U.S. Merit Systems Protection Board

Annual Performance Report

for

FY 2020

January 19, 2021

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Foreword

The U.S. Merit Systems Protection Board (MSPB) submits this Annual Performance Report (APR) for fiscal year (FY) 2020, as required by the Government Performance and Results Act Modernization Act of 2010 (GPRAMA). It also contains information about cases involving whistleblowers pursuant to the Whistleblower Protection Enhancement Act of 2012 (WPEA) (see Appendix A), and appeals processing as required by Title 5 of the United States Code (U.S.C.) § 7701(i)(1) (see Appendix B). Finally, in accordance with the 21st Century Integrated Digital Experience Act (Pub. L. 115-336), Appendix C contains our *Modernization of Public-facing Digital Services Report*.

Since January 8, 2017, MSPB has lacked a quorum of Board members, and since March 1, 2019 we have not had any presidentially appointed, Senate-confirmed Board members. This has prevented MSPB from issuing decisions on petitions for review (PFRs) and other cases at headquarters, and from issuing reports of merit systems studies. Despite these restrictions, MSPB has continued to carry out its functions to the maximum extent possible, including adjudication of initial appeals in its regional and field offices. Details of how the lack of a quorum has affected our performance are contained in the body of this document.

The APR contains information about MSPB including its origins 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 and prohibited personnel practices. The APR compares actual FY 2020 results to FY 2020 performance targets and contains prior year results for comparative purposes. It also contains explanatory information on changes; an overall summary of the external trends and internal management challenges that have affected or may continue to affect MSPB's performance; and information about performance measurement and program evaluation.

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

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

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Follow us on Twitter @USMSPB.

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U.S. Merit Systems Protection Board
APR for FY 2020

Introduction

A highly qualified, diverse Federal workforce managed under the merit system principles (MSPs), and in a manner free from prohibited personnel practices (PPPs), is critical to ensuring Federal agency performance and service to the public. The MSPs are essential management practices that help ensure that the Federal Government is able to recruit, select, develop, maintain, and manage 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 affect the effectiveness and efficiency of the workforce and the Government. MSPB's fundamental function is to ensure that the Federal workforce is managed in a manner consistent with the MSPs and protected from PPPs.

This APR contains performance goals (PGs), measures, and targets for the strategic and management objectives defined in MSPB's Strategic Plan for FY 2020-2024 and final performance results for FY 2020. These FY 2020 results will be included along with the Annual Performance Plan for FY 2021 and FY 2022 (proposed) as the APR-APP with our congressional budget justification for FY 2022.[1]

Summary of FY 2020 Results

In FY 2020, MSPB exceeded 1, met 3, partially met 4, did not meet 1, and did not rate 2 of its 11 strategic and management objectives. MSPB exceeded 7, met 10, did not meet 2, and did not rate 6 of its 25 PGs. The lack of quorum meant that we did not set targets for or rate 4 PGs. The pandemic affected the agency's ability to achieve its outreach goal (and objective) and likely the achievement of the web visits goal. Because of the delay in administering the Federal Employee Viewpoint Surveys (FEVS), MSPB has not been able to rate its employee engagement goal. MSPB postponed the identification of a new goal and measure for budgeting and financial management. Detailed results for all of MSPB's objectives and PGs are contained in the section on Comprehensive Performance Results.

About MSPB

A Merit-Based U.S. Civil Service. Briefly reviewing 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 the employee's suitability and qualifications to perform particular Federal jobs.[2] Over time, this practice contributed to an unstable Government workforce lacking the necessary qualifications to perform its 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 he supported the President's campaign. A public outcry for reform resulted in passage of the Pendleton Act in 1883. The Pendleton Act created the Civil Service Commission (CSC), which monitored and regulated a civil service system based on merit and the use of competitive examinations to select qualified individuals for Federal positions. Congress later enacted the Lloyd-LaFollette Act of 1912, which provided that a civil servant could be

[1] MSPB does not define priority goals, does not have low-priority program activities, and does not 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 (EO) 13576 on Delivering an Efficient, Effective, and Accountable Government, dated June 13, 2011. MSPB also has not defined any unnecessary agency plans and reports as referenced in the GPRAMA, Pub. L. 111-352 § 1125.

[2] 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.

removed only for such cause as promoted the efficiency of the service. Subsequent laws and regulations authorized the CSC to review the procedures used to remove civil servants and the validity of the reasons for removal. These developments 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).[3] The CSRA replaced the CSC with three new agencies: MSPB as the successor to the Commission;[4] OPM as the President's agent for Federal workforce policy and procedure; and the Federal Labor Relations Authority (FLRA) to oversee Federal labor-management relations. More information about MSPB's role, functions and scope of responsibilities, organizational structure, and how it brings value to the merit systems, the Federal workforce and the public is contained in Appendix D.

Current Organization

MSPB has been without a quorum of Board members since January 8, 2017, and without any presidentially appointed Senate-confirmed Board members since March 1, 2019. Since that time, MSPB has continued to operate in accordance with its continuity of operations plan (COOP). Under the COOP, MSPB's General Counsel serves as the agency's Acting Chief Executive and Administrative Officer. The lack of quorum has created a backlog of petitions for review (PFRs) and other cases at headquarters (HQ) awaiting Board decisions. The lack of quorum also prevents MSPB from releasing reports of merit systems studies, promulgating substantive regulations to accompany congressional changes in its jurisdiction or processes, and affects our review of OPM significant actions. Nonetheless, administrative judges (AJs) in the regional and field offices (ROs/FOs) continue to receive initial appeals, conduct hearings, and issue initial decisions. MSPB HQ continues to receive PFRs and to draft proposed PFR decisions for consideration by Board members upon their arrival. MSPB continues to conduct research and has drafted a new research agenda that will be reviewed for approval once a quorum is restored. The agency's executive, financial, and administrative operations also continue to function. As a result, MSPB continues to perform its critical mission during this time of significant transition.

President Trump's nominations of Dennis D. Kirk as Board Chairman and B. Chad Bungard and Julia A. Clark as Board Members expired at the end of the 116th Congress. At the beginning of the 117th Congress, President Trump nominated Kirk as a Board Member. We hope the incoming Biden Administration and the Senate will ensure the Board's quorum is restored in 2021.

MSPB HQ, located in Washington, D.C., has eight offices that are responsible for conducting its statutory and support functions. These are the Offices of Appeals Counsel (OAC), Clerk of the Board (OCB), Equal Employment Opportunity (EEO), Financial and Administrative Management (FAM), General Counsel (OGC), Information Resources Management (IRM), Policy and Evaluation (OPE), and Regional Operations (ORO). The EEO Director reports directly to the Chairman, and the directors of the other offices report to the Chairman through the Executive Director. MSPB also has six ROs and two FOs located throughout the United States. These offices process initial appeals and report to the ORO Director. The agency is authorized 235 full-time equivalent employees to conduct and support its statutory duties. Federal agencies also perform many support functions for MSPB through interagency agreements.

[3] Ibid. page 113.

[4] Ibid. page 114.

Summary of Changes in this APR

This document contains final FY 2020 performance results compared to the FY 2020 Performance Plan published in February 2020. We also updated the external factors section to include the novel coronavirus (COVID-19) pandemic.

Linking this Plan to Other Agency Documents

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 other relevant guidance. MSPB's plans and reports are posted on MSPB's website at www.mspb.gov.

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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 policymakers, 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 successful outreach.

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

Management Objectives

Management Objectives: Effectively and Efficiently . . .

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

M2: Develop budgets and manage financial resources to ensure necessary resources now and in the future.

M3: Improve and maintain information technology and information services programs to support agency mission and administrative functions.

M4: Modernize core business applications to achieve electronic adjudication and provide a web-based survey capability.

Tabular Summary of Final Results

Table 1: Summary of MSPB FY 2020 Results			
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 ADR processes.			**Partially Met**
Performance Goal	**Performance Measure**	**2020 Target**	**2020 Results**
1A-1: Quality of initial decisions	Percent initial decisions reversed/remanded on PFR due to AJ error/oversight	No target set, no quorum	No target set, no quorum (Not Rated)
1A-2: Quality of decisions reviewed by reviewing authority	Percent decisions unchanged by the reviewing court	92% or more	94% (Exceeded)
1A-3: Participant perceptions of the adjudication *process*	Percent participant agreement	Continue surveys, plan survey changes to account for new apps	Surveys ongoing (Met)
1A-4: Initial appeals processing timeliness	Average processing time	120 days or fewer	102 days (Exceeded)
1A-5: PFR processing timeliness	Average processing time	No target set, no quorum	No target set, no quorum (Not Rated)
1A-6: Participant perceptions of the ADR *process*	Percent participant agreement	Continue surveys, plan survey changes to account for new apps	Surveys ongoing (Met)
Strategic Obj. 1B: Enforce timely compliance with MSPB decisions.			**Not Rated**
1B-1: Compliance case processing timeliness	Weighted average processing time for all compliance cases	No target set, no quorum	No target set, no quorum (Not Rated)
Strategic Obj. 1C: Conduct objective, timely studies of Federal merit systems and Federal human capital management issues.			**Met**
1C-1: Number/scope of *Issues of Merit (IoM)* newsletter editions or other articles	Number/scope of published newsletter editions and other articles	Publish 3 *IoM* editions	Published 3 *IoM* eds. on 8 of 9 MSPs (Met)
1C-2: Number/scope of study reports, briefs, or other documents	Number/scope of reports, briefs, and other documents published	Prepare for publication of 4 or more study reports or other docs	See Comprehensive Results (Met)
1C-3: Conduct surveys of Federal employees to assess and report on the health of merit systems	Conduct/analyze periodic surveys of Federal employees	Design/implement Gov't-wide survey in July-Dec 2020	See Comprehensive Results (Met)
Strategic Obj. 1D: Review and act upon the rules, regulations, and significant actions of OPM, as appropriate.			**Partially Met**
1D-1: Review OPM rules/regulations	Number/scope of decisions issued involving OPM regulations	No target set, no quorum	No target set, no quorum (Not Rated)
1D-2: Review OPM significant actions	Number/scope of OPM significant actions reviewed	Maintain scope; publish review of OPM significant actions	Review of OPM significant actions in 2019 AR (Met)
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 policymakers, as appropriate, that strengthen Federal merit systems laws the regulations.			**Met**
2A-1: References to MSPB's work	Scope of references to MSPB's work	Maintain scope	453 references in 119 sources (Met)
2A-2: Create policy-related products	Number/scope of policy-related products	3 products focused on policy or intended for policymakers	See Comprehensive Results (Exceeded)

Strategic Goal 2: Continued			
Strategic Obj. 2B: Support and improve the practice of merit, adherence to MSPs, and prevention of PPPs in the workplace through successful outreach.			**Not Met**
Performance Goal	**Performance Measure**	**2020 Target**	**2020 Results**
2B-1: Conduct merit-based outreach events	Number/scope of merit-based outreach events	Conduct 100 events or more	76 events (Not Met)
Strategic Obj. 2C: Advance the understanding of the concept of merit, MSPs, and PPPs through the use of educational standards, materials and guidance established by MSPB.			**Partially Met**
2C-1: Number/scope of materials accessed on the website	Number of visits to the MSPB website	Within ± 5% of previous year	1,499,747 visits (Not Met)
2C-2: Create/update educational materials accessible on website	Number/type of new or updated educational materials posted	Post 5 or more educational materials	See Comprehensive Results (Exceeded)

Management Obj. M1: Lead, manage, and develop employees to ensure a diverse, inclusive, and engaged workforce with the competencies to perform MSPB's mission and support functions successfully.			**Partially Met**
M1-1: Ensure workforce competencies	Average percent agreement on FEVS competency questions	70% or higher	80% (Exceeded)
M1-2: Maintain perceptions of diversity (div.) and inclusion (incl.)	Average percent agreement on FEVS div. and Internal Survey (IS) incl. questions	Div. 70% or higher Incl. 70% or higher	Div. 75% (Met) Incl. 83% (Exceeded)
M1-3: Maintain employee engagement	Average percent agreement on FEVS engagement questions	70% or higher	Awaiting 2020 FEVS results (Not yet Rated)
Management Obj. M2: Develop budgets and manage financial resources to ensure necessary resources now and in the future.			**Not Rated**
M2-1: Ensure justified budgets and resource accountability	New measure to be defined in FY 2020	Identify new measure for budget & financial performance	Postponed (Not Rated)
Management Obj. M3: Improve and maintain information technology and information services programs to support agency mission and administrative functions.			**Exceeded**
M3-1: Ensure available/reliable information technology (IT) infrastructure and applications	Average percent agreement on relevant IS questions, ensure disaster recovery capability	65% or higher	79% (Exceeded)
M3-2: Ensure satisfaction with internal IT support	Average percent agreement on relevant IS questions	65% or higher	80% (Exceeded)
Management Obj. M4: Modernize core business applications to achieve electronic adjudication and provide a web-based survey capability.			**Met**
M4-1: Improve adjudication processing efficiency	Modernize core adjudication business applications; proportion of cases processed entirely electronically	Substantially develop new core applications	See Comprehensive Results (Met)
M4-2: Improve agency survey capability	Ensure secure, web-based survey application (in conjunction with 1C-3)	Fully implement a FedRAMP certified, web-based survey capability	See Comprehensive Results (Met)

Comprehensive Performance Results

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 ADR processes.

Results indicate this objective was **Partially Met**. MSPB exceeded its targets for average processing time for initial appeals and for cases left unchanged by the court. It achieved its targets for conducting surveys of adjudication and alternative dispute resolution (ADR) customers. Because MSPB began FY 2020 without a quorum of Board members, we did not set targets for quality of initial appeals (which is based on PFR decisions), and for average PFR processing time. Therefore, these PGs were not rated in FY 2020. Even though MSPB did not have a quorum for the entirety of FY 2020, it continued to process cases at HQ and prepare draft decisions in PFR and original jurisdiction cases for review by new Board members when they arrive. As of the end of FY 2020, 2,942 PFR cases were pending at HQ. MSPB closed 18 PFR cases by order of the Clerk of the Board under the 2018 policy regarding withdrawal of PFRs. As these cases were not closed by a Board decision, they are not included in PFR processing assessments.

Performance Goal 1A-1: Maintain quality of initial decisions.

Measure: Percent of initial decisions that are reversed or remanded on PFR due to AJ error or oversight.

Results		Targets	
FY 2014	7%	**FY 2020**	No target set, no quorum.
FY 2015	2%		
FY 2016	5%		
FY 2017	Not rated, no quorum.		
FY 2018	No target set, not rated, no quorum.		
FY 2019	No target set, not rated, no quorum.		
FY 2020	No target set, not rated, no quorum.		

Performance Goal 1A-2: Maintain quality of decisions reviewed by reviewing authority.

Measure: Percent of MSPB decisions left unchanged (affirmed or dismissed) upon review by the U.S. Court of Appeals for the Federal Circuit (CAFC).

Results		Targets	
FY 2014	96%	**FY 2020**	92% or more
FY 2015	96%		
FY 2016	94%		
FY 2017	94%		
FY 2018	92%		
FY 2019	86%		
FY 2020	94%		

Performance Goal 1A-3: Maintain participants' positive perceptions of the adjudication process.			
Measure: Percent of adjudication participants surveyed who agree that MSPB adjudication processes are fair, open, accessible, understandable, and easy to use.			
Results		**Targets**	
FY 2014	Department of Interior (DOI) National Business Center (NBC) published a Request for Information (RFI) to assess survey technology availability and drafted a Request for Quote (RFQ) to be issued to several cloud service providers.	**FY 2020**	Continue automated customer service and customer satisfaction survey, consider results, and take appropriate action to address issues. Consider changes to customer surveys, as appropriate, in response to implementation of new applications.
FY 2015	Customer survey data collected from PFR customers in support of the PFR program evaluation.		
FY 2016	Collected customer feedback from the PFR participants. Customer surveys submitted for OMB Paperwork Reduction Act (PRA) approval. Automated sampling and invitation process was developed.		
FY 2017	Implemented automated survey process and began data collection.		
FY 2018	Automated survey process ongoing.		
FY 2019	Surveys ongoing.		
FY 2020	Surveys ongoing.		

Performance Goal 1A-4: Maintain processing timeliness for initial appeals.			
Measure: Average case processing time for initial appeals.			
Results		**Targets**	
FY 2014	262 days*	**FY 2020**	120 days or fewer.
FY 2015	499 days*		
FY 2016	99.5% of furloughs and 78% of non-furlough workload completed.		
FY 2017	See Interim Indicator below.		
FY 2018	102 days		
FY 2019	105 days		
FY 2020	102 days		
* A weighted average including all initial appeals closed.			

Interim Indicator for Initial Appeals Processing:

1A-4a: Percent of initial decisions issued for nonfurlough initial appeals. In FY 2017, this indicator was redefined as the percent of cases closed that were filed prior to October 1, 2016. Discontinued in FY 2018.

FY 2014	70%	(5,212/7,480)
FY 2015	70%	(5,418/7,752)
FY 2016	78%	(5,886/7,669)
FY 2017 Target	65%	(closure of 2,030 cases filed before October 1, 2016)
FY 2017 Result	98%	(1,989/2,030)

Performance Goal 1A-5: Maintain processing timeliness for PFRs.			
Measure: Average case processing time for PFRs of initial appeals.			
Results		**Targets**	
FY 2014	287 days*	**FY 2020**	No target set, no quorum.
FY 2015	190 days		
FY 2016	185 days		
FY 2017	Not rated, no quorum.		
FY 2018	No target set, not rated, no quorum.		
FY 2019	No target set, not rated, no quorum.		
FY 2020	No target set, not rated, no quorum.		
* 20 PFR cases were delayed awaiting the decisions issued by the CAFC related to *Conyers* and *Gargiulo*. If those cases are removed from the calculations, the average processing time was 279 days.			

Performance Goal 1A-6: Maintain participants' positive perceptions of the ADR *process.*			
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**	
FY 2014	DOI's NBC published an RFI to assess availability and drafted a RFQ for issuance to several cloud service providers.	**FY 2020**	Continue automated customer service and customer satisfaction survey, consider results, and take appropriate action to address issues. Consider changes to customer surveys, as appropriate, in response to implementation of new applications.
FY 2015	Collected feedback from participants in the MAP.		
FY 2016	Collected customer feedback from MAP participants. Customer surveys submitted for OMB PRA approval. Automated sampling and invitation process was developed.		
FY 2017	Implemented automated survey process and began data collection.		
FY 2018	Automated survey process ongoing.		
FY 2019	Surveys ongoing.		
FY 2020	Surveys ongoing.		

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

This objective was **Not Rated**. No FY 2020 target was set for this goal because MSPB began the year without a quorum of Board members. While MSPB continued to process compliance cases at HQ and in the regional and field offices, the lack of quorum meant that the agency was unable to release decisions in compliance/enforcement cases at HQ. Thus, MSPB did not rate this objective and goal. However, it is useful to note that in FY 2020, the regional and field offices issued 90 compliance decisions with an average processing time of 94 days.

Performance Goal 1B-1: Maintain timeliness of processing compliance/enforcement cases.			
Measure: Weighted average processing time for all enforcement cases.			
Results		**Targets**	
FY 2014	215 days	**FY 2020**	No target set, no quorum.
FY 2015	161 days		
FY 2016	159 days		
FY 2017	No target set, not rated, no quorum.		
FY 2018	No target set, not rated, no quorum.		
FY 2019	No target set, not rated, no quorum.		
FY 2020	No target set, not rated, no quorum.		

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

Results indicate this objective was **Met**. MSPB achieved its targets for newsletters and other articles by publishing three *Issues of Merit* newsletter editions covering eight of the nine MSPs. Newsletter articles included topics such as managing in difficult times; employee resilience; the Federal human resources (HR) workforce; recruiting in science, technology, engineering, and mathematics (or STEM) occupations; hiring; performance management; performance confidence; pay; and settlement agreements. MSPB achieved its target for publication of additional briefs or articles by preparing for or publishing articles or briefs on: the state of the Federal HR workforce, the importance of job fit for agencies and employees, sexual harassment in the Federal workplace, and the new research agenda for merit systems studies. MSPB met its target for conducting surveys by essentially completing development of the content for the next merit principles survey (MPS) and acquisition of the Qualtrics survey platform. Administration of the MPS was postponed until FY 2021 due to the two delays in the Office of Personnel Management's (OPM) FEVS: from May 2020 to July, and then to September.

Performance Goal 1C-1: Maintain the number and scope of *Issues of Merit* newsletter editions or other articles.			
Measure: Number and scope of *IoM* newsletter editions or other articles published.			
Results		**Targets**	
FY 2014	Published 3 *IoM* newsletter editions and 6 online articles (all MSPs and 4 PPPs).	**FY 2020**	Publish 3 *IoM* editions.
FY 2015	Published 3 *IoM* newsletter editions and 4 online articles (all MSPs and 8 PPPs).		
FY 2016	Published 3 *IoM* editions and 2 online articles (all MSPs and PPPs).		
FY 2017	Published 3 *IoM* editions and 2 online articles entitled, *Addressing Misconduct in the Federal Civil Service: Management Perspectives* and *MSPs: Keys to Managing the Federal Workforce* (all MSPs & PPPs).		
FY 2018	Published 3 *IoM* editions and 4 articles or briefs entitled *Building Blocks for Effective Performance Management*, *The Role of Feedback, Autonomy, and Meaningfulness in Employee Performance Behaviors*, *Update on Sexual Harassment in the Federal Workplace*, and *Improving Federal Hiring Through Better Assessment* (all MSPs and 3 PPPs).		

FY 2019	Published 3 *IoM* newsletter editions and 4 research briefs, including *Improving Federal Leadership Through Better Probationary Practices*, *The Perceived Incidence of Prohibited Personnel Practices*, *Remedying Unacceptable Employee Performance in the Federal Civil Service*, and *Managing Employees to Perform Emotionally Laborious Work* (8 MSPs and 3 PPPs).	
FY 2020	Published 3 *IoM* newsletter editions covering 8 of 9 MSPs.	

Performance Goal 1C-2: Maintain the number and scope of MSPB study reports, briefs, or other documents.			
Measure: Number and scope (percent of the workforce, agencies, or policy areas impacted) of merit systems studies reports, briefs, and other documents published each year.			
Results		**Targets**	
FY 2014	4 reports approved and published.	**FY 2020**	Prepare for publication of 4 or more study reports or other documents.
FY 2015	4 reports published (7 MSPs, 9 PPPs).		
FY 2016	3 reports published (all MSPs).		
FY 2017	Not rated, no quorum.		
FY 2018	No target set, not rated, no quorum.		
FY 2019	No target set, not rated, no quorum. Took significant steps to prepare a new merit system studies research agenda for review and approval by the new Chairman.		
FY 2020	Published research brief *The State of Federal HR Workforce: Changes and Challenges.* Prepared for publication and awaiting review and approval by new Board: *MSPB Research Agenda for Merit Systems Studies*, *Sexual Harassment in the Federal Workplace: Understanding and Addressing the Problem*, and *The Importance of Job Fit for Federal Agencies and Employees.*		

Performance Goal 1C-3: Conduct surveys of Federal employees to assess and report on health of the Federal merit systems.			
Measure: Conduct periodic Governmentwide and focused surveys of Federal employees and others (including interrogatories directed to agencies), as appropriate.			
Results		**Targets**	
FY 2015	Content for the next MPS to support the new FY 2015-2018 research agenda was developed, and a survey vendor was selected to program and administer the next MPS in early 2016. An RFQ for MSPB's survey platform was issued by DOI's NBC; procurement of survey platform was put on hold to accomplish key milestones for the MPS, and as a result of the IT outage and changing Federal IT requirements.	**FY 2020**	Using a FedRAMP certified, web-based survey capability (see M4-2), design and implement a Governmentwide survey in 4th quarter FY 2020 or 1st quarter FY 2021.

FY 2016	Successfully administered 2016 MPS to approximately 120,000 Federal employees from 24 Federal agencies. The survey was fully compliant with Federal IT and security requirements and covered topics such as PPPs, dealing with poor performers, sexual and other workplace harassment, and employee engagement.	
FY 2017	Analyzed MPS data and prepared study reports on selected topics, conducted after-action review of the survey process, prepared data for the National Archives and Records Administration, proactively posted MPS data on our website. Began working with OPM to renew the memorandum of under-standing for use of Enterprise Human Resource Integration (EHRI) data.	
FY 2018	Continued to analyze MPS 2016 data and draft reports and other documents. The next MPS will include content from a new research agenda (awaiting input from a new Chairman) and a secure web-based survey capability. Began defining requirements for a new survey capability. MSPB has obtained EHRI data from OPM for FY 2016 and 2017, and is negotiating with OPM for continued access to EHRI data.	
FY 2019	Procured a new web-based, FedRAMP certified survey application. Survey data is a critical source of information for topics on the new research agenda. Two interrogatories were sent to agencies for responses.	
FY 2020	Content of next Governmentwide MPS near completion. After two extensions of OPM's FEVS, the MPS is scheduled to be administered in the 2nd quarter of FY 2021.	

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

Results indicate this objective was **Partially Met**. Due to the lack of quorum, MSPB did not set targets for nor rate the PG involving review of OPM regulations. MSPB achieved its target for reviewing OPM significant actions by publishing the Annual Report for FY 2019, which included a review of significant actions such as agency human capital programs, hiring, workforce shaping, work-life programs, and employee performance management and rewards.

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 decisions issued involving OPM rules and regulations (or implementation of the same).			
Results		**Targets**	
FY 2014	Decisions issued on 3 cases involving review of OPM regulations.	**FY 2020**	No target set, no quorum.
FY 2015	One decision issued in response to a request for OPM regulation review.		

FY 2016	Nine decisions issued in response to requests for OPM regulation review.	
FY 2017	Not rated, no quorum.	
FY 2018	Not rated, no quorum.	
FY 2019	No target set, not rated, no quorum.	
FY 2020	No target set, not rated, no quorum.	

Performance Goal 1D-2: Maintain program for reviewing and reporting on OPM significant actions.			
Measure: Number and scope (e.g., percent of the workforce, agencies, or policy areas impacted) of OPM significant actions that are reviewed and reported.			
Results		**Targets**	
FY 2014	Published MSPB's FY 2013 AR including review of OPM significant actions. Significant actions in FY 2013 included guidance on agency policies to prevent domestic violence, Senior Executive Service (SES) exit survey, guidance for supervisory training and Uniformed Services Employment and Reemployment Rights Act, USA Hire, extension of certain benefits to same-sex spouses of Federal employees, and proposed rules for designation of national security positions and for nondiscrimination.	**FY 2020**	Maintain scope of review; publish review of OPM significant actions for previous year in MSPB AR.
FY 2015	Published MSPB's FY 2014 AR including review of OPM significant actions. Significant actions in FY 2014 included final rules implementing the Hatch Act Modernization Act of 2012 and implementing phased retirement, the Governmentwide strategy on gender pay equity, and the Govern-wide Veterans Recruitment and Employment Strategic Plan.		
FY 2016	Published MSPB's FY 2015 AR including review of OPM significant actions. Significant actions in FY 2015 included SES reform and modernization, recruitment, engagement, diversity, and inclusion initiative, and Federal supervisory and managerial framework and guidance.		
FY 2017	Published MSPB's FY 2016 AR including review of OPM significant actions. Significant actions in FY 2016 included evolution of OPM structure and finances, guidance on placement of political appointees in the career service during the 2016 presidential transition, strengthening the SES, and closing mission-critical skills gaps.		

FY 2018	Published MSPB's FY 2017 AR including review of OPM significant actions. Significant FY 2017 actions included the final rule regarding the Annual Employee Survey requirement and the 2017 FEVS, reforming the Federal Government and reshaping the Federal civilian workforce, framework for continuing development of Federal senior executives, and Governmentwide survey of Federal work-life programs.	
FY 2019	Published MSPB's FY 2018 AR including review of OPM significant actions. Significant FY 2018 actions included a review of overarching themes of previous reviews including OPM's purpose, funding, focus, and activities.	
FY 2020	Published MSPB's FY 2019 AR including review of OPM significant actions. Significant FY 2019 actions included agency human capital programs, hiring, workforce shaping, work-life programs, and employee performance management and rewards.	

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 Objective 2A: Inform, promote, and/or encourage actions by policymakers, as appropriate, that strengthen Federal merit systems laws and regulations.

Results indicate this objective was **Met**. MSPB's PG for scope of citations was achieved. MSPB cases, studies, reports, newsletter articles, and other products were cited hundreds of times in nearly 120 different sources. Sources included trade publications on Federal management and legal issues, wire services, major city daily newspapers, congressional sources, and a variety of websites and blogs. Notable citations included references to MSPB's studies on sexual harassment in the Government Accountability Office's report and testimony about sexual harassment at the Department of Veterans Affairs (VA), a bipartisan, bicameral congressional letter to VA about sexual harassment, references to sexual harassment studies and case law in a briefing report by the U.S. Commission on Civil Rights, and an MSPB studies report on Adverse Actions cited in the U.S. Court of Appeals for the Federal Circuit decision in *Sayers v. VA*. MSPB exceeded its target for articles or documents published or posted with policymakers as a primary audience. These documents included: a guidance webpage pursuant to EO 13891 and OMB Memorandum M-20-02; our COVID-19 webpage; our data webpage in accordance with the Foundations for Evidence-Based Policymaking Act of 2018 (the Evidence Act) and the Federal Data Strategy (FDS); a new merit systems studies fact sheet; a research brief entitled *The State of Federal HR Workforce: Changes and Challenges*; 3 *IoM* newsletter editions; a policy on prohibited conduct; 2019 Annual Employee Survey results (from the FEVS); No FEAR Act data; and other annual agency reports, plans, and budget documents.

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, EOs, the media, or other sources.			
Results		**Targets**	
FY 2014	MSPB's work was cited in over 94 different sources. Congress cited *The Power of Employee Engagement* report in its request for the Government Accountability Office (GAO) to study Federal employee morale and engagement. MSPB was also cited in legislation on sensitive positions and new VA legislation.	**FY 2020**	Maintain scope of references.
FY 2015	MSPB's work was cited in at least 115 different sources. MSPB work was cited in GAO reports on engagement and on using probationary periods to manage poor performers. The MSPB report on due process was cited in congressional testimony and in Congressman Mark Takano's blog on pending legislation on the VA Accountability Act of 2015. OPM cited MSPB engagement reports in a white paper on engaging the Federal workforce.		
FY 2016	MSPB's work was cited over 680 times in over 135 different sources. MSPB studies were cited in the August 2016 GAO report on OPM oversight of Federal hiring authorities, an Inter-national Personnel Management Association News article, in a text book on HR, and in congressional discussions of veterans' hiring, addressing employee misconduct, and preventing discrimination on the basis of sexual orientation.		
FY 2017	MSPB's work was cited over 600 times in 150 different sources. Several MSPB study reports were cited in the OMB Memorandum M-17-22 on Reforming the Federal Government, and in testimony at a Senate hearing on empowering Federal managers. MSPB's report on veterans hiring was cited in a report by the CRS, and reports on engagement and on SES training were cited in a new Federal management handbook published by the American Society for Personnel Administration. The 2017 National Defense Authorization Act (NDAA) provision to repeal the 180-day waiver for hiring people with previous military experience used MSPB's veterans' hiring report.		

FY 2018	MSPB's work was cited 610 times in 136 different sources. Sources of particular import include two GAO reports; OPM's unlocktalent.gov website; posts and letters by selected senators and representatives; the National Academy of Science, Engineering, and Medicine; the National Academy of Public Administration; the American Psychological Association; and a book on health care management.	
FY 2019	MSPB's work was cited 714 times in 129 different sources. Notable citations include a letter from the House VA Committee to the Secretary of the VA; a CRS Report entitled *Merit Systems Protection Board (MSPB): A Legal Overview*; and, *Report: Symposium on the Federal Workforce for the 21st Century* by the Mitre Corporation.	
FY 2020	MSPB's work was cited 453 times in 119 sources. Notable citations for policy-makers include references to MSPB's studies on sexual harassment in GAO's report and testimony about sexual harassment at VA; a bipartisan, bicameral congressional letter to VA about sexual harassment; references to sexual harassment studies and case law in a briefing report by the U.S. Commission on Civil Rights; and an MSPB studies report on Adverse Actions cited in the CAFC decision in *Sayers v. VA*.	

Performance Goal 2A-2: Maintain the number and scope of MSPB products focused on policymakers or changing Governmentwide policy.

Measure: Number, type, and scope of MSPB products created and made available to inform policymakers on issues and potential improvements to merit systems policies, laws, and/or regulations.

Results		Targets	
FY 2014	Posted *Research Highlights* for the clean records, favoritism, training and experience, sexual orientation, and veterans hiring policies and practices reports and four previously published reports. Compiled highlights into a "catalog" of MSPB studies including an introduction by the Chairman.	**FY 2020**	Develop and post 3 or more products focused on policy change or informing policymakers.
FY 2015	Posted *Research Highlights* for reports on veterans redress laws, fair and open competition, and due process; a monograph on Federal employee due process rules and reality; and Chairman Grundmann's testimony on Senate bills S. 1082, S. 1117, and S. 1856.		

FY 2016	Posted *Research Highlights* for reports on SES training, nepotism in the Federal workforce, and the MSPs: guiding fair and effective management, Chairman Grundmann's testimony from MSPB's December 2015 reauthorization hearing before the House Committee on Oversight and Government Reform Subcommittee on Government Operations, and an article on using indefinite suspensions in cases involving possible criminal behavior.	
FY 2017	Published an interactive version of the Adverse Action Report; perspectives on addressing misconduct in the civil service; the *MSPs: Use in Guiding Fair and Effective Management of the Workforce*; and an annotated diagram illustrating current avenues of review of appeals of adverse action taken against Federal employees.	
FY 2018	Published articles entitled *Building Blocks for Effective Performance Management*, *The Role of Feedback, Autonomy, and Meaningfulness in Employee Performance Behaviors*, *Update on Sexual Harassment in the Federal Workplace;* and *Improving Federal Hiring Through Better Assessment*.	
FY 2019	Published updated FAQs on MSPB functions given the lack of Board members; the FY 2018 AR including information for policymakers about OPM's history and capacity; Acting Chairman Robbins's February 28, 2019 testimony at a hearing on the effects of Board member vacancies before the House Committee on Oversight and Reform Subcommittee on Government Operations; the Acting Chief Executive and Administrative Officer Tristan Leavitt's July 23, 2019 testimony at a hearing on whistleblowers at the VA before the House VA Committee Subcommittee on Oversight and Investigations; a data webpage as required by Evidence Act; Personal Assistance Services Policy and Procedures; and other annual agency reports, plans, and budget documents.	

FY 2020	Updated the PPP pages on the website; published updated figures on PFR processing; published a guidance webpage pursuant to EO 13891 and OMB Memorandum M-20-02, our COVID-19 webpage, and our "/data" webpage in accord with the Evidence Act and Federal Data Strategy. Also published a new merit systems studies fact sheet, a research brief entitled *The State of Federal HR Workforce: Changes and Challenges*, and 3 *IoM* newsletter editions. Posted policy on prohibited conduct, 2019 Annual Employee Survey (AES) results, and No FEAR Act data. Also published MSPB Strategic Plan for FY 2020-2024, APR-APP for FY 2019-2021, Congressional Budget Justification for FY 2021, and FY 2019 AR.	

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

Results indicate this objective was **Not Met**. MSPB conducted 76 outreach events, which was 24 percent less than the target of 100 events. The COVID-19 pandemic and the response to the pandemic negatively affected the number of events, because many events planned for the spring could not pivot to a virtual platform in time to be conducted on schedule. Over time, virtual presentations became the norm, and the pace of presentations increased. Outreach event topics included MSPB adjudication processes and legal precedent, Federal employment law, merit systems studies research, and general merit systems issues. Audiences were varied and included Federal labor law attorneys, HR and equal employment opportunity professionals, academic and Federal researchers, legal organizations, Federal executive branch departments and agencies, employee and affinity groups, academic institutions, and cabinet officials from Japan. Despite the ongoing crisis, MSPB staff presented at the Federal Dispute Resolution conference, Federal Circuit Bar Association events, and the Chicago-Kent College of Law's annual Federal Sector Labor Relations and Labor Law Program. Notably, MSPB was invited to speak with OMB officials about the state of the Federal HR workforce, and with congressional officials about sexual harassment.

Performance Goal 2B-1: Maintain the number and scope of outreach contacts.			
Measure: 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**	
FY 2014	Conducted 100+ outreach events on legal, studies, merit/MSPs/PPPs, administrative, and other issues.	**FY 2020**	Conduct 100 or more outreach events.
FY 2015	Conducted 144 outreach events on legal, studies, merit/MSPs/PPPs, administrative, and other issues.		
FY 2016	Conducted over 115 outreach events on legal, studies, merit/MSPs/PPPs, administrative, and other issues. Updated the outreach portion of the new office calendar.		

FY 2017	Conducted 138 outreach events and implemented the new outreach calendar, which improves the collection of outreach data including type of audience feedback collected at events.	
FY 2018	Conducted 134 outreach events. Consideration of methods to collect customer feedback on events to continue in FY 2019.	
FY 2019	Conducted over 130 outreach events; given the low rate of events early in the FY, we decided that improvements in collection of customer feedback at outreach events will be reconsidered in the future in conjunction with agency priorities and available resources.	
FY 2020	Conducted 76 outreach events.	

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

Results indicate this objective was **Partially Met.** The target for number of visits to select web pages on the MSPB website was not achieved. The total visits in FY 2020 was more than 5 percent lower than the number of visits in FY 2019. MSPB exceeded the target for the number of educational and informational materials made available on the website, with one or more documents posted or updated in each of seven categories of information. These documents included: three *IoM* newsletter editions; one research brief; a new studies fact sheet; the FY 2019 Annual Report; other agency annual reports, plans, and budget documents; 2019 FEVS results; No FEAR Act data; the Forced Arbitration Injustice Repeal Act (FAIR) Act inventory; new webpages on COVID-19 and the Evidence Act; an information sheet on Reduction in Force; and new policies on prohibited conduct and using Zoom for Government.

Performance Goal 2C-1: Maintain the number and 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	
FY 2014	Over 634,000 visits to select MSPB webpages and almost 11.8 million hits to documents linked on those webpages.	**FY 2020**	Number of visits within ± 5 % of FY 2019 results.
FY 2015	Over 655,400 visits to select MSPB webpages, within ± 5% of the visits in FY 2014.		
FY 2016	892,379 visits to select MSPB webpages, over 36% more than in FY 2015.		
FY 2017	1,326,462 visits to select MSPB webpages, over 48% more than in FY 2016.		
FY 2018	1,539,045 visits to select MSPB webpages, over 16% more than in FY 2017.		
FY 2019	1,614,904 visits to select MSPB webpages, within 5% of the number in FY 2018.		
FY 2020	1,499,747 visits to select MSPB webpages, 7% fewer than in FY 2019.		

Performance Goal 2C-2: Maintain number and scope of available educational materials and guidance.			
Measure: Number and type of merit systems educational materials and guidance MSPB makes available electronically or on MSPB's website.			
Results		**Targets**	
FY 2014	Posted 8 *Research Highlights*; 9 radio interviews; a letter and report regarding the VA SES legislation; webpage and training video for those interested in providing pro bono representation; 2 materials for the studies research agenda; 2 materials for the Special Panel oral argument; items related to MSPB's new jurisdictional regulations; and 12 documents related to furlough cases.	**FY 2020**	Post or distribute electronically 5 new or updated textual or multimedia educational products.
FY 2015	Posted 3 *Research Highlights* for merit systems study reports; regulations governing MSPB's jurisdiction; Chairman Grundmann's testimony on proposed VA legislation (S. 1082, S. 1117, and S. 1856); and the FY 2014 AR. Updated the pro bono page, and the appellant Questions & Answers on review of Board decisions by the CAFC. Posted a link to the *Guide on LGBT Discrimination Protections for Federal Workers*.		
FY 2016	Posted *Research Highlight* for reports on *SES Training*, *Nepotism*, and *MSPs: Guiding the Fair and Effective Federal Management*; two FedNews-Radio interviews on studies reports; Chairman Grundmann's record testimony from MSPB's December 2016 House reauthorization hearing; her radio interview on VA SES appeals; the interim final rule on discovery in compliance proceedings; an updated guide to MSPs; and Organizational Functions and Delegations of Authority on the e-FOIA (Freedom of Information Act) Reading Room page.		
FY 2017	Published interactive version of the *Adverse Action* report and *MSPs: Use in Guiding Fair and Effective Management of the Workforce*; two external reviews of MSPB's IT systems; an annotated diagram illustrating current avenues of review or appeal for a Federal adverse action; designation of the new Vice Chairman Mark A. Robbins; guidance on lack of quorum; and the 2016 MPS data. Updated/ reorganized the e-FOIA Reading Room web page and created a new Privacy Act Program webpage.		
FY 2018	Posted 4 articles or briefs (see 1C-1); 3 *IoM* newsletter editions; and one radio and one video interview. Added links to Board member nominations, updated Acting Chairman Robbins's biography, and added pages for recent Board members and their lengths of service. Updated information for appellants seeking judicial review of whistleblower claims, VA appeals under 38 U.S.C. § 714, PFR withdrawal policy, lack of quorum FAQs, Information Quality Guidelines, and 2017 FOIA logs.		

FY 2019	Posted 3 *IoM* editions and 4 research briefs; 3 Federal Register notice and 5 press releases; the FY 2018 AR; other agency annual reports, plans, and budget documents; the 2018 FEVS results; updated FAQs on MSPB functions given the lack of Board members; an updated history of Board member service; and changes to the AJ Handbook.	
FY 2020	Created a COVID-19 webpage, guidance pursuant to EO 13891 and OMB Memorandum M-20-02, and our "/data" webpage in accord with the Evidence Act and Federal Data Strategy. Published a new merit systems studies fact sheet, a research brief entitled *The State of Federal HR Workforce: Changes and Challenges*, and 3 *IoM* newsletter editions. Updated the accessibility and PPP webpages. Published policy for prohibited conduct and Zoom for Government privacy act statement and rules of behavior for external users. Published the MSPB Strategic Plan for FY 2020-2024, APR-APP for FY 2019-2021, Congressional Budget Justification for FY 2021, FY 2019 AR, FY 2019 Annual Financial Report, and an information sheet on Reduction in Force. Posted updated figures on PFR processing, FAIR Act inventory, 2019 AES/FEVS results, and No FEAR Act data.	

Management Objectives

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

Results indicate this objective was **Partially Met**. Internal Survey (IS) results indicate that targets for competencies and inclusion were exceeded, and the target for diversity was met. OPM has indicated that the 2020 FEVS engagement index needed for PG M1-3 will be available the week of January 25, 2021. Once we have the data for employee engagement, we will be able to complete the rating of achievement for this management objective.

Performance Goal M1-1: Ensure MSPB's workforce has the competencies needed to perform its mission.

Measure: Percent of employees who report on the FEVS that they and others in the workforce have the appropriate competencies needed to perform MSPB's mission.

Results		Targets	
FY 2014	FEVS Competency average = 64%	**FY 2020**	Competency average = 70% or higher.
FY 2015	FEVS Competency average = 79%		
FY 2016	FEVS Competency average = 68%		
FY 2017	FEVS Competency average = 71%		
FY 2018	FEVS Competency average = 71%		
FY 2019	FEVS Competency average = 75%		
FY 2020	Competency average = 80% (derived from the IS due to the FEVS delay)		

Performance Goal M1-2: Maintain positive perceptions of diversity and inclusion by MSPB employees.			
Measure: Average percent agreement on diversity (FEVS questions) and workplace inclusion Internal Survey (IS questions).			
Results		**Targets**	
FY 2014	FEVS Diversity average = 61% IS Inclusion average = 77%	**FY 2020**	Diversity average = 70% or higher. Inclusion average = 70% or higher.
FY 2015	FEVS Diversity average = 71% IS Inclusion average = 77%		
FY 2016	FEVS Diversity average = 67% IS Inclusion average = 78%		
FY 2017	FEVS Diversity average = 66% IS Inclusion average = 76%		
FY 2018	FEVS Diversity average = 61% IS Inclusion average = 81%		
FY 2019	FEVS Diversity average = 72% IS Inclusion average = 84%		
FY 2020	Diversity average = 75% (derived from the IS due to the FEVS delay) Inclusion average = 83% (derived from the IS due to the FEVS delay)		

Performance Goal M1-3: Strengthen and maintain employee engagement and address engagement issues identified in the FEVS.			
Measure: Average percent agreement on FEVS engagement questions.			
Results		**Targets**	
FY 2014	FEVS Engagement Index = 62%	**FY 2020**	Engagement Index = 70% or higher.
FY 2015	FEVS Engagement Index = 74%		
FY 2016	FEVS Engagement Index = 69%		
FY 2017	FEVS Engagement Index = 70%		
FY 2018	FEVS Engagement Index = 66%		
FY 2019	FEVS Engagement Index = 72%		
FY 2020	Awaiting 2020 FEVS results from OPM		

Management Objective M2: Develop budgets and manage financial resources to ensure necessary resources now and in the future.

The target for this objective was postponed, so this objective and goal in FY 2020 were **Not Rated**.

Performance Goal M2-1: Develop fully-justified budgets & ensure resource accountability			
Measure: Percent of funded positions vacant at the end of each month, averaged over the year.			
Results		**Targets**	
FY 2014	12% of funded positions vacant, averaged over 12 months.	**FY 2020**	Consider other measures of budgeting and financial management.
FY 2015	4% of funded positions vacant, averaged over 12 months.		
FY 2016	8.7% of funded positions vacant, averaged over 12 months.		
FY 2017	3.4% of funded positions vacant, averaged over 12 months.		

FY 2018	8% of funded positions vacant, averaged over 12 months.	
FY 2019	9% of funded positions vacant, averaged over 12 months.	
FY 2020	Postponed/not rated; will consider new goal/measure when quorum restored.	

Management Objective M3: Improve and maintain information technology and information services programs to support agency mission and administrative functions.

Results indicate this objective was **Exceeded**. Results from the 2020 Internal Survey indicated that the average positive responses by employees about the availability and reliability of the IT infrastructure and for employee satisfaction with IT support exceeded their respective targets.

Performance Goal M3-1: Ensure availability and reliability of MSPB IT systems, hardware, and applications.

Measure: Average percent agreement with relevant questions on the MSPB Internal Survey (IS); ensure disaster recovery capability.

Results		Targets	
FY 2014	Average unscheduled downtime for key systems was 1.13%.	**FY 2020**	Average agreement = 65% or higher.
FY 2015	The target for average unscheduled downtime was met (1.16%). However, MSPB had 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.		
FY 2016	Implemented cloud backup service for OneDrive and an isolated test environment; monitoring nightly backups; upgraded network hardware in many locations; began new IT Testing Group to test new technology and applications; assessed and adjusted M3 goals, measures, and targets for FY 2017 and beyond to take advantage of IS data for selected IT measures. Took necessary IT actions to achieve the targets listed for 1A-1, 1A-3, 1A-6, 1C-3, 2B-1, and 2C-3.		
FY 2017	2017 IS average agreement = 58%, compared to the 2016 result of 45%.		
FY 2018	IS average agreement = 64%.		
FY 2019	IS average agreement = 67%		
FY 2020	IS average agreement = 79%		

Performance Goal M3-2: Ensure satisfaction with internal IT support and services.

Measure: Average percent agreement on relevant IS questions.

Results		Targets	
FY 2016	New PG in FY 2017.	**FY 2020**	Average agreement = 65% or higher. (PG renumbered to M3-2.)

FY 2017	2017 IS average agreement = 52%, compared to the 2016 result of 47%.	
FY 2018	IS average agreement = 72%.	
FY 2019	IS average agreement = 72%; goal renumbered as M3.2 for FY 2020.	
FY 2020	IS average agreement = 80%	

Management Objective M4: Modernize core business applications to achieve electronic adjudication, and provide a web-based survey capability.

Results indicate this objective was **Met.** MSPB met the target for modernizing adjudication applications. Although progress on modernization was delayed from April through September due to the COVID-19 pandemic, the percentages of electronic filings of initial appeals and pleadings were the highest since we started measuring in FY 2012, and MSPB significantly expanded electronic case files. MSPB met the target for implementation of the new survey platform by supporting initial access, awarding a contract for technical support, and issuing an authority to operate for the Qualtrics survey platform, which is certified by the Federal Risk and Authorization Management Program (or FedRAMP).

Performance Goal M4-1: Improve efficiency of adjudication case processing.			
Measure: Modernize core adjudication business applications; proportion of cases processed entirely electronically.			
Results		**Targets**	
FY 2014	Interim indicators: 55% of initial appeals and 83% of pleadings filed electronically. Furlough cases were processed electronically in selected ROs, 37 PFRs of furlough cases were filed electronically, and one furlough Board decision was filed electronically with the court. Drafted an RFI for electronic adjudication (e-Adjudication).	**FY 2020**	Substantially complete development of the next generation of MSPB core business applications, and related IT modernization efforts.
FY 2015	Interim indicators: 56% of initial appeals and 80% of pleadings filed electronically. Issued an RFI on e-Adjudication and Guidance on archiving electronic case files (ECFs). Developed a timeline for expanding ECFs and implementing mandatory e-filing for agencies and representatives.		
FY 2016	Interim indicators: 61% of initial appeals and 81% of pleadings filed electronically. Expanded ECF Pilot to the Denver FO. Implemented new e-Appeal servers, and up-graded the e-Appeal LiveCycle and Active PDF document conversion/assembly software. Developed and implemented ECF marking capability and document-ation in Quick Case and Law Manager and conducted training. Submitted personnel actions to support adding critical skills to help ensure expertise needed for e-Adjudication.		

FY 2017	Interim indicators: 61% of initial appeals and 82% of pleadings filed electronically. Arranged two vendor demonstrations of appeals workflow solutions. Completed significant work on e-Appeal release 9.7, a new enhanced version of the Quick Case application, a new Document Management System Upload Application (for litigation cases), and essentially completed a new application to automate the completion of ECFs (for courts, Department of Justice, EEOC, etc.). Partnered with OMB's Office of the Federal Chief Information Officer (CIO) for weekly calls or meetings regarding this goal.	
FY 2018	Interim indicators: 69% of initial appeals and 89% of pleadings filed electronically. Completed requirements development for new core business applications, including those to support e-Adjudication, and issued the Request for Proposal.	
FY 2019	Interim indicators: 69% of initial appeals and 89% of pleadings filed electronically. Awarded contract for new core business applications; began configuration of e-filing and initial appeals processing components.	
FY 2020	Interim indicators: 77% of initial appeals and 93% of pleadings were filed electronically, an increase from FY 2019 and the highest we have experienced since 2013; significantly expanded ECFs to allow for use in any FY 2020 appeal, and any FY 2019 case in ROs/FOs where the electronic record is complete as an ECF (except cases involving sensitive security information or video files). Continued development of initial appeal process on new application platform. Further modernization progress delayed due to the COVID-19 pandemic.	

Performance Goal M4-2: Improve agency survey capability			
Measure: Ensure secure, web-based survey application in conjunction with 1C-3.			
Results		**Targets**	
FY 2017	Drafted a Performance Work Statement (PWS) for moving our data center to the cloud. Continued to work with OMB's Office of the Federal CIO regarding this PG. Collaborated with OPE and DOI to assess obtaining a secure cloud-based solution to analyze OPM data.	**FY 2020**	Fully implement a FedRAMP certified, web-based survey capability to ensure ability to design, test, and implement Governmentwide surveys (see 1C-3) no later than 1st quarter FY 2021.

FY 2018	Work accelerated on IT modernization (see PG M4-1), and it became clear that separately migrating to a new data center would not be cost-effective because the new core applications will be cloud-based. Therefore, we are devoting data center migration resources to improving disaster recovery for the existing data center and supporting collateral projects necessary for comprehensive IT modernization to achieve 100% e-Adjudication.	
FY 2019	Procured a new web-based, FedRAMP certified survey application.	
FY 2020	Supported initial access and awarded contract for technical support, and issued an authority to operate for the FedRAMP certified Qualtrics web-based survey platform.	

Trends and Challenges that May Affect Agency Performance

Internal Management Challenges

As discussed below, there are a number of internal management challenges currently facing MSPB. The most significant internal issue affecting MSPB is the lack of quorum of Board members. Other significant internal challenges that could affect MSPB's ability to carry out its mission include other human capital issues and IT stability, cybersecurity, modernization. The COVID-19 pandemic is an external factor, and the internal challenges it creates are discussed in the external factors section.

Lack of Board Quorum. As discussed in the introduction to this document, MSPB has been without a quorum of Board members since January 8, 2017, and without any presidentially appointed Senate-confirmed Board members since March 1, 2019. The lack of quorum has led to a backlog of PFRs and other cases at HQ awaiting Board decisions. This backlog totaled 2,942 cases as of the end of FY 2020, and it is growing every day. MSPB anticipates that it will take at least three years to process the inventory of cases at HQ once new Board members begin their work. The lack of quorum also prevents MSPB from releasing reports of merit systems studies and promulgating substantive regulations to accompany congressional changes to our jurisdiction or processes, and affects our review of OPM significant actions.

The continued lack of quorum prevented MSPB from setting performance targets beginning in FY 2018. It also prevents the agency from rating results for several PGs and one strategic objective, including PFR processing timeliness, enforcement case processing, number of published reports of merit systems studies, and quality of initial decisions (because this measure is based on the issuance of PFR decisions). Selection of interim measures and targets for these goals is pending restoration of a quorum. MSPB also could not rate the PG on review of OPM regulations because the Board must issue decisions on requests for regulatory review. Once a quorum is restored, MSPB will determine the most appropriate measures and targets for these PGs. The status of Board member nominations is provided on page 2 of this document.

Other Human Capital Challenges. In addition to the lack of quorum, as of October 1, 2020, over 31 percent of all MSPB employees, including almost 45 percent of AJs and adjudication managers involved with processing initial appeals, are eligible to retire between now and the end of 2022. Several other MSPB employees who hold key leadership positions are eligible to retire in the near future. In addition, ensuring continued expertise is a challenge when employees in critical, one-deep positions depart the agency through retirement or transfer.

MSPB began a strategic human capital planning (SHCP) process several years ago to focus on its most critical long-term human capital needs. The plan focused on ensuring a reasonable hiring rate of newer employees to form a pool for succession management in adjudication, planning for continuing to perform the functions of those employees in one-deep, mission-critical positions when there are vacancies, and ensuring our IT expertise. Although MSPB has been able to recruit well-qualified individuals for its adjudicatory and other professional positions, it nevertheless often takes two to three years for these new staff to reach full performance level. An assessment of our SHCP process and identification of ways to strengthen this process have been included in our program evaluation plan. This is a timely endeavor given the future arrival of new Board members and will likely involve obtaining external SHCP expertise to assist us. The success of any strategic human capital planning depends on continued stability in funding for FY 2021 and beyond. This funding is necessary to retain expertise, improve competencies, sustain employee engagement, continue to improve our processes, and at the same time, continue to perform our statutory and support functions effectively and efficiently. Retaining resources is even more critical given recently enacted and proposed legislative and administrative changes that may affect our jurisdiction and processes. (See the section on external

factors affecting MSPB's work.) In addition, there is some anecdotal evidence that job candidates may be hesitant to accept job offers from MSPB due uncertainty about the lack of Board Members.

On June 21, 2018, the Supreme Court issued its decision in *Lucia, et al. v. Securities and Exchange Commission (SEC)*, 138 S. Ct. 2044. The Court held that SEC administrative law judges (ALJs) are inferior officers under the Appointments Clause of the Constitution because they exercise significant authority pursuant to the laws of the United States. Based on this finding, the Court held that SEC ALJs must be appointed in conformity with the requirements of the Appointments Clause, which requires that inferior officers either be presidentially appointed and Senate-confirmed, or appointed through authority vested by Congress in the President, the courts of law, or the heads of departments. The parties conceded that the SEC ALJs were not appointed in accordance with the Appointments Clause. Because the petitioner in *Lucia* originally had a hearing before a constitutionally invalid ALJ, the Court found that he was entitled to a new hearing before a different, properly appointed ALJ.

Lucia has the potential to affect MSPB from both an adjudicatory and operational standpoint. Although the MSPB does not currently employ any ALJs—we utilize other agencies' ALJs to adjudicate certain types of appeals through interagency agreements—we do hear appeals of adverse actions taken against ALJs under 5 U.S.C. § 7521. *Lucia* may affect MSPB case law regarding ALJs. In addition, some parties have raised *Lucia* challenges regarding MSPB's AJs. If *Lucia* challenges regarding MSPB AJs are sustained, appellants who raised successful challenges may be entitled to new proceedings before an officer appointed in conformity with the Appointments Clause.

President Trump's May 25, 2018 EOs 13836, 13837, and 13839[5] also affect MSPB from both an internal and external standpoint. Internally, the most significant issue is the requirement to renegotiate provisions of the collective bargaining agreement (CBA) between MSPB and its Professional Association that are inconsistent with the requirements and priorities set forth in the orders. MSPB also must conform its non-CBA performance management guidance and practices. On October 3, 2019, following litigation initiated by several Federal employee unions, the D.C. Circuit determined that the unions must challenge the EOs before the FLRA, rather than bringing a direct challenge to Federal district court.[6] Thus, the EOs are now in effect, and MSPB is in the early stages of the process to renegotiate its CBA. Information about how the EOs and OPM implementing regulations may affect MSPB's adjudication and settlement programs is contained in the section on external factors.

IT Stability, Cybersecurity, and Modernization. MSPB is committed to transitioning to 100 percent e-Adjudication 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; paperwork reduction requirements; and records management directives, including OMB Memorandum M-19-21,[7] requiring that agencies convert records to electronic format. MSPB also is focused on ensuring it has the IT infrastructure, cybersecurity, and information services expertise to execute its mission and modernize its systems, including implementing e-Adjudication and its new, FedRAMP certified, web-based survey capability. In addition, IRM is refreshing laptops and transitioning the public website to a modern-day cloud-based platform.

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[5] EO 13836, *Developing Efficient, Effective, and Cost-Reducing Approaches to Federal Sector Collective Bargaining*; EO 13837, *Ensuring Transparency, Accountability, and Efficiency in Taxpayer Funded Union Time Use*; and EO 13839, *Promoting Accountability and Streamlining Removal Procedures Consistent with Merit Systems Principles*.

[6] See *American Federation of Government Employees, AFL-CIO v. Trump*, No. 18-5289, 2019 WL 3122446 (D.C. Cir. July 16, 2019), *American Federal of Government Employees, et al, v. Trump*, No. 18-5289, Appellee's Petition for Rehearing En Banc (D.C. Cir. Aug. 30, 2019) (ECF no. 1804329), *American Federal of Government Employees, et al, v. Trump*, No. 18-5289, Order Denying Petition for Rehearing En Banc (D.C. Cir. Sept. 25, 2019) (ECF no. 1807961), and *American Federal of Government Employees, et al, v. Trump*, No. 18-5289, Mandate Issued (D.C. Cir. Oct. 3, 2019).

[7] OMB Memorandum M-19-21, Transition to Electronic Records, June 28, 2019, at https://www.whitehouse.gov/wp-content/uploads/2019/06/M-19-21.pdf.

Beginning in FY 2017, MSPB pivoted away from continuing to customize our existing legacy business applications that are nearing end-of-life. In FY 2018, we developed comprehensive requirements to identify the "next generation" of MSPB's core business applications to fully enable e-Adjudication of MSPB appeals (while retaining the option for paper processing when necessary). This included replacing systems for case management, document management and document assembly and e-Appeal Online, and integrating the new application with our public-facing website, the extranet, and our intranet. In FY 2019, MSPB selected a contractor to design and implement the new core business applications and began configuring the electronic filing and initial appeal processing components. Progress on this project was delayed in FY 2020 due to the pandemic. The next steps include delivery of 'wireframes' of internal and external user interfaces representing an end-to-end schematic of the adjudication process, followed by pilot testing the initial release of system functionality in FY 2021. We expect to fully implement our next generation core business applications and related IT modernization projects by the end of calendar year 2022. This multi-year effort will require a significant initial investment of resources, but will yield important improvements in technology, systems, productivity, and efficiency.

MSPB must administer surveys of the Federal workforce and others to provide empirical data to support its merit systems studies research responsibilities. Implementing past surveys has been challenging due to limited internal IT expertise needed to support the survey process and ensure compliance with new and rapidly changing IT cybersecurity requirements. Meeting these cybersecurity requirements is necessary to obtain the cooperation of Federal agencies for the MPS and other surveys. Long-term effectiveness of the merit system studies program requires that MSPB have a more stable and flexible capacity to collect survey and other similar data in a secure, cloud-based environment. We procured a FedRAMP certified survey platform in FY 2019, and we plan to utilize it initially for the MPS in 2021.

Significant External Trends and Issues

Although discussed in the preceding section on internal management challenges, the status of nominations and restoring a quorum are beyond MSPB's control, also making them external factors. Also beyond MSPB's control are the internal and external challenges involving the COVID-19 pandemic. The effects of the pandemic, and the Government's response to it, are discussed in this section. Other than the lack of quorum and the pandemic, significant external trends or issues affecting MSPB's ability to carry out its mission include changes in law, jurisdiction and appeals processes; and Government reform, budget challenges, and workforce reshaping. This year, there was also a Supreme Court decision involving employment rights that could affect MSPB's workload. If pending legislation does not change MSPB's workload or adjudication complexity, MSPB still requires stable and sufficient resources in future years to perform its statutory functions effectively and efficiently. However, additional resources may be needed to meet new legislative changes to MSPB's adjudication procedures and simultaneously meet potential challenges caused by other external factors.

Changes in Law, Jurisdiction, and Appeals Processes. The APR-APP for 2018-2020 contains a thorough review of laws passed in FY 2017 and FY 2018 that continue to have the potential to directly impact MSPB jurisdiction and operations, and indirectly impact the agency through changes to Federal human capital management policy and practice. One of these laws is the VA Accountability and Whistleblower Protection Act of 2017.[8] MSPB saw an increase in the average number of VA cases processed in the ROs/FOs since the law's enactment. In data about VA cases processed in the ROs/FOs taken from MSPB Annual Reports, an average of 859 VA cases were processed in FY 2015-2016 compared to an average of 955 VA cases processed in FY 2018-2019. The 11 percent increase emphasizes the need for MSPB to promulgate regulations regarding how it will address any differences in procedures necessitated by the VA law. However, we have been unable to do so due to the lack of quorum.

[8] Pub. L. 115-41.

In FY 2020, no new legislation was enacted that impacts MSPB's adjudicatory or studies functions. However, significant to MSPB's adjudication workload is the Federal Circuit's recent decision in *Hessami v. MSPB*, No. 19-2221, in which the court determined that a nonfrivolous allegation must be determined on the basis of just the appellant's claims. This will lead to more hearings and decisions on the merits in whistleblower appeals, many of which are likely to be factually and legally complex.

In the last APR-APP we reported that the President's May 25, 2018 EO 13839 may significantly affect MSPB's case processing due to its prohibition on agencies entering into settlement agreements that "erase, remove, alter, or withhold from another agency any information about a civilian employee's performance or conduct in that employee's official personnel records[.]" Historically, MSPB has resolved a high percentage of cases through settlement, many of which involve such terms or other alterations to the appellant's personnel records. The settlement rate dropped over 6 percent from FY 2017 compared to FY 2019 (53 percent compared to 47 percent, respectively). Given the pandemic, it is difficult to compare the FY 2020 settlement rate due to changes in work processes and procedures to protect the safety and health of the parties and MSPB employees. We will continue to monitor the situation. In general, fewer settlements, as well as operational changes in response to the pandemic, may lead to an increase in overall processing time for cases. The other May 2018 EOs (13836 and 13837) could also lead to a significant increase in case receipts insofar as they direct agencies to endeavor to renegotiate CBAs to exclude adverse actions from grievance procedures. Similarly, these two EOs may result in more self-represented (pro se) appellants, and union representatives may have less time to devote to representation duties. This may affect the quality of representation and therefore increase case processing times, especially now that OPM has issued regulations codifying large parts of the EOs.

Over time, these changes could bear on MSPB operations both directly and indirectly. Such changes are likely to affect MSPB's appeals workload, the need to change MSPB procedures, and to require additional MSPB resources. Changes in law and jurisdiction also emphasize the importance of MSPB's responsibility to conduct studies of Federal merit systems and exercise its statutory authority to review OPM's significant actions to ensure that the Federal workforce continues to be managed in accordance with MSPs and free from PPPs. These changes magnify 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 outreach and educational functions improve workforce management over time and may reduce the time and cost of processing appeals for agencies, appellants, and the Government.

Supreme Court Decision Related to LGBTQ Employment Rights. In *Bostock v. Clayton County, GA*, 140 S. Ct. 1731 (2020), the Supreme Court held that taking action against employees because of their sexual identity or transgender status constitutes sex discrimination.[9] While discrimination based on either sexual identity or transgender status had not been seen as a violation of Title VII but sex discrimination has always been, the holding in *Bostock* opens the door for the filing and adjudication of many more appeals raising sex discrimination on those bases as affirmative defenses, thus adding to the number of issues (though not the number of appeals) the Board will review in its case adjudications. While other Supreme Court decisions on topics such as age discrimination (*Babb v. Wilkie* 140 S. Ct. 1168 (2000)) and deference to agency regulations (*Kisor v. Wilkie* 139 S. Ct. 2400 (2019)) will guide and inform Board adjudications, the Board does not anticipate an increase in the number of appeals filed because of their issuance.

Government Reform, Budget Challenges, and Workforce Reshaping. In March 2017, OMB began a concerted effort to reorganize the executive branch.[10] These plans, and their updates, outlined

[9] See *Bostok v. Clayton County, GA*, 140 S. Ct. 1731 (2020).

[10] See EO 13781, *Presidential Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch,* March 13, 2017, at https://www.whitehouse.gov/the-press-office/2017/03/13/presidential-executive-order-comprehensive-plan-reorganizing-executive;

Governmentwide changes as well as specific changes in several organizations affecting a variety of services. Some recommended changes are within the ability of the various agencies to implement, and some require action by Congress. Selected agencies began to implement their respective reform plans in 2019.[11] There have been no formal updates to the administration's Government reform agenda in FY 2020, due in part to the shift in the focus to critical national health and safety issues in response to the pandemic.

In addition to Government reform, budget challenges in agencies often lead to decisions that affect their civilian employees. Certain workforce actions that agencies may take would increase MSPB's workload. For example, the U.S. Citizenship and Immigration Services (USCIS) publicly announced its plan to temporarily reduce its workforce by up to 13,000 employees due to the abrupt and significant reduction in user fees (due in part to decisions made in response to the pandemic), a significant source of funding for the agency.[12] These personnel actions would have been appealable to MSPB, and the potential USCIS appeals alone would have equaled two times the average number of initial appeals MSPB receives over the course of the year. In late August 2020, USCIS announced it had averted this plan.

In general, workforce reduction actions can result in adverse actions affecting Federal employees, and affected employees may file appeals of those actions with MSPB. Furloughs, reduction in force (RIF) actions, and some cases involving Voluntary Early Retirement Authority or Voluntary Separation Incentive Payments are appealable to MSPB. Historical trends indicate that RIFs lead to an increase in appeals filed with MSPB, and RIF appeals are often more complex than some other types of appeals. Workforce reshaping also may affect workforce management, employee engagement, and employee effectiveness. Maintaining MSPB's strong merit systems studies and OPM review functions helps ensure adherence to the MSPs and avoidance of PPPs.

The COVID-19 Pandemic. It is likely that the Federal expenditures related to the COVID-19 pandemic will affect the budgets of Federal agencies in the future. While it is impossible to know for sure, it seems likely that many agencies will be facing budget cuts or shortfalls, which may lead to RIFs or furloughs of agency employees. As mentioned earlier, the reduction in fees paid to USCIS apparently was, in part, due to decisions made in response to the pandemic. In addition, agencies have had to quickly develop new operational policies during the pandemic. The effect on employees of telework eligibility determinations, return to work policies, safety and security protocols, accountability for health and safety behaviors, and sharing health-related information, as examples, could affect merit-based management, and increase PPPs. It is also possible that there could be an increase in whistleblowing (e.g., whistleblowing disclosures may include Government actions affecting the health and safety of the public) and claims of retaliation for whistleblowing related to the pandemic. It is too early to know the degree to which the pandemic's effects on the Federal workplace might increase appeals filed with MSPB. In the longer-term, MSPB must be prepared to ensure its studies function is

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OMB Memorandum M-17-22, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce*, April 12, 2017, at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf; *President's Management Agenda (PMA),* March 20, 2018, at https://www.whitehouse.gov/wp-content/uploads/2018/03/Presidents-Management-Agenda.pdf; *Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations,* June 21, 2018, at https://www.whitehouse.gov/wp-content/uploads/2018/06/Government-Reform-and-Reorg-Plan.pdf; *Celebrating One Year of Progress: The President's Management Agenda Anniversary Report*, March 20, 2019, at https://www.performance.gov/PMA-celebrating-one-year-of-progress; and *One Year Update: Reform Plan and Reorganization Recommendations,* July 30, 2019, at https://www.performance.gov/one-year-update-reform-reorg.

[11] See *Statement of Scott Cameron, Principle Deputy Assistant Secretary for Policy, Management, and Budget, U.S. Department of the Interior, Testimony before the House Natural Resources Subcommittee on Oversight and Investigations Hearing on the Department of the Interior's Reorganization Effort*, April 30, 2019, at https://www.doi.gov/ocl/doi-reorganization, *Statement of Emily W. Murphy Administrator of the U.S. General Services Administration, Before The United States Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Regulatory Affairs and Federal Management*, July 26, 2018, at https://www.gsa.gov/about-us/newsroom/congressional-testimony/the-challenges-and-opportunities-of-the-proposed-government-reorganization-on-opm-and-gsa, and *USDA to Realign ERS with Chief Economist, Relocate ERS & NIFA Outside DC*, August 8, 2018, at https://www.usda.gov/media/press-releases/2018/08/09/usda-realign-ers-chief-economist-relocate-ers-nifa-outside-dc.

[12] Government Executive, July 21, 2020, Homeland Security Moves Forward With 13,000 Furloughs Despite Its Improving Financial Situation at https://www.govexec.com/workforce/2020/07/homeland-security-moves-forward-13000-furloughs-despite-its-improving-financial-situation/167081

able to assess potential impacts of the pandemic on merit-based management and the occurrence of PPPs, among other potential effects.

The pandemic also affected MSPB's interactions with is customers. A large portion of MSPB initial appeals, PFRs, and pleadings are filed electronically. Even so, the agency developed policies for appellants to continue to file by mail, and implemented video and web conferencing for virtual hearings. Alternative arrangements sometimes are also necessary for hearings when the parties do not have access to video or computers, or their options for web conferencing are limited. This is an ongoing process, made easier by the improvements we have already made in electronic processing, and the work we have ongoing to modernize our core business applications. Although the new applications will not be fully implemented until 2022, electronic processes are already expanding, and electronic "readiness" has improved in the last couple of years.

The pandemic transformed daily life in 2020. MSPB is very fortunate that the bulk of its work can be conducted remotely. All MSPB employees have agency laptops that can connect to MSPB's network through a virtual private network or virtual desktop interface. In late March, MSPB instituted or expanded several policies including a mandatory work at home policy, more flexible work hours, and additional leave options. In early June, MSPB moved to maximum telework and developed policies and practices for employees to coordinate visits to MSPB offices for brief, infrequent, and mission-essential purposes. Even with laptops and connectivity, employees need a workspace at home, and now must balance work and family life in new and more demanding ways, e.g., working, caring for children and others in the home, overseeing virtual schooling, etc. From a work perspective, employees had to adjust to working from home full-time, maneuver through new routines and requirements, and become accustomed to connecting virtually for meetings and hearings. Finally, even with leadership and agency support, each person must manage the social and psychological aspects of such an abrupt change in work and life in response to the health and safety concerns that everyone everywhere is facing during the pandemic.

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. Emphasis on program evaluation has increased in recent years and was listed in the Administration's Reform Plan released June 21, 2018 as an area that needs to be strengthened.[13]

Program evaluation and performance measurement requirements are described in GPRAMA, and were recently expanded in the Evidence Act [14] and the FDS.[15] MSPB's efforts to improve its data governance and data management as mandated by these Governmentwide laws and directives will provide improved focus on data issues and serve as an umbrella under which improvements in policies and practices in data management, data quality, program evaluation, performance measurement, and related issues can be developed. MSPB has established an agency webpage as required under the Evidence Act and FDS at www.mspb.gov/data.

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, could require increased resources and program evaluation staff. A relatively small increase in MSPB's program evaluation resources and staff could likely yield a large return in efficiency and cost savings for MSPB. In turn, this would improve the value MSPB brings to agencies, Federal employees, individual parties to cases filed with MSPB, and to the public. If internal program evaluation resources are not available, contractor support is a viable, but potentially more expensive option for conducting tasks associated with program evaluation. This option is most useful when the evaluation topic is technical in nature, beyond the knowledge of existing program staff, or when the evaluation focuses on program evaluation itself or on the office that conducts program evaluation activities.

Performance Measurement: Verifying and Validating Performance Information

Most quantitative measures of MSPB's adjudication performance come from its automated case management system (Law Manager), which tracks location, timeliness, outcomes, and other information about cases filed with MSPB. Case processing data are tracked and verified at various points in the process and extensive comparison checks on these data are performed at the end of each FY. Other quantitative and qualitative performance measures are reported by MSPB's program offices. MSPB also collects external customer satisfaction data from adjudication, ADR and (more rarely) merit systems studies customers and stakeholders. Several of MSPB's management PGs use data from OPM's FEVS. MSPB also has an active internal survey program, which measures various management PGs contained in MSPB GPRAMA reports, and provides customer feedback on internal IT and administrative support and EEO programs.

MSPB has made many recent improvements in performance measurement and is currently, under the auspices of its Data Governance Body, updating its policies and practices involving whistleblower data. Our emphasis on 100 percent e-Adjudication and new core business applications, as well as the Evidence Act and FDS, continue to highlight the importance of continuous improvement in performance measurement and data quality. MSPB needs to consider the status of its performance

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[13] Executive Office of the President of the United States, June 21, 2018, *Delivering Government Solutions for the 21st Century: Reform Plan and Reorganization Recommendations*, pg. 118.

[14] Pub. L. 115-435, signed by the President on January 14, 2019.

[15] See https://strategy.data.gov/.

measurement functions, and seek to develop agency-wide policies and practices that will improve oversight, accountability, and coordination of MSPB's data assets. It is likely the principles, policies, and processes developed for WPEA data will be expanded to include other critical case processing data. Such changes will help ensure the consistency, validity, and verifiability of the data used to manage MSPB programs and included in agency reports.

Results of Program Evaluation Activity

Government Accountability Office assessment of processing WPEA cases at MSPB. GAO's 2016 report on the WPEA recommended updating MSPB's user guide to include additional guidance for entering WPEA data and improvements to MSPB's data quality checks to help identify discrepancies in WPEA data. In addition, MSPB conducted an initial internal assessment of the data entry and data quality processes used for adjudication case management data, including, but not limited to, whistleblower data. Finally, MSPB's considerable efforts in FY 2018 to define the requirements necessary for modernizing its core business applications also included information about Law Manager, our current case management system, which will serve as a foundation for updating the data entry user guide and defining appropriate quality checks in the reporting process. Developing the requirements necessary to update our core business applications, including a next-generation electronic case management system, also served as a surrogate evaluation of Law Manager. MSPB does not plan to separately evaluate Law Manager since we will be replaced it with a new application in the next two years. In addition, developing requirements for the new core business applications provided baseline information to assist in evaluating the functions of ORO.

Define adjudication process/develop requirements for new core business applications. This activity involves validating the business and technical requirements for these applications, i.e., our case management, document management, and document assembly systems, to support e-Adjudication, and developing a prioritized path for upgrades necessary to support our business processes. In FY 2017, we began by developing a PWS to document our requirements. The contract was awarded in FY 2018 and work was completed in the 3rd quarter of FY 2018. In FY 2019, MSPB selected the contractor to design and implement the new business applications.

Program Evaluation Status

MSPB Program Evaluation Status		
Program/ System to Evaluate	**Evaluation Start Year**	**Status**
Case processing and data integrity in the ROs/FOs	**2017**	Initial information was provided by the GAO WPEA report. Additional information was provided in the internal assessment of data entry processes for case management data. In FY 2018, further information was provided in conjunction with our efforts to define the adjudication process as part of the initiative to develop requirements for new core business applications. Results of these efforts will help ensure compliance with GAO's recommendations from the WPEA report and the development of an agency-wide performance measurement policy. In addition, the automated process for surveying initial appeals and ADR participants provides ongoing data to inform next steps in this program evaluation. MSPB's adjudication process may also be affected by legislative changes in the appeals process including specific timeliness and procedural requirements.
Functions of ORO	**2018**	In FY 2018, we developed requirements for modernizing our core business applications, including business process narratives, breakdowns of internal and external users groups, and data flow diagrams. This baseline information provides a starting point to help structure and inform any evaluation of our adjudicatory processes. While program evaluation of ORO functions was not the focus of the requirements development effort, it was helpful in better understanding our processes and systems. Further steps in conducting an evaluation of ORO functions will await guidance from a new Chairman.

Proposed Program Evaluation and Performance Measurement System Review Schedule

Efforts to develop an agency policy for performance measurement, verification, and validation resulted in realization that such a policy has implications for and is related to Governmentwide policy efforts involving data quality and integrity, data management and governance, and related issues. This work continued in FY 2020 as resources allowed. Based on the availability of resources, a projected schedule for program evaluation activities through FY 2021 is provided below. Additional specifications for these evaluations and changes in the evaluation focus or schedule may occur when the quorum is restored and we have a new Chairman.

Program/Performance Measurement System	Evaluation Start (FY)
Implementation of SHCP process	2021
Assess agency telework usage and reporting	2021

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Appendix A: WPEA Data for FY 2020

In accordance with the WPEA, MSPB is providing this information about whistleblower appeals in FY 2020. This report reflects cases processed from October 1, 2019, through September 30, 2020, and includes data on receipts and outcomes of initial appeals, and receipts of PFRs, in which violations of 5 U.S.C. § 2302(b)(8) and/or 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D) were alleged.[16] Adjudicating appeals is an ongoing process and appeals are often closed in a different year than they were received. Therefore, the figures for initial appeals (or cases) received (i.e., Figure 1) and outcomes of initial appeals processed (i.e., Figures 3 and 6) in any given year will not be comparable. Data for PFRs received with claims related to whistleblowing are included in Figure 9. Data on PFR outcomes for whistleblower cases are not included in this report, as no PFR decisions were issued by the Board at HQ in FY 2020 due to the continued lack of quorum.[17]

There generally are two types of appeals that can involve claims of reprisal under §§ 2302(b)(8) and (b)(9). An otherwise appealable action (OAA) appeal involves an action that is directly appealable to the Board, such as a removal, demotion, or suspension of more than 14 days. In such an appeal, MSPB will review both the appealable action and the claim of reprisal for engaging in protected activity as an affirmative defense. An individual right of action (IRA) appeal – which may be based on an action that could have been appealed directly to the Board or on a less severe action that is not directly appealable – is limited to the issue of whether the action was taken because of protected activity. In this kind of case, the individual can appeal the claim of reprisal to the Board only if they file a complaint with the Office of Special Counsel (OSC) first, and OSC does not seek corrective action on the individual's behalf.[18]

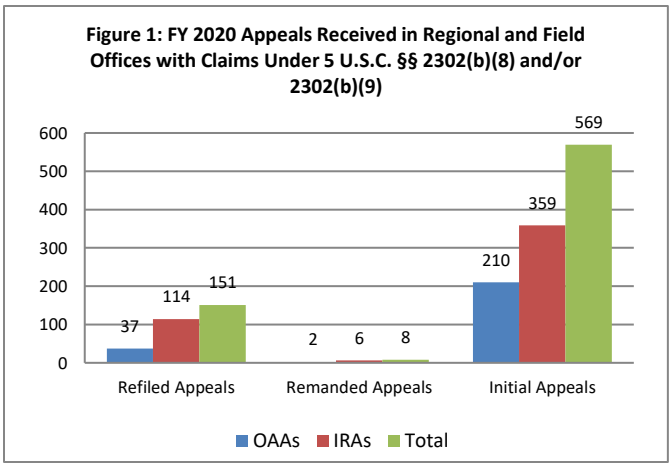


Figure 1 displays data on the number and types of appeals that MSPB received in FY 2020 in which violations of 5 U.S.C. §§ 2302(b)(8) and/or (b)(9) were alleged. Appeals "received" by ROs/FOs fall into three categories: initial appeals, remanded appeals, and refiled appeals. "Initial appeals" are new appeals filed by an appellant for the first time and thus represent new cases alleging reprisal. "Remanded appeals" are appeals that were previously adjudicated by a RO/FO, but which have been remanded on PFR by the Board at HQ, or by a Federal circuit court on appeal of a final Board decision.[19] "Refiled appeals" are appeals that are refiled – by the appellant or on the AJ's own motion – because they were previously dismissed without prejudice (DWOP) to refiling. A DWOP is a procedural option that allows for the dismissal and subsequent refiling of an appeal, often to allow the parties more time to prepare for the litigation of their cases. Remanded or refiled appeals are not new cases; they are separately docketed appeals that are related to initial appeals filed earlier in the same FY or in a prior FY.

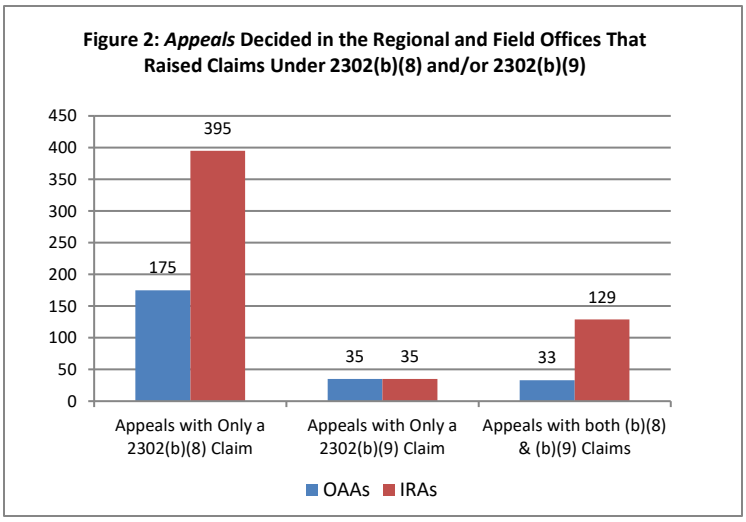
[16] This report generally refers to claims raised under 5 U.S.C. § 2302(b)(9); however, this report does not include claims raised under § 2302(b)(9)(A)(ii), as 5 U.S.C. § 1221(a) allows appellants to seek corrective action from MSPB as a result of prohibited personnel practices described only in § 2302(b)(8) or § 2302(b)(9)(A)(i), (B), (C), or (D).

[17] Since January 8, 2017, the Board has not had a quorum, and since March 1, 2019, the Board has not had any presidentially appointed, Senate-confirmed Board members. Since the lack of quorum began, no PFR decisions have been issued by the Board at HQ.

[18] Complaints in IRA appeals go first to OSC for review and, if warranted, OSC conducts an investigation. 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.

[19] In FY 2020, there were no appeals remanded by the Board, as no Board decisions were issued on PFRs due to the lack of quorum. All remanded appeals in Figure 1 are cases that were remanded by a Federal circuit court on appeal of a final Board decision.

If the related initial appeal was filed in the same FY, it would be included in the number of "initial appeals." Because the ROs/FOs must process and issues decisions in remanded and refiled appeals, these appeals are considered part of MSPB's workload of appeals containing claims under §§ 2302(b)(8) and/or 2302(b)(9).



An appellant can file an appeal alleging a violation of § 2302(b)(8) only, a violation of § 2302(b)(9) only, or a violation of both.[20] Figure 2 depicts the number of appeals, both OAA appeals and IRA appeals, that were decided in FY 2020 in the regional and field offices and whether the appeal contained (a) a claim(s) under § 2302(b)(8) only; (b) a claim(s) under § 2302(b)(9) only; or (c) claims under both §§ 2302(b)(8) and (b)(9).

Figure 3 breaks down the totals displayed in Figure 2 for OAA appeals by depicting the outcomes of OAA appeals decided in the ROs/FOs in which violations of §§ 2302(b)(8) and/or (b)(9) were alleged. It is important to note that the outcome of an OAA *appeal* is separate from the outcome of a §§ 2302(b)(8) or (b)(9) *claim*.[21] An OAA appeal can be dismissed for a variety of reasons that have nothing to do with the merits of any 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 includes appeals that were withdrawn and appeals that were DWOP.[22] 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: Outcomes in OAA *Appeals* Decided in the Regional and Field Offices

Types of Claim(s) Raised	DWOP	Settled	Withdrawn	Dismissed (other than DWOP)	Adjudicated on the Merits	Total
Section 2302(b)(8) Only	37	21	14	59	44	175
Section 2302(b)(9) Only	3	4	4	7	17	35
Both sections 2302(b)(8) and (b)(9)	6	3	3	7	14	33

[20] Sections 2302(b)(8) and (b)(9) prohibit reprisal against an employee or applicant for employment based on different types of protected activity. Section 2302(b)(8) prohibits reprisal because of any disclosure that the employee or applicant reasonably believes evidences certain enumerated categories of wrongdoing. Employees who allege a violation of (b)(8) are typically referred to as alleging "reprisal for whistleblowing." Section 2302(b)(9)(A)(i) prohibits reprisal because of the exercise of any appeal, complaint, or grievance right with regard to a violation of § 2302(b)(8). Section 2302(b)(9)(B) prohibits reprisal because of testifying for or otherwise assisting any individual in the exercise of any right under § 2302(b)(9)(A)(i) or (ii). Section 2302(b)(9)(C) prohibits reprisal because of cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency or OSC. Section 2302(b)(9)(D) prohibits reprisal for refusing to obey an order that would require the individual to violate a law.

[21] The WPEA requires MSPB to report outcomes of appeals; however, when possible, MSPB also reports and summarizes the outcomes of claims.

[22] Note that DWOP cases are listed here for completeness, but they do not reflect the final outcomes of whistleblower issues. DWOP cases can be refiled for final review of these issues.

In a case in which an appellant raises both §§ 2302(b)(8) and (b)(9) claims, the outcomes of those claims may differ.[23] Therefore, we are reporting the outcome of both (b)(8) and (b)(9) claims for cases in which both claims were raised and the OAA appeal was adjudicated on the merits, as depicted in Figures 4 and 5 below.

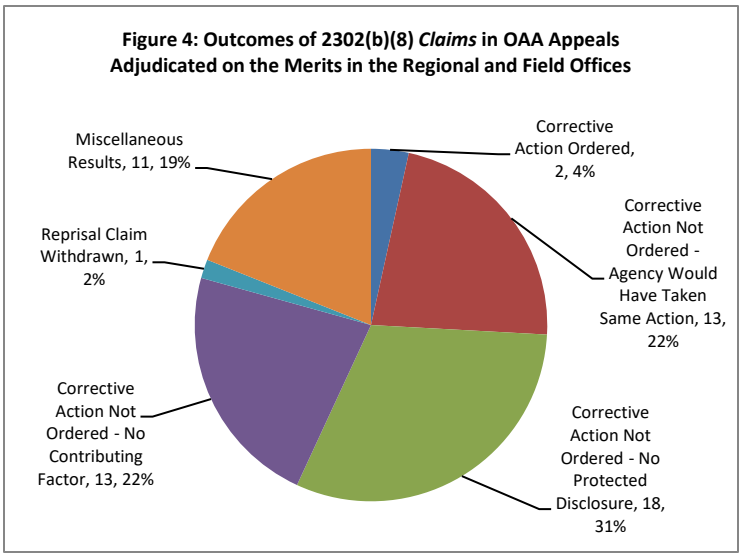


Figure 4 displays the resolution of § 2302(b)(8) claims within the 58 OAA appeals adjudicated on the merits in the ROs/FOs.[24] It includes both the 44 OAA appeals adjudicated on the merits with a § 2302(b)(8) claim only, as well as the 14 OAA appeals adjudicated on the merits with both §§ 2302(b)(8) and (b)(9) claims, as referenced in Figure 3.[25]

The fact that corrective action is not ordered in an OAA appeal does not necessarily mean that the appellant obtained no relief. For example, in a removal appeal in which the appellant alleges 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 reprisal. In any appeal involving a reprisal claim, the Board shall order corrective action for the reprisal claim if the appellant has demonstrated that: (1) they made a protected disclosure; (2) the agency has taken or threatened to take a personnel action against them; and (3) their 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 5 depicts the resolution of § 2302(b)(9) claims within the 31 OAA appeals adjudicated on the merits in the ROs/FOs. This figure includes the 17 OAA appeals adjudicated on the merits with a § 2302(b)(9) claim only and the 14 OAA appeals adjudicated on the merits with both §§ 2302(b)(8) and (b)(9) claims, as referenced in Figure 3. Figure 4 divides the outcomes of § 2302(b)(8) claims within OAA appeals adjudicated on the merits into subcategories of "Corrective Action Not Ordered" (i.e., no contributing factor, no protected disclosure, and the agency would have taken the same action). However, Figure 5 displays the outcomes of

Figure 5: Outcomes of § 2302(b)(9) *Claims* in OAA Appeals Adjudicated on the Merits in the Regional and Field Offices

Corrective Action Ordered	Corrective Action Not Ordered	Claim Withdrawn	Miscellaneous Results	Total
0	29	0	2	31

[23] For example, an appellant may allege that he was removed in violation of § 2302(b)(8) for disclosing to his supervisor his belief that a practice at the agency endangered public health. In the same appeal, he also may allege that he was removed in violation of § 2302(b)(9) for testifying in a coworker's MSPB appeal which involved remedying a violation of § 2302(b)(8). In such a case, the appellant may decide to withdraw his § 2302(b)(9) claim, but prevail on his (b)(8) claim. Under that scenario, the outcome of the (b)(9) claim would be "Withdrawn," whereas the outcome of the (b)(8) claim would be "Corrective Action Ordered."

[24] Figure 4 also includes a category of "Miscellaneous Results," which represents OAA appeals that were adjudicated on the merits but wherein the § 2302(b)(8) claims in those cases were not adjudicated on the merits. An AJ may fully adjudicate an OAA appeal on the merits but not adjudicate the reprisal claim for a variety of reasons. For example, an AJ may strike a reprisal claim as a sanction for an appellant's repeated failure to comply with the AJ's orders, or determine that the Board is precluded from considering the reprisal claim because a security clearance determination is at issue.

[25] In FY 2020, there were no OAA appeals adjudicated on the merits in which a section 2302(b)(8) claim was raised and corrective action was not ordered because there was no personnel action; thus, Figure 4 does not include a category for "Corrective Action Not Ordered – No Personnel Action."

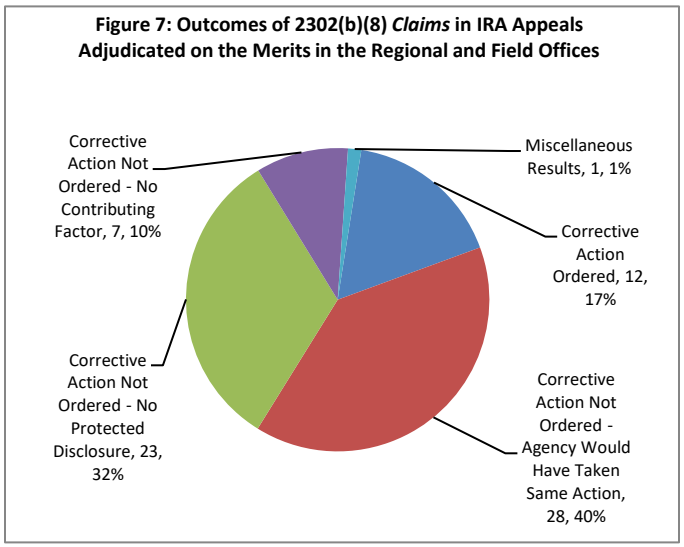
§ 2302(b)(9) claims within OAA appeals adjudicated on the merits only in the broader categories of "Corrective Action Ordered," "Corrective Action Not Ordered," "Claim Withdrawn" and "Miscellaneous Results."[26] Additionally, the "Corrective Action Not Ordered" category in Figure 5 includes OAA appeals in which the § 2302(b)(9) claim was not reached. As explained above with respect to Figure 4, an AJ may fully adjudicate an OAA appeal on the merits but not adjudicate the reprisal claim for a variety of reasons. As previously noted, the outcome of an *appeal* is separate from the outcome of a §§ 2302(b)(8) or (b)(9) *claim*.

Figure 6: Outcomes in IRA Appeals Decided in the Regional and Field Offices

Type of Claim(s)	DWOP	Settled	Withdrawn	Dismissed, Failure to Exhaust	Dismissed, Other Grounds	Adjudicated on Merits	Total
Section 2302(b)(8) Only	86	101	24	27	113	44	395
Section 2302(b)(9) Only	2	2	2	0	21	8	35
Both sections 2302(b)(8) and (b)(9)	32	19	4	3	44	27	129

Figure 6 breaks down the totals displayed in Figure 2 for IRA appeals by depicting the outcomes of those cases decided in the regional and field offices in which violations of §§ 2302(b)(8) and/or (b)(9) were alleged. In an IRA appeal, an appellant "shall seek corrective action from OSC before seeking corrective action from the Board."[27] 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.[28] Figure 6 also includes IRA appeals that were dismissed without prejudice.[29] In addition, as in OAA appeals, 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 7 depicts the resolution of § 2302(b)(8) claims within the 71 IRA appeals adjudicated on the merits in the ROs/FOs. It includes the outcomes of the 44 IRA appeals adjudicated on the merits with a § 2302(b)(8) claim only and the 27 IRA appeals adjudicated on the merits with both §§ 2302(b)(8) and (b)(9) claims, as referenced in Figure 6.[30] Just as in an OAA appeal, the Board shall order corrective action for the reprisal claim in an IRA appeal if the appellant has demonstrated that: (1) they made a protected disclosure; (2) the agency has taken or threatened to take a personnel action against them; and (3) their protected disclosure was a contributing factor



[26] The "Miscellaneous Results" category represents OAA appeals that were adjudicated on the merits but the § 2302(b)(9) claims in those cases were not adjudicated on the merits.

[27] 5 U.S.C. § 1214(a)(3).

[28] In Figure 6, within the category of "Dismissed, Other Grounds," the 21 IRA appeals in which a violation of § 2302(b)(9) only was alleged include IRA appeals that were dismissed for failure to exhaust.

[29] Note that DWOP cases are listed here for completeness, but do they not reflect the final outcomes of whistleblower issues. DWOP cases can be refiled for final review of these issues.

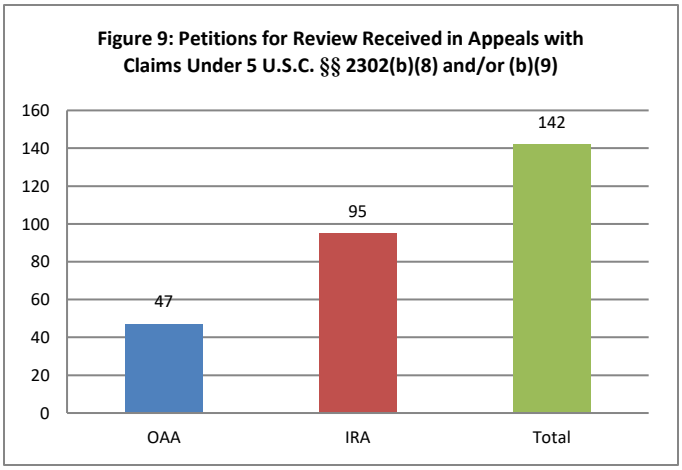
[30] In FY 2020, there were no IRA appeals adjudicated on the merits in which a section 2302(b)(8) claim was raised and corrective action was not ordered because there was no personnel action; thus, Figure 7 does not include a category for "Corrective Action Not Ordered – No Personnel Action."

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 8 depicts the resolution of § 2302(b)(9) claims within the 35 IRA appeals adjudicated on the merits in ROs/FOs. This includes the outcomes of the 8 IRA appeals adjudicated on the merits with a §§ 2302(b)(9) claim only and the 27 IRA appeals adjudicated on the merits with both § 2302(b)(8) and (b)(9) claims, as referenced in Figure 6. While Figure 7 divides the outcomes of § 2302(b)(8) claims within IRA appeals adjudicated on the merits into subcategories of "Corrective Action Not Ordered" (i.e., no contributing factor, no protected disclosure, and the agency would have taken the same action), Figure 8 displays the outcomes of § 2302(b)(9) claims within IRA appeals adjudicated on the merits only in the broader categories of "Corrective Action Ordered," "Corrective Action Not Ordered," "Claim Withdrawn" and "Miscellaneous Results." The "Corrective Action Not Ordered" category includes IRA appeals in which the § 2302(b)(9) claim was not reached.

Figure 8: Outcomes of § 2302(b)(9) Claims in IRA Appeals Adjudicated on the Merits in the Regional and Field Offices

Corrective Action Ordered	Corrective Action Not Ordered	Claim Withdrawn	Miscellaneous Results	Total
3	32	0	0	35



An appellant or an agency dissatisfied with an AJ's initial decision on an OAA or IRA appeal may file a PFR with the full Board at MSPB headquarters. Figure 9 shows the number of PFRs the Board received (on both OAA and IRA appeals) involving §§ 2302(b)(8) and/or (b)(9) claims. No Board decisions were issued on PFRs in FY 2020 due to the continued lack of quorum; however, MSPB continues to receive, review, and draft proposed decisions on PFRs. In addition, on May 11, 2018, former Vice Chairman Mark A. Robbins signed a policy stating that the Clerk of the Board may now exercise the delegated authority to grant a withdrawal of a PFR when requested by a petitioner if there is no apparent untimeliness of the petition and if no other party objects to the withdrawal.[31] In FY 2020, the Office of the Clerk of the Board granted 5 requests to withdraw PFRs in cases that involved §§ 2302(b)(8) and/or (b)(9) claims.

[31] https://www.mspb.gov/MSPBSEARCH/viewdocs.aspx?docnumber=1515773&version=1521400&application=ACROBAT

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

In accordance with 5 U.S.C. § 7701(i)(1) and (2), MSPB provides FY 2020 case processing information. In FY 2020, MSPB processed 5,473 total cases (not including ALJ and original jurisdiction cases at HQ). Seventy-four percent of initial appeals (including addendum cases) were processed in 120 days or less.[32]

Due to the lack of a quorum for all of FY 2020, MSPB issued no decisions from HQ. Therefore, we will not report timeliness information for processing PFR cases at HQ. However, 18 PFR cases were withdrawn by order of the Clerk of the Board under a policy begun in May 2018. These cases did not involve a decision issued by the Board (because there was no quorum), so they are not included in any case processing statistics.

In general, each case is adjudicated on its merits consistent with law and legal precedent and in a manner consistent with the interest of fairness, which is achieved by assuring due process and the parties' full participation at all stages of the appeal. Under normal circumstances, 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 and people, hold conferences with the parties, arrange for and question witnesses, present evidence, conduct hearings, and, often, to participate in ADR 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 or particularly complex legal issues, numerous factual issues, or the interpretation of new statutory or regulatory provisions. In addition, when Board members (assuming a quorum exists) do not agree about 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.

[32] In June 2017, Congress set a 180-day limit for MSPB AJ's to issue decisions in VA adverse action cases (38 U.S.C. § 714(d).

Appendix C: Modernization of Public-facing Digital Services Report[33]

U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the General Counsel
1615 M Street, N.W.
Washington, DC 20419

Phone: (202) 653-6772; Fax: (202) 653-6203; E-Mail: Tristan.Leavitt@mspb.gov

General Counsel

January 11, 2020

The Honorable Russell Vought
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Modernization of Public-facing Digital Services Report

Dear Director Vought,

In accordance with sections 3(b) and (d) of the 21st Century Integrated Digital Experience Act (21st Century IDEA), I am pleased to provide the Merit Systems Protection Board's (MSPB) report on modernizing our public-facing digital services.

MSPB has two primary websites for public engagement: our electronic filing website, e-Appeal Online, at https://e-appeal.mspb.gov, and our agency website at https://www.mspb.gov. Both websites are part of a broader information technology (IT) modernization effort that began in fiscal year (FY) 2018 with requirements development for updating and consolidating our legacy case management, document assembly, and document management systems, among others. Our websites rely on and interact with the documents and information in these legacy systems. As such, each is a priority for modernization to meet the requirements in section 3(a) of 21st Century IDEA.

In fiscal year (FY) 2019, MSPB contracted with Tyler Technologies, a FedRAMP-certified provider of case management software and IT services, to begin this effort. Although the project was paused for several months in FY 2020 as we adjusted our operations in response to the pandemic, we made additional progress. To date we have wireframed the entire application and completed development sprints covering a substantial portion of our adjudicatory business processes, including a public-facing electronic filing portal that will replace the existing e-Appeal Online. We anticipate pilot testing the new system in calendar year 2021, with full implementation in FY 2022. The projected cost for the modernization of our electronic filing website is $423,000.

MSPB began modernizing its agency website in FY 2019 with the goal of adopting U.S. Web Design Standards, improving search functionality using Search.gov, leveraging the General Services Administration's Digital Analytics Program, and providing an updated, consistent appearance across devices, including mobile. The new website was released to agency employees for testing during FY 2020, and we expect to

[33] In accordance with the 21st Century Integrated Digital Experiences Act (IDEA), Pub. L. 115-336.

implement the website in calendar year 2021. The new website will fully comply with all eight elements in section 3(a) of 21st Century IDEA. The projected cost for the MSPB website is $57,000.

We are pleased with our progress in modernizing our public-facing digital services, and look forward to implementation in FY 2021 and FY 2022. Should you or your staff have any questions about this report, please have them contact Robert Duffy, Chief Information Officer, at 202-254-4776 or robert.duffy@mspb.gov.

Sincerely,

Tristan L. Leavitt
General Counsel*

TLL/rd

* Because currently there are no presidentially-appointed, Senate-confirmed Board members, pursuant to MSPB's Continuity of Operations Plan, the functions of MSPB's chief executive and administrative officer are vested in the General Counsel.

Appendix D: More Information about MSPB

MSPB's Role, Functions, and Scope of Responsibilities

During congressional hearings on the CSRA before it was passed in 1978, various members of Congress testified and described the role and functions of MSPB, stating that "[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."[34] MSPB inherited CSC's adjudication functions and provides due process to employees as an independent, third-party adjudicatory authority for employee appeals including 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. Subsequent to the CSRA, Congress expanded MSPB's jurisdiction to hear appeals under a variety of other laws, giving it authority over a wide range of appeals.[35] 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 U.S. Postal Service employees and uniformed military service members.[36]

Findings and recommendations from MSPB's merit systems 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 generally are 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 systems and helps ensure that Federal employees are managed in adherence with the MSPs and free from PPPs. This authority includes employees in all agencies for which OPM sets policy, beyond the specific individual employees who may file appeals with MSPB. MSPB's customers, partners, and stakeholders include a wide range of policymakers; 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, D.C. and has six regional and two field offices located throughout the United States. The agency is currently authorized to employ 235 FTEs to conduct and support its statutory duties.

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[34] 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).

[35] Beyond those included in 5 U.S.C. chapters 43 and 75, and all those set out at 5 C.F.R. Part 1201.3; the Federal Employee Retirement System (FERS) Act of 1986, 5 U.S.C. § 8461(e), enacted by Pub. L. 99-335, Title I, § 101, 100 Stat. 571 (1986); USERRA, Pub. L 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)(11), and as amended by the WPEA (Pub. L. 112-199); the Hatch Act Modernization Act of 2012; the VA Accountability and Whistleblower Protection Act, Pub. L. 115-41, enacted on June 23, 2017; the Follow the Rules Act (Pub. L. 115-40), enacted on June 14, 2017; the authority for a single Board member to extend OSC stay requests (Pub. L. 115-42); the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 (Pub L. 115-73, enacted on October 26, 2017, and most recently, section 5721 of the NDAA of FY 2020 (Pub. L. 116-92) enacted on December 20, 2019.

[36] This includes 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 RIF actions affecting a career or career candidate appointee in the Foreign Service pursuant to 22 U.S.C. § 4010a.

The **Board members**, consisting of the Chairman, Vice Chairman, and Board Member, are appointed by the President, confirmed by the Senate, and serve overlapping, nonrenewable 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. Except for the EEO Director who reports directly to the Chairman, the Directors of the following offices report to the Chairman through the Executive Director.

The **Office of the Administrative Law Judge** adjudicates and issues initial decisions in corrective and disciplinary action complaints (including Hatch Act complaints) brought by OSC, proposed agency actions against ALJs, MSPB employee appeals, and other cases assigned by MSPB. In FY 2020, the functions of this office were performed by ALJs at the Federal Trade Commission and the Coast Guard 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 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 online information services, and administers the FOIA and Privacy 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 EEO 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 servicing agreements with the U.S. Department of Agriculture's (USDA) National Finance Center (NFC) for payroll services, the U.S. Department of the Treasury's Bureau of the Fiscal Services (BFS) for accounting services, and USDA's Animal and Plant Health Inspection Service (APHIS) for human resources services.

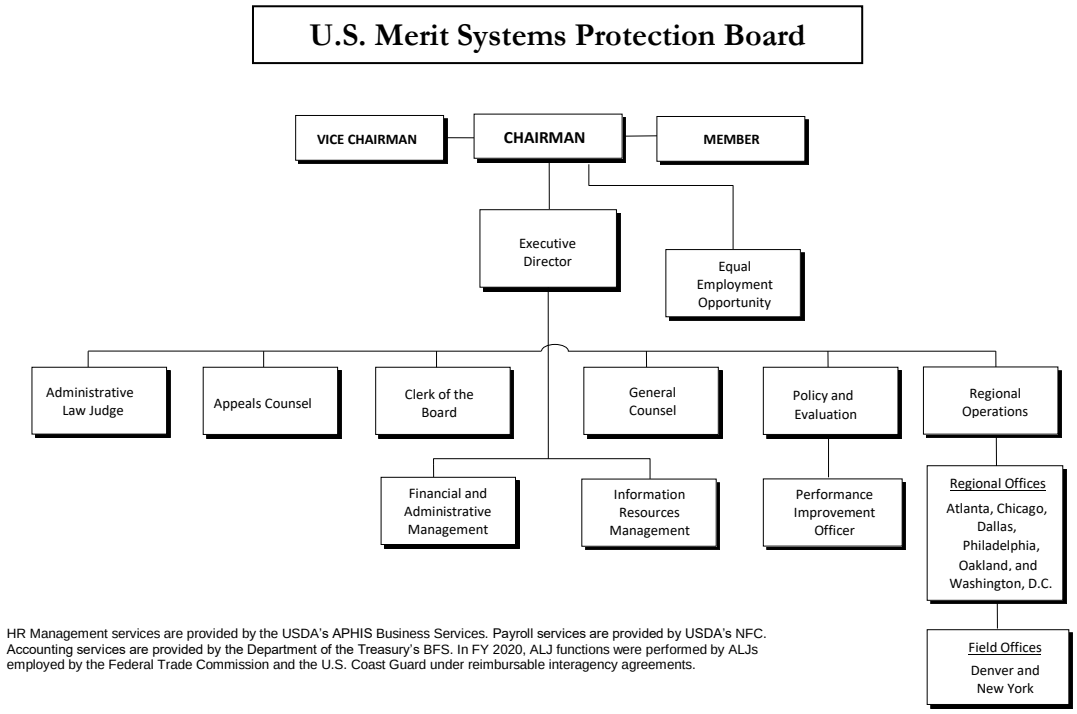
The **Office of the General Counsel**, as legal counsel to MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents MSPB in litigation; coordinates the review of OPM rules and regulations; prepares proposed decisions for the Board 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 technology systems, infrastructure, enterprise hardware and software applications, and cybersecurity programs 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 GPRAMA.

The **Office of Regional Operations** oversees the agency's six ROs and two FOs that receive and process appeals and related cases. It also manages MSPB's MAP. AJs in the ROs/FOs 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 of vacancies 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 jobs and job protections are provided to the most highly

qualified applicants. This, in turn, helps reduce the likelihood that the Government will need to undertake the process to remove employees 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 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 the legal system and the merit systems. The quality of MSPB's decisions is evidenced by the high affirmance rate of its decisions by the courts. 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 provide guidance to agencies and employees on proper behavior and the ramifications of improper behavior. This information, shared through outreach, our regulations, 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 learn 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. 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, research and perspective briefs, and other articles posted to our website and through outreach. For example, one MSPB report provides information on and dispels misconceptions about due process in the civil service, which is useful to policymakers, 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's significant actions, rules, and regulations protects the integrity and viability of the civil service and merit systems 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 increased confidence that the Government is doing its job well and appropriately managing its 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 personnel practices that were prohibited (PPPs) because they were contrary to merit system values.[37] 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

[37] 5 U.S.C. § 2301 and § 2302, respectively.

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, The Director leads the Board's newly-established Diversity and Inclusion Council, a group of volunteers tasked with: developing the agency's diversity policy and recruitment strategies; performing civil rights barrier analysis and personnel policy reviews; also, forming Employee Resource Groups, and expanding Special Emphasis Program activities as required under 29 CFR § 1614.102. and protection against reprisal for lawful disclosure of violations of law and waste, fraud, and abuse. The MSPs 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, disabling (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 willfully 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 gross 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 assistance to another in the person's exercise of his or her rights; or based on past conduct that does not adversely affect the job. The actions also must not: knowingly violate veterans' preference requirements; violate the MSPs; or implement or enforce a nondisclosure policy, form, or agreement, which lacks a specific statement that its provisions are consistent with and do not supersede applicable statutory whistleblower protections. On October 26, 2017, Congress created a 14th PPP, which prohibits access of medical records as part of, or to further, any conduct related to, any other PPP.[38] On December 20, 2019, section 5721 of the NDAA for FY 2020 expanded the definition of disclosure under 5 U.S.C. 2302(b)(8) to include disclosures to Congress.[39]

[38] The Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, Pub. L. 115-73), amends 5 U.S.C. § 2302(b) to add "(14) access to the medical records of another employee or applicant for employment as a part of, or otherwise in furtherance of, any conduct described in paragraphs (1) through (13)."

[39] Pub. L. 116-92, the NDAA for FY 2020.

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List of Common Abbreviations and Acronyms

ADR	Alternative Dispute Resolution
AES	Annual Employee Survey
AJ	Administrative Judge
ALJ	Administrative Law Judge
APHIS	USDA's Animal and Plant Health Inspection Service
APR-APP	Annual Performance Report and Annual Performance Plan
AR	MSPB Annual Report
BFS	Department of Treasury's Bureau of Fiscal Services
CAFC	Court of Appeals for the Federal Circuit
CBA	Collective Bargaining Agreement
CBJ	Congressional Budget Justification
CIO	Chief Information Officer
COOP	Continuity of Operations Plan
COVID-19	Novel coronavirus
CSC	Civil Service Commission
CSRA	Civil Service Reform Act of 1978
DOI	Department of Interior
DWOP	Dismissal Without Prejudice
ECF	Electronic case files
EEO	Equal Employment Opportunity
EHRI	Enterprise Human Resource Integration
EO	Executive Order
FAIR	Forced Arbitration Injustice Repeal Act (FAIR)
FAQs	Frequently Asked Questions
FDS	Federal Data Strategy
FedRAMP	Federal Risk and Authorization Management Program
FEVS	Federal Employee Viewpoint Survey
FLRA	Federal Labor Relations Authority
FO	Field office
FOIA	Freedom of Information Act
FY	Fiscal Year
GAO	Government Accountability Office
GPRAMA	GPRA Modernization Act of 2010
HC	Human Capital
HR	Human Resources
HQ	Headquarters
IDEA	21st Century Integrated Digital Experience Act
IoM	*Issues of Merit* newsletter
IRA	Individual Right of Action (type of whistleblower appeal)
IS	Internal Survey
IT	Information Technology

MAP	Mediation Appeals Program
MPS	Merit Principles Survey
MSP	Merit System Principles
MSPB	Merit Systems Protection Board
NBC	DOI National Business Center
NDAA	National Defense Authorization Act
NFC	USDA's National Finance Center
OAA	Otherwise Appealable Action
OCB	Office of the Clerk of the Board
OMB	Office of Management and Budget
OPE	MSPB's Office of Policy and Evaluation
OPM	Office of Personnel Management
ORO	MSPB's Office of Regional Operations
OSC	Office of Special Counsel
PFR	Petition for Review of an Initial Decision
PG	Performance Goal
PIO	Performance Improvement Officer
PPP	Prohibited Personnel Practices
PRA	Paperwork Reduction Act
PWS	Performance Work Statement
RFI	Request for Information
RFQ	Request for Quote
RIF	Reductions in Force
RO	Regional office
SEC	Securities and Exchange Commission
SES	Senior Executive Service
SHCP	Strategic Human Capital Plan (or planning)
U.S.C.	United States Code
USCIS	United States Citizenship and Immigration Services
USDA	U.S. Department of Agriculture
VA	Department of Veterans Affairs
WPEA	Whistleblower Protection Enhancement Act of 2012

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