, tailored to their level of responsibility, provided by experts, and delivered effectively.

## **Survey Activity**

In the summer of 2016 MSPB administered the Merit Principles Survey (MPS) to employees in 26 departments and agencies. The MPS yielded a rich trove of data to support studies on topics such as freedom from prohibited personnel practices, sexual harassment in the Federal workplace, dual career paths for supervisors and technical specialists, employment of persons with disabilities, employee engagement, the effectiveness of the HR workforce, and dealing with poor performers.

In April 2017, MSPB made the results of the MPS public -- with appropriate adjustments and redactions to preserve respondent confidentiality -- by posting data sets and explanatory material online. This proactive disclosure under the Freedom of Information Act was intended to meet the demonstrated interest among academics and good government groups in information about the Federal workforce.

## **Studies Activity in FY 2017**

In FY 2017 MSPB released a series of articles on the adverse action process intended to guide stakeholders who participate in the discipline and appeals system and policymakers who may wish to consider making changes to that system. In addition, MSPB released *Addressing Misconduct in the Federal Civil Service: Management Perspectives*, which announced research findings on Federal managers' knowledge of the disciplinary rules and use of the adverse action system. MSPB also issued a pamphlet for agency leaders and managers explaining how the merit system principles serve as a guide for the fair and effective management of the Federal workforce. Further, MSPB issued a schematic representation of the review processes available to Federal employees who are subjected to major disciplinary actions, with the aim of educating policymakers and others who have an interest in how the redress system operates. Ongoing MSPB studies include the effectiveness of the HR workforce, sexual harassment in the Federal workplace, the performance management system for General Schedule employees, prohibited personnel practices, and employment of persons with disabilities, among other topics.

## **Management Support**

### **Information Technology**

MSPB's primary mission is to provide for independent adjudication of appeals of personnel actions for Federal employees. Generally, at least half or more of the appeals filed with the agency are from *pro se* appellants -- employees representing themselves. Pro se appellants do not generally have equal knowledge of the case filing process or equal access to the information available, especially if they are stationed overseas. Yet, they are expected to file an appeal and to respond to orders in a timely manner or risk having their cases dismissed. MSPB's electronic filing system, e-Appeal Online, allows Federal agencies and employees instant access to filings and issuances through the internet as

soon as they are uploaded. Parties who file electronically can also receive acknowledgement orders from the agency by e-mail instantaneously, rather than through the regular mail.

MSPB is modernizing its core business applications and implementing new electronic case management workflow systems to process and track each initial appeal and PFR filed with the agency. This functionality is integrated with MSPB's e-Appeal, and provides document management, and document assembly capabilities to allow our AJ's and attorneys to more efficiently create legal documents that are pre-populated with case data. The new system replaces legacy systems for these functions which prevented MSPB's progress to all electronic adjudication. The implementation of the new system will continue through FY 2018 as we operate our legacy systems in parallel with the modern system prior to cutover. In addition, we will complete the migration of MSPB's IT infrastructure in the cloud, which began in FY 2017. Finally, we will prepare for a lifecycle refresh of laptop computers and peripherals in FY 2019 to coincide with the sunset of Windows 7 and the need to upgrade our operating system to realize the capabilities of our new core business applications.

## **Human Resources**

MSPB contracts with the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) for selected human resources administrative and operational services through an interagency agreement. The agreement is developed between the two agencies and monitored within the Financial and Administrative Services Division, which is located in headquarters. The services listed in the agreement are not meant to be all-inclusive and the two agencies work together in a mutually cooperative manner to handle HR issues that arise that may not be specifically addressed in the interagency agreement.

MSPB contracts with Federal Occupational Health (FOH), a service unit within the U.S. Department of Health and Human Services' Program Support center, to provide basic occupational health services to all of its employees throughout the country. In addition, the agency contracts with FOH to offer all of its employee's access to an employee assistance program (EAP). The EAP assists the agency in addressing productivity issues by providing both prevention and intervention for employee problems, which ultimately improves employee health and functioning, as well as workplace performance. MSPB's agreement with FOH provides for a comprehensive EAP, delivering short-term, problem-focused counseling and a variety of services. While many health and wellness activities and accommodations are not equally available to each MSPB employee with respect to workplace or onsite availability of services, the agency does strive to ensure that each employee understands that it fully supports a healthy and safe work place for all employees.

## **Financial Management**

MSPB has initiated cross-servicing agreements with BFS for its accounting, financial auditing, purchasing, and travel-related services and support. BFS has processed our administrative payments and prepared our accounting reports since FY 2002. MSPB has received an unqualified (unmodified) opinion on its audits since the agency has been subject to audits of its financial statements.

The agency also has an agreement in place with APHIS for personnel services and the USDA National Finance Center (NFC) for processing of payroll and payroll-related activities including earnings and leave statements, W-2 information, and debt management. Our cross-servicing

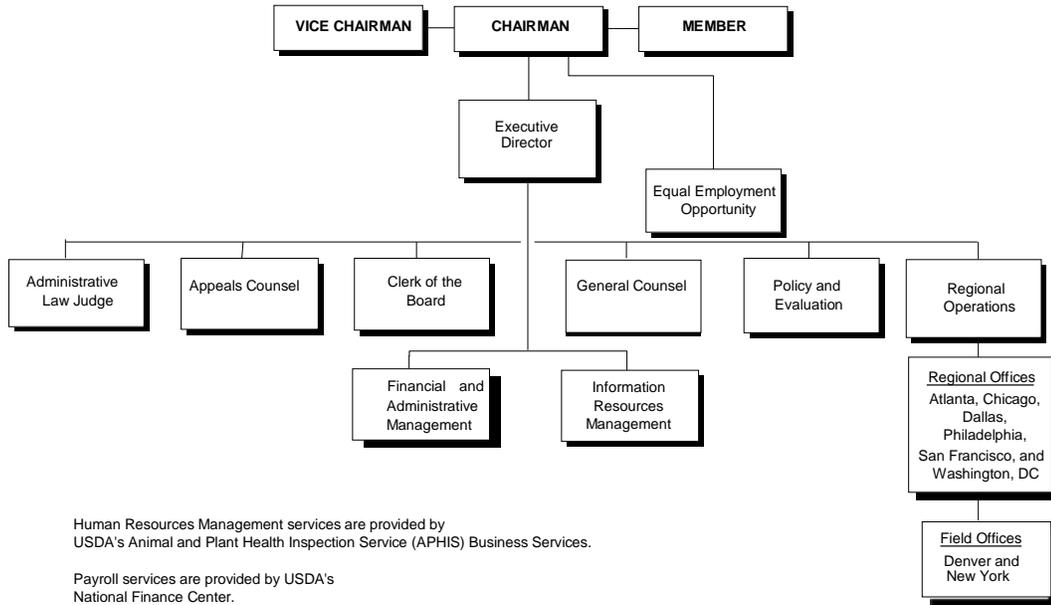
relationships with these organizations have provided MSPB with timely responses and more accurate processing of information from larger pools of knowledgeable staff than would be possible with smaller in-house staff. APHIS, BFS and NFC have the resources to stay current with the latest technologies so they can provide these services more efficiently and economically.

### **Equal Employment Opportunity**

The Office of Equal Employment Opportunity (OEEO) plans, implements, and evaluates MSPB's affirmative employment programs and initiatives, advises senior executives, managers and supervisors about these programs and initiatives and provides all employees training on rights and remedies available under anti-discrimination laws and whistleblower protection laws. OEEO provides counseling, complaint and alternative dispute resolution processes to current and former MSPB employees and applicants for employment who allege employment discrimination. OEEO provides similar processes to individuals who allege disability discrimination in their access to MSPB programs and activities. The office evaluates and reports MSPB's complaints data and workforce demographics by occupation and grade to the Congress, the Equal Employment Opportunity Commission, the OPM and other external stakeholders.

# Organization Chart

## U.S. Merit Systems Protection Board



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

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

Accounting services are provided by the Department of the Treasury's Bureau of Fiscal Services.