



U.S. Merit Systems Protection Board

APR-APP

for

FY 2013 - 2015

**Annual Performance Report for FY 2013
and
Annual Performance Plan for
FY 2014 (Final) – FY 2015 (Proposed)**

March 10, 2014

MSPB

Annual Performance Report for FY 2013

and

**Annual Performance Plan for
FY 2014 (Final) and FY 2015 (Proposed)**

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Forward

The U.S. Merit Systems Protection Board submits this Annual Performance Report and Annual Performance Plan (APR-APP). The APR-APP combines the Annual Performance Report for FY 2013 with the Annual Performance Plan for FY 2014 (Revised)–2015(Proposed) as required by the Government Performance and Results Act Modernization Act of 2012 (GPRAMA). It also contains information about MSPB appeals processing as required by Section 7701(i)(1) and (2) of Title 5 United States Code, and information about whistleblower cases processed by MSPB in accord with the Whistleblower Protection Enhancement Act of 2012 (WPEA).

The APR-APP contains information about MSPB including: its origin in relation to civil service history; its role and functions; its scope of responsibility; its organization and structure; how it brings value to the merit systems, Federal agencies, the workforce, and the public; and provides information about the merit system principles (MSPs) and prohibited personnel practices (PPPs). The APR-APP contains the annual performance report for FY 2013 comparing actual results to performance targets and includes prior year results for comparative purposes. The APR-APP also contains the final performance goals, measures, and targets for FY 2014 and proposed targets for FY 2015 along with explanatory information on changes. The APR-APP includes an overall summary of the external trends and challenges that have affected or may continue to affect MSPB's performance and information about performance measurement and program evaluation.

The APR-APP has been prepared in accordance with guidance provided by the Office of Management and Budget (OMB) and other sources. Except for clerical support, the APR-APP was prepared by Government Employees. The APR-APP is available on the MSPB website www.mspb.gov.

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

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U.S. Merit Systems Protection Board Annual Performance Report for FY 2013 and Annual Performance Plan for FY 2014 (Final) and FY 2015 (Proposed)

Introduction

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

The FY 2013 Annual Performance Report (APR) contains performance results compared to targets in the FY 2013 Annual Performance Report and Plan ([APRP](#)). The report also contains information about whistleblowing appeals as required under the Whistleblower Protection Enhancement Act of 2012 (see Appendix A). The Annual Performance Plan (APP) contains performance goals, measures, and targets for the strategic and management objectives defined in MSPB's Strategic Plan for FY 2014 – 2018 which is available on the MSPB website www.mspb.gov. The APP includes the performance plan for FY 2014 (Revised) and for FY 2015 (Proposed).

Summary of Critical Issues

External Challenges and Trends: The most significant external issue currently affecting MSPB's ability to carry out its mission are the consequences of budget sequestration and other reductions in the Federal budget. Governmentwide sequestration took effect in March 2013 and resulted in hundreds of thousands of furloughs of Federal employees. Almost 32,500 furloughed employees filed appeals of their furloughs with MSPB, approximately five times the number of initial appeals MSPB typically receives in one year. Almost 32,000 of the furlough appeals were filed over a 5-6 week period by Department of Defense (DoD) employees. This increase in initial appeals is having an extraordinary impact on MSPB's Regional and Field offices. The volume and filing pace of new furlough appeals is also straining MSPB's processes and IT infrastructure.

The thousands of furlough appeals from DoD have been docketed, and a significant number of furlough appeals have been consolidated in order to adjudicate them effectively and efficiently. MSPB is implementing a range of case processing strategies to resolve these appeals, and investing in long-term improvements in electronic adjudication. Adjudication of furlough appeals is proceeding in conjunction with adjudication of other adverse actions appeals and appeals filed on other matters for which MSPB has jurisdiction (e.g., appeals related to whistleblowing, retirements, various veterans' hiring authorities, etc.). MSPB is committed to issuing decisions in all furlough appeals by the end of FY 2015 while maintaining the processing of non-furlough appeals as effectively as possible.

In the absence of historical furlough case processing data, we generally anticipate a proportional increase in the number of furlough Petitions for Review (PFRs) filed at headquarters (HQ)

beginning in FY 2014. Although sequestration is not anticipated for FY 2014 or FY 2015, budget reductions for individual agencies may lead to additional furloughs or more permanent workforce reduction actions such as Reductions in Force (RIFs). At this time, it is not possible to anticipate how these budget actions will affect the number of initial appeals (and subsequently PFRs) in FY 2014 or 2015.

Enactment of the WPEA is also affecting how MSPB processes cases. The WPEA provides additional rights to whistleblowers and those who engage in other protected activity in the Federal government, clarifies the scope of protected disclosures, expands jurisdiction and options for granting corrective action, and permits the review of MSPB decisions by multiple Federal Courts of Appeal. As a result, MSPB is experiencing an increase in the number of whistleblower initial appeals and an increase in the complexity of processing whistleblower cases. In addition, the WPEA will likely lead to more hearings on whistleblower cases and more addendum appeals such as claims for compensatory and other damages or attorney's fees related to whistleblower appeals. The WPEA also requires MSPB to track and report more detailed information about whistleblowing cases in its performance reports. MSPB will require additional resources to enable it to meet the adjudication and record keeping requirements of the WPEA.

The WPEA and the extraordinary increase in our adjudication workload does not change MSPB's responsibility to continue to process other appeals and to perform its other statutory functions to enforce its decisions, conduct merit systems studies, and review OPM rules, regulations, and significant actions. MSPB is committed to performing its functions to the best of its ability and to justifying and requesting the resources necessary to carry out its responsibilities.

Internal Challenges: Internally, current vacancies, retirement eligibility of MSPB employees especially among administrative judges (AJs), budget constraints and budget uncertainties, and competing priorities for existing resources, have had an adverse effect on MSPB's performance. At the end of FY 2013, MSPB had 196 positions filled of its authorized 226 FTE. Approximately one-third of MSPB employees, including almost 50 percent of MSPB AJs, will be eligible to retire in the next two years. Although MSPB replaced writing attorneys who departed in 2013, additional vacancies remain for these attorneys who identify legal issues and draft decisions for the Board members to consider. Once hired, it typically takes 2–3 years for professionals in key positions to reach journey-level status, thus prolonging the impact of vacancies on agency performance. Resource limitations and budget uncertainties have prevented or delayed the ability to fill vacancies or implement succession planning to prepare for retirements. Resource limitations and competing priorities for fewer resources are affecting average processing time for both initial appeals and PFRs, the number of merit system studies produced, and outreach especially when it involves travel or requires extensive preparation or staff time. They also have limited MSPB's progress in obtaining an effective web-based survey platform necessary to conduct surveys in support of merit systems studies and to obtain customer satisfaction feedback. Competing priorities also have delayed implementation of the program evaluation schedule. All of these issues are exacerbated by the unprecedented number of furlough appeals, creating additional internal challenges such as the strain on IT infrastructure. MSPB will use its FY 2014 enacted budget resources to mitigate its short-term resource issues and make long-term investments to ensure its ability to achieve its goals effectively.

Additional information about [external trends](#) and [internal activities and challenges](#) can be found in the relevant sections of this plan. The external factors and internal challenges MSPB is facing have necessitated changes in the performance goals and targets for FY 2014 and limited our ability to set some targets for FY 2014 and 2015. Information about how goals, measures, and targets for each strategic and management objective are included in the section on [Performance Goals, Measures, Results, and Targets](#).

About the U.S. Merit Systems Protection Board

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

During the following decades, it became clear that the CSC could not properly, adequately, and simultaneously set managerial policy, protect the merit systems, and adjudicate employee appeals. Concern over the inherent or perceived conflict of interest in the CSC’s role as both rule-maker and judge was a principal motivating factor behind the passage of the Civil Service Reform Act of 1978 (CSRA).² The CSRA replaced the CSC with three new agencies: MSPB as the successor to the Commission;³ OPM as the President’s agent for Federal workforce management policy and procedure; and the Federal Labor Relations Authority (FLRA) to oversee Federal labor-management relations.

MSPB’s Role, Functions, and Scope of Responsibilities: During hearings on the CSRA, various Members of Congress testified and described the role and functions of MSPB: “. . . [MSPB] will assume principal responsibility for safeguarding merit principles and employee rights” and be “charged with insuring adherence to merit principles and laws” and with “safeguarding the effective operation of the merit principles in practice.”⁴ MSPB inherited CSC’s adjudication functions and provides due process to employees and agencies as an independent, third-party adjudicatory authority for employee appeals of adverse actions (such as removals, furloughs, and certain suspensions) and retirement decisions. For matters within its jurisdiction, MSPB was granted the statutory authority to develop its adjudicatory processes and procedures, issue subpoenas, call witnesses, and enforce compliance with MSPB decisions. Since the CSRA, Congress has given MSPB jurisdiction to hear appeals under a variety of other laws.⁵ 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.

¹ 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.

² Ibid. page 113.

³ Ibid. page 114.

⁴ Legislative History of the Civil Service Reform Act of 1978. Committee on Post Office and Civil Service, House of Representatives, March 27, 1979, Volume No. 2, (pages 5-6).

⁵ Including 5 U.S.C. Chapter 43, and all those set out at 5 C.F.R. Part 1201.3; the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law No. 103-353, codified at 38 U.S.C. §§ 4301-4335; Whistleblowing appeals including IRA appeals involved personnel actions listed in 5 C.F.R. § 1209.4(a) and otherwise appealable actions are listed in 5 C.F.R. §§ 1201.3 (a)(1) through (a)(19), and as amended by the Whistleblower Protection Enhancement Act (WPEA) of 2012 (Public Law 112-199); and the Hatch Act Modernization Act of 2012.

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 USPS employees and uniformed military service members.⁶ Findings and recommendations from MSPB's merit system studies strengthen merit and improve public management and administration in the Federal executive branch. Although MSPB's studies are focused on the Federal workforce and merit systems, they are generally applicable to the management of Federal legislative branch and judicial branch employees and even to public employees at the state and local level. Through its authority to review and act on OPM rules, regulations, and significant actions, MSPB protects the merit system and helps ensure that Federal employees are managed in adherence with the MSPs and free from PPPs. This broad authority includes all employees in all the agencies for which OPM sets policy, beyond the specific individual employees who may file appeals to MSPB of actions their agencies have taken against them. MSPB customers, partners, and stakeholders include a wide range of policy-makers; Federal agencies and councils; Federal employees and managers and groups that represent them; appellants, appellant representatives, and agency representatives; professional legal groups, academia, and management research organizations; and good Government groups.

Current Organization. MSPB is an independent Federal agency within the Executive Branch. MSPB's Board Members, including the Chairman, Vice Chairman, and Board Member, are appointed by the President and confirmed by the Senate. The three Board Members serve overlapping, non-renewable 7-year terms and they can only be removed for cause. No more than two of the three Board Members can be from the same political party. The Board Members' primary role is to adjudicate the cases brought to the Board. The Chairman, by statute, is the chief executive and administrative officer. MSPB also has independent budgetary and hiring authority for its GS employees.

MSPB headquarters, located in Washington, DC, has eight offices that are responsible for conducting its statutory and support functions. The Directors of these eight offices report to the Chairman through the Executive Director. MSPB also has eight regional and field offices located throughout the United States. These offices process initial appeals and report through the Director of Regional Operations. Information about each Office's responsibilities and an MSPB organizational chart are contained in Appendix B. The agency is currently authorized to employ approximately 226 Full-time Equivalents (FTEs) to conduct and support its statutory duties. Many support functions are performed by other Federal agencies through interagency agreements. Over the last several years, reduced funding and budget uncertainty have eroded MSPB's resources. At the end of FY 2013, MSPB had 196 positions filled, 17 positions fewer than at the end of FY 2009.

How MSPB Brings Value to the Merit Systems, the Federal Workforce, and the Public

MSPB provides enormous value to the Federal workforce, Federal agencies, and to the American taxpayer in terms of ensuring a more effective and efficient merit-based civil service. MSPB adds value by providing superior adjudication services, including alternative dispute resolution, which ensure due process and result in decisions that are based in law, regulation, and legal precedent and not on arbitrary or subjective factors. MSPB's adjudication process is guided by reason and legal analysis, which are hallmarks of both our legal system and our merit system. 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

⁶ For most Federal employees under Title 5 U.S.C. and others such as certain Veterans Health Administration employees pursuant to 38 U.S.C. § 7403(f)(3) and reduction-in-force actions affecting a career or career candidate appointee in the Foreign Service pursuant to 22 U.S.C. § 4010a.

agency. The body of legal precedent generated through adjudication and the transparency and openness of the adjudication process provides guidance to agencies and employees on proper behavior and the ramifications of improper behavior. This improves the long-term effectiveness and efficiency of the civil service and supports better adherence to MSPs and prevention of PPPs. This adjudication information also improves the effectiveness and efficiency of the adjudication process by helping the parties understand the law and how to prepare thorough and legally sound cases. Strong enforcement of MSPB decisions ensures timely, effective resolution of current disputes and encourages more timely compliance with future MSPB decisions.

MSPB's high-quality, objective merit systems studies provide value by identifying and assessing innovative and effective merit-based management policies and practices and recommending improvements. For example, MSPB studies have shown that improved hiring and selection, improved merit-based management, and greater employee engagement lead to a highly qualified Federal workforce, improved organizational performance, and better service to the public. Review of OPM significant actions, rules, and regulations protects the integrity and viability of the merit systems and civil service and provides benefits similar to those related to merit systems studies. Better merit-based management helps improve employee and agency performance. It also logically leads to less employee misconduct and fewer adverse actions, which reduces costs in terms of fewer PPPs and fewer unsubstantiated appeals. This provides indirect value to the American taxpayer in decreased Governmentwide costs and confidence that the Government is doing its job and appropriately managing the workforce.

The Merit System, Merit System Principles, and Prohibited Personnel Practices

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 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 because of: 1) requirements for public notice to help ensure fair and open competition and a workforce from all segments of society; 2) fair and rigorous assessment of applicants to help ensure 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 related to veterans' preference and the disabled. These processes improve the overall quality of the workforce and help ensure that Federal job protections are provided to the most highly qualified employees. This, in turn, should reduce the likelihood that the Government will need to undertake the process to remove that employee. These management costs are necessary to ensure the ultimate goal of strong, highly qualified, stable merit-based civil service that serves in the public's interest over the long term rather than at the pleasure of current political leaders.

The CSRA codified for the first time the values of the merit systems as the MSPs and delineated specific actions and practices that were prohibited (PPPs) because they were contrary to merit system values.⁷ The MSPs include the values of: fair and open competition for positions with equal opportunity to achieve a workforce from all segments of society; merit-based selection for jobs; advancement and retention based on qualifications and job performance; fair and equitable treatment in all aspects of management; equal pay for work of equal value; and training that improves organizational and individual performance. The MSPs also include: protection from

⁷ Title 5 U.S.C. § 2301 and § 2302, respectively.

arbitrary action, favoritism, or coercion for political purposes; and protection against reprisal for lawful disclosure of violations of law and waste, fraud, and abuse. The principles further state that the workforce should be used effectively and efficiently and that all employees should maintain high standards of integrity, conduct, and concern for the public interest.

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

Linking this Plan to Other Agency Documents

The FY 2013 Annual Performance Report is based on the strategic objectives contained in the Strategic Plan for FY 2012-2016. Each objective has one or more performance goals. Each performance goal includes a performance measure and performance targets for each year, as appropriate.⁸ MSPB reports program performance results compared to performance targets in accordance with GPRAMA and OMB guidance.

The FY 2014-2015 APP is based on the strategic and management objectives contained in MSPB's Strategic Plan for FY 2014 – 2018 (draft). The performance goals, measures, and targets describe what MSPB can accomplish with the budgetary and FTE resources enacted for FY 2014 and proposed for FY 2015. Reduced budgets, budget uncertainty, and the extraordinary increase in appeals filed due to furloughs is effecting targets for case processing timeliness, number of merit systems studies, outreach (especially if it involves travel), the program evaluation schedule, and more limited progress toward some strategic outcome goals. MSPB adjusted the FY 2014 performance goals measures and targets from those contained in the FY 2014 [APP](#) based on recent external and internal factors. MSPB may further adjust the FY 2014 and 2015 performance goals, measures, and targets based on additional appeals activity (e.g., related to sequestration or the WPEA), agency performance through FY 2013, and OMB and Congressional budget actions. MSPB's plans and reports are posted on MSPB's website www.mspb.gov.

⁸ In accordance with the GPRAMA and OMB Guidance, MSPB does not define priority goals, does not have low priority program activities, nor does it have a specific role in achieving Federal cross-agency priority goals. MSPB also does not have any duplicative, overlapping, or fragmented programs as referenced in the Executive Order on 'Delivering an Efficient, Effective, and Accountable Government.' MSPB also does not have any internal management challenges reported in the GAO High Risk List.

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 OPM. We will interact with our customers and stakeholders in a professional, respectful, and courteous manner. We will strive to be a model merit-based organization by applying the lessons we learn in our work to the internal management of MSPB.
- Fairness:** We will conduct our work in a fair, unbiased, and objective manner. We will be inclusive in considering 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 human capital management issues.
- 1D: Review and act upon the rules, regulations, and significant actions of the Office of Personnel Management, as appropriate.

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

Strategic Objectives:

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

Management Objectives

Management Objectives: Effectively and Efficiently . . .

- M1: Lead and manage employees to ensure an engaged workforce with the competencies to perform MSPB's mission.
- M2: Manage budget and financial resources and improve efficiency to ensure necessary resources now and in the future.
- M3: Manage information technology and information services programs to support our mission.
- M4: Ensure employee and workplace safety and security.

Means and Strategies Needed to Accomplish our Objectives

MSPB will continue to use the range of means and strategies delineated in its Strategic Plan for FY 2014-2018. However, within resources constraints, MSPB will emphasize the following means and strategies to accomplish its objectives during FY 2014 -2015.

Strategic Objective 1A: Resolve appeals through adjudication and ADR.

1. Manage the large increase in appeals (e.g., furloughs and RIFs) resulting from sequestration and other Federal budgetary constraints.
2. Implement changes in adjudication and reporting of whistleblower cases in accordance with the WPEA.
3. Appropriately balance quality of adjudication decisions, timeliness of case processing, and customer satisfaction with the appeals process, within available resources.

Strategic Objective 1B: Enforce compliance with MSPB decisions.

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

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

1. Obtain a web-based survey platform to support merit systems studies, program evaluation, and measurement of customer service and customer satisfaction.
2. Conduct a transparent process to develop and update the merit systems studies research agenda that includes feedback from stakeholders and studies customers.
3. Use periodic surveys, such as the Merit Principles Survey (MPS) and other more focused surveys, to assess and report on the overall health of the Federal merit systems, practice of merit, and occurrence of PPPs.

Strategic Objective 1D: Review OPM rules, regulations, and significant actions.

1. Maintain the review of OPM rules, regulations, and significant actions and take action, as appropriate, to ensure adherence to MSPs and avoidance of PPPs.

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

1. Translate and deliver information from adjudication, merit systems studies, and OPM review into products designed to inform actions by policy-makers that will support merit, improve adherence to MSPs, and prevent PPPs.

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

1. Conduct outreach designed to inform actions by policy-makers and practitioners that will support merit, improve adherence to MSPs, and prevent PPPs; or that would improve the understanding of MSPB, its functions and processes.
2. Better track outreach events and collect audience feedback to improve outreach success.

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

1. Provide information about adjudication processes, outcomes, and legal precedent to support adjudication participants' ability to prepare and file strong cases with MSPB.
2. Develop educational materials and guidelines on the concept of merit, MSPs, PPPs, and how a merit-based civil service helps ensure excellent Government service to the public.

Management Objectives M1: Lead and manage employees to ensure an engaged workforce with the competencies to perform MSPB's mission.

1. Ensure a diverse and highly qualified legal, analytic/research, and administrative workforce that can effectively accomplish and support MSPB's knowledge-based work.
2. Provide employee orientation, on-the-job training, and other developmental and training experiences to ensure employees have the competencies necessary to perform MSPB's work.

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

1. Communicate justification of resources (funds, people, operational requirements, and contingencies) necessary to accomplish MSPB objectives including how resource levels and external factors (such as sequestration) may impact MSPB performance.
2. Set clear operational priorities and use people and budgetary resources effectively and efficiently to accomplish MSPB objectives and provide value to customers and the public.
3. Investigate and plan for a shift from paper-based work processes and products to automated electronic adjudication including filing, substantive review, document management and distribution, hearing and transcripts, decision drafting and release.

Management Objective M3: Manage IT and information services functions to support our mission.

1. Obtain a functional, secure, web-based survey platform to support merit systems studies, program evaluation, and measurement of customer service and customer satisfaction.
2. Upgrade IT infrastructure to improve effectiveness and efficiency in managing large fluctuations in appeals workload.
3. Develop and implement IT hardware, software, and systems to support effective and efficient MSPB adjudication, studies, OPM review, and administrative programs.

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

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

Tabular Summaries of Current Progress and Future Targets

Click on the performance goal number to obtain more detailed information.

Summary of MSPB FY 2013 Performance Results			
Strategic Goal 1: Serve the public interest by <i>protecting</i> Merit System Principles and <i>safeguarding</i> the civil service from Prohibited Personnel Practices.			
Strategic Obj. 1A: Provide understandable, high-quality resolution of appeals, supported by fair and efficient adjudication and alternative dispute resolution (ADR).		SUBSTANTIALLY MET	
Performance Goal	Performance Measure	2013 Target	2013 Results
1A-1 : Quality of initial decisions	Percent initial decisions reversed/remanded on PFR	10% or less	8%
1A-2 : Quality of Board/PFR decisions	Percent MSPB decisions unchanged by the reviewing court	92% or more	93%
1A-3 : Participant perceptions of the adjudication <i>process</i>	Percent participant agreement with questions about adjudication process	Obtain survey platform	Adequate progress
1A-4 : Initial appeals processing timeliness	Average initial appeals processing time	100 days or less	93 days
1A-5 : PFR Processing timeliness	Average PFR processing time	245 days or less	281 days
1A-6 : Participant perceptions of the ADR <i>process</i>	Percent participant agreement with questions about ADR process	Obtain survey platform	Adequate progress
1A-7 : Efficiency of filing initial appeals	Percent initial appeals filed electronically ²	50% or more	47%
1A-8 : Efficiency of filing pleadings	Percent pleadings filed electronically	50% or more	66%
Strategic Obj. 1B: Enforce timely compliance with MSPB decisions.		NOT MET	
1B-1 : Compliance case processing timeliness	Average processing time ¹	200 days or less	355 days
Strategic Obj. 1C: Conduct objective, timely studies of Federal merit systems & human capital management issues.		PARTIALLY MET	
1C-1 : Number/scope of <i>Issues of Merit</i>	Number/scope of newsletters published	3-4 newsletter editions	3 Editions Published
1C-2 : Number/scope of study reports	Number/scope of reports published	3-5 reports completed	1 Report completed
Strategic Obj. 1D: Review and act upon the rules, regulations, & significant actions of OPM, as appropriate.		MET	
1D-1 : Review OPM rules and regulations	Number/scope of OPM rules/regulations reviewed	Reviewed internal process	Achieved
1D-2 : Review and report on OPM significant actions	Number/scope of OPM significant actions reviewed/reported	Publish review - review process	Achieved

1. Average processing time for compliance cases at HQ is 355 days, the weighted average processing time for all compliance cases (closed at HQ and in the Regional and Field offices) is 122 days.

2. The percent of initial filed electronically dropped significantly in FY 2013 because of the unusually large number of paper furlough appeals.

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

Strategic Obj. 2A: Inform, promote, and/or encourage actions by policy-makers, as appropriate, that strengthen Federal merit system laws & regulations.		MET	
Performance Goal	Performance Measure	2013 Target	2013 Results
2A-1: Contacts with policy-makers	Number/scope of policy-maker contacts	Distribute policy-related products	Achieved
2A-2: References to MSPB work and products	Scope of references to MSPB products or materials	Assess tracking method, track references	Adequate progress
2A-3: Create policy-related products	MSPB policy-related products created and made available	Develop at least one new policy-based product	Exceeded
Strategic Obj. 2B: Support & improve the practice of merit, adherence to MSPs, & prevention of PPPs in the workplace through outreach.		MET	
2B-1: Number/scope of website practice materials accessed	Number of website visits/hits for practice-related materials	Within $\pm 5\%$ of FY 2012 results	Exceeded
2B-2: Conduct merit-based outreach events	Number/scope of merit-based outreach	90 outreach events or more	94
Strategic Obj. 2C: Advance the understanding of the concept of merit, MSPs, & PPPs through the use of educational standards, materials & guidance established by MSPB.		EXCEEDED	
2C-1: Number/scope of educational materials obtained from website	Number of website visits/hits for merit-related educational materials	Within $\pm 5\%$ of FY 2012 results	Exceeded
2C-2: Create and make available electronic educational materials	Number/type of educational materials made available on website	Post 6-10 products	13 +

Summary of MSPB FY 2014 (Revised) – 2015 (Proposed) Performance Targets

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

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

Performance Goal	Performance Measure	2014 Target	2015 Target
1A-1 : Quality of initial decisions	Percent initial decisions reversed/ remanded on PFR	10% or fewer	
1A-2 : Quality of Board/PFR decisions	Percent decisions unchanged by the reviewing court	92% or greater	
1A-3 : Participant perceptions of the adjudication <i>process</i>	Percent participant agreement	Obtain survey platform	Implement survey
1A-4 : Initial appeals processing timeliness	Average processing time	Issue decisions in furlough appeals by the end of FY 2015	
1A-5 : PFR processing timeliness	Average processing time	260 days	TBD
1A-6 : Participant perceptions of the ADR <i>process</i>	Percent participant agreement	Obtain survey platform	Implement survey

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

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

1C-1 : Number/scope of <i>Issues of Merit</i> newsletter editions	Number/scope of newsletters published	Publish 3-4 newsletter editions or articles
1C-2 : Number/scope of study reports	Number/scope of reports published	3-5 merit system reports completed (or published)

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

1D-1 : Review OPM rules/regulations	Number/scope of OPM regulations reviewed	Track regulations review activity and scope
1D-2 : Review OPM significant actions	Number/scope of OPM significant actions reviewed	Maintain scope, publish review of OPM significant actions

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

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

2A-1 : References to MSPB's work	Scope of references to MSPB's work	Maintain scope of references
2A-2 : Create policy-related products	Number/scope policy-related products	Post research highlights for all new merit system studies

Strategic Goal 2: Continued			
Strategic Obj. 2B: Support & improve the practice of merit, adherence to MSPs, & prevention of PPPs in the workplace through outreach.			
Performance Goal	Performance Measure	2014 Target	2015 Target
2B-1: Conduct merit-based outreach events	Number/scope of merit-based outreach events	70 events, improve tracking	TBD
Strategic Obj. 2C: Advance the understanding of the concept of merit, MSPs, & PPPs through the use of educational standards, materials & guidance established by MSPB.			
2C-1: Practice/educational website materials accessed	Number visits/accesses from website	Within $\pm 5\%$ from previous year	
2C-2: Create/update electronic educational materials	Number/type of new or updated educational materials	5 products	TBD

Management Obj. M1: Lead & manage employees to ensure an engaged workforce with competencies to perform mission.			
M1-1: Ensure workforce competencies	Percent agreement EVS competency questions	68% or more	
M1-2: Maintain perceptions of diversity & inclusion	Percent agreement EVS or IS diversity & inclusion questions	65% or 68% or more	
M1-3: Maintain employee engagement	Percent agreement EVS engagement questions	68% or more	

Management Obj. M2: Manage budget and financial resources and improve efficiency to ensure current & future resources.			
M2-1: Ensure justified budgets & resource accountability	Percent justified requirements delayed by lack of resources, or etc.	Develop measure, set targets	TBD
M2-2: Improve adjudication processing efficiency	Proportion of cases processed entirely electronically	Track e-filing, develop plan for e-adjudication	TBD

Management Obj. M3: Manage IT and information services programs to support mission.			
M3-1: MSPB website meets customer needs	Percent agreement website survey questions	Obtain survey platform	Implement web survey
M3-2: Ensure IT application and system availability	Average percent downtime of key systems	1.75 % or less average downtime for key systems	
M3-3: Maintain internal/external IT customer support	Percent of internal and external tickets resolved within SLA	85% or more	

Management Obj. M4: Ensure individual and workplace safety and security.			
M4-1: Employees prepared to ensure safety and security	Average % agree on Internal Survey (IS) safety and security questions	75% or more	

Performance Goals, Performance Measure, Results, and Targets

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

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

Results and targets: This objective focuses on MSPB's responsibilities to resolve appeals at the regional and field offices and at HQ through adjudication and ADR procedures. A balanced set of measures is used which includes decision quality, processing timeliness, and customer satisfaction with the adjudication and ADR processes.

This objective was **SUBSTANTIALLY MET**. The performance goals related to quality of initial appeals and PFRs, timeliness of initial appeals processing, and electronic filing of initial appeals were achieved. The performance goal for electronic filing of pleadings was exceeded due in part to mandatory e-pleading programs implemented in several regional and field offices. The performance target for timeliness of PFR processing was not met. However, PFR processing stabilized in FY 2013 during which MSPB processed PFRs (and addendum) at approximately the same rate at which they were received. Therefore, the existing inventory of PFRs did not increase as had occurred in recent years. MSPB made selected changes in the processes used to draft, review, and forward draft PFR decisions to the Board Members. MSPB also replaced the writing attorneys (who draft PFR decisions for Board Member review and approval) who departed or retired in FY 2013. MSPB also began a program evaluation of the PFR process to identify changes that may speed processing while retaining PFR decision quality. Adequate progress was made on developing a web-based survey platform to obtain customer feedback from adjudication and ADR participants. Further progress was limited due to competing priorities and the limited availability of web-based survey solutions that meet Federal cloud-based security requirements.⁹

Between March and August 2013, MSPB received approximately 32,500 furlough appeals. 32,000 of which were received from DoD employees over a 5-6 week period. The total number of appeals and the rate of filing of DoD appeals created numerous challenges for MSPB. By the end of the fiscal year, a majority of the DoD furlough appeals were docketed—entered into MSPB's system so they could be reviewed and consolidated for more effective and efficient processing. In addition, on September 18, 2013, the Board issued a decision in [Chandler v. Department of Treasury](#) regarding the issues the Board will consider in furlough appeals.

Although the unprecedented number of furlough appeals is affecting the adjudication process, MSPB will continue to emphasize quality of decisions. Thus, the FY 2014 – 2015 targets for quality of initial decisions and PFRs are unchanged. External and internal factors are affecting our ability to establish timeliness targets for initial appeals and PFRs. Externally, the large number of furlough appeals has had and will continue to have an extensive impact on MSPB and its ability to adjudicate cases. Internally, as we predicted in prior plans, a number of senior AJs have retired in the last year, and more retirements are anticipated. Due to resource constraints and budget uncertainties, it is not likely that we will be able to replace all of these AJs. Due to these internal and external factors, MSPB will continue to track, but is not establishing, FY 2014 – 2015 average processing timeliness targets for adjudication of initial appeals. However, A significant portion of furlough appeals have been consolidated and MSPB is using a variety of adjudication strategies to process furlough appeals

⁹ Case processing details as required under 5 USC §7701(i)(1) and (2) are contained in Appendix C.

in conjunction with other adverse action cases and cases filed on other matters for which MSPB jurisdiction (e.g., appeals related to whistleblowing, retirements, various veterans' hiring authorities, etc.). MSPB is committed to issuing decisions in all furlough appeals by the end of FY 2015, while maintaining the processing of non-furlough appeals as effectively as possible.

The challenge for PFR processing is to resolve the number of on-hand PFRs (approximately 75% of the total received in a given year) along with the new PFRs received, including an anticipated increase in furlough appeals in FY 2014. We have made some PFR process changes and the PFR program evaluation will provide additional options for improvement. Increasing the number of writing attorneys will be helpful. However, it will take 2-3 years for the new attorneys to reach journey-level performance. In combination, these factors will likely lead to an increase in the average processing time for PFRs. The FY 2014 target for average processing time for PFR processing is 260 days. The FY 2015 target is to be determined based on FY 2015 results.

MSPB plans to make additional changes to its IT infrastructure to improve adjudication processing. This will result in long-term efficiencies but will require an initial investment of resources to develop requirements and an implementation plan for this shift. This initiative is included in management goal M2-2. In FY 2014, MSPB will discontinue the performance goals for electronic filing of initial appeals and pleadings and use these as interim indicators for M2-2. MSPB continues to seek a survey platform to support obtaining customer satisfaction information from adjudication and ADR participants and has set FY 2014-2015 targets accordingly.

Performance Goal 1A-1: Maintain quality of initial decisions.			
Measure: Percent of initial decisions that are reversed or remanded on Petition for Review (PFR) due to error or oversight.			
Results		Targets	
FY 2007	9%	FY 2013	10% or fewer
FY 2008	6%	FY 2014	10% or fewer
FY 2009	5%	FY 2015	10% or fewer
FY 2010	9%		
FY 2011	7%		
FY 2012	6%		
FY 2013	8%		

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.			
Results		Targets	
FY 2007	91%	FY 2013	92% or more
FY 2008	87%*	FY 2014	92% or more
FY 2009	92%	FY 2015	92% or more
FY 2010	92%		
FY 2011	98%		
FY 2012	94%		
FY 2013	93%		

* Adjusting for cases affected *Kirkendall v. Department of the Army* resulted in 94% of cases left unchanged by the court.

Performance Goal 1A-3: Maintain participants' positive perceptions of the adjudication process.			
Measure: Percent of adjudication participants surveyed who agree MSPB adjudication processes are fair, open, accessible, understandable, and easy to use.			
Results		Targets	
FY 2011*	New Measure in FY 2012.	FY 2013	Complete survey development and schedule, implement as scheduled, set future targets as possible.
FY 2012	Survey development and search for platform continued, implementation of new surveys postponed until FY 2013 due to resource limitations and competing priorities.	FY 2014	Publish Request for Proposal (RFP) and procure web-based survey platform capability.
FY 2013	Worked with contractor to assess hosting and security requirements and reviewed responses to Request for Information (RFI) designed to obtain information on current solutions for secure web-based survey platform. Further progress limited by competing priorities and the state of emerging web-based survey solutions.	FY 2015	Begin administering MSPB adjudication customer service and customer satisfaction surveys using new survey platform.

* FY 2011 and prior years

Performance Goal 1A-4: Maintain processing timeliness for initial appeals.			
Measure: Average case processing time for initial appeals.			
Results		Targets	
FY 2007	89 days	FY 2013	100 days or fewer
FY 2008	87 days	FY 2014	No target established
FY 2009	83 days	FY 2015	Issue decisions in all furlough appeals.
FY 2010	89 days		
FY 2011	94 days		
FY 2012	93 days		
FY 2013	93 days		

Performance Goal 1A-5: Maintain processing timeliness for PFRs.			
Measure: Average case processing time for petitions for review of initial appeals (PFRs).			
Results		Targets	
FY 2007	132 days	FY 2013	245 days or fewer
FY 2008	112 days	FY 2014	260 days or fewer
FY 2009	94 days	FY 2015	TBD based on FY 2014 results.
FY 2010	134 days		
FY 2011	213 days		
FY 2012	245 days*		
FY 2013	281 days		

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

Performance Goal 1A-6: Maintain participants' positive perceptions of the ADR <u>process</u>			
Measure: Percent of participants in the ADR programs, including initial appeals settlement and the Mediation Appeals Program (MAP), surveyed who agree the ADR process was helpful, valuable, and non-coercive, even if no agreement was reached.			
Results		Targets	
FY 2011*	New Measure in FY 2012.	FY 2013	Complete survey development and schedule, implement as scheduled, set future targets as possible.
FY 2012	Survey development and search for platform continues, implementation of new surveys postponed until FY 2013 due to resource limitations and competing priorities.	FY 2014	Publish Request for Proposal (RFP) and procure web-based survey platform capability.
FY 2013	Worked with contractor to assess hosting and security requirements and reviewed responses to Request for Information (RFI) designed to obtain information on current solutions for secure web-based survey platform. Further progress limited by competing priorities and the state of emerging web-based survey solutions.	FY 2015	Begin administering MSPB ADR customer service and customer satisfaction surveys using new survey platform.

*FY 2011 and prior years

Performance Goal 1A-7: Improve efficiency of filing initial appeals.			
Measure: Proportion of initial appeals filed electronically.			
Results		Targets	
FY 2007	29%	FY 2013	50% or more
FY 2008	37%	FY 2014	N/A
FY 2009	39%	FY 2015	N/A
FY 2010	43%	Beginning in FY 2014, this performance goal will be discontinued and the measure used as an interim indicator for performance goal M2-2.	
FY 2011	48%		
FY 2012	55%		
FY 2013	47%		

Performance Goal 1A-8: Improve efficiency of filings pleadings.			
Measure: Proportion of pleadings submitted electronically.			
Results		Targets	
FY 2008*	New measure in FY 2009	FY 2013	50% or more
FY 2009	28%	FY 2014	N/A
FY 2010	36%	FY 2015	N/A
FY 2011	44%	Beginning in FY 2014, this performance goal will be discontinued and the measure used as an interim indicator for performance goal M2-2.	
FY 2012	56%		
FY 2013	66%		

* FY 2008 and prior years

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

Results and targets: This objective focuses on MSPB’s statutory authority to enforce compliance with its decisions. This objective was **NOT MET** because the original measure of average processing time for HQ compliance cases was 155 days longer than the target. Beginning in FY 2014, MSPB will use a weighted average time for compliance/enforcement cases closed at HQ and in the regional and field offices. Under MSPB’s new regulations, rather than issuing recommended decisions in some compliance case addendum, AJs in the regional and field offices will issue an initial decision in all compliance case addenda. The weighted average will include both initial decisions issued by AJs and compliance cases resolved at HQ. This will give a more complete view of processing timeliness for compliance cases, rather than just those closed in HQ. In FY 2014 and 2015, the target for weighted average case processing time for compliances cases is 135 days.

Performance Goal 1B-1: Maintain timeliness of processing compliance/enforcement cases.			
Measure: Weighted average processing time for all enforcement cases.			
Results		Targets	
FY 2008*	New measure in FY 2009	FY 2013	200 days or fewer
FY 2009	171 days	FY 2014	135 days or fewer
FY 2010	180 days	FY 2015	135 days or fewer
FY 2011	288 days	Beginning in FY 2014, use weighted average processing time for all compliance cases.	
FY 2012	244 days		
FY 2013	355 days		

* FY 2008 and prior years

** Using the original measure of average processing time for HQ cases, 34 compliance cases were closed at HQ with average processing time of 355 days (ranging from 30 – 732 days). 214 initial appeals compliance addendum cases were closed with an average processing time of 93 days. The weighted average processing time for all compliance cases is 126 days.

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

Results and targets: This strategic objective focuses on MSPB authority to conduct studies of the Federal merit systems and human capital management issues. This objective was **PARTIALLY MET**. The performance target for publication of newsletter editions and other articles was achieved, with newsletter and other articles covering 8 MSPs. The performance target for studies was not achieved; 1 study was completed on the topic of clean records in settlement agreements, which relates to three MSPs. There is normal variability in the number of study reports completed each year. However, resource limitations and competing priorities (especially internal program evaluation requirements and support for agency-wide initiatives) are straining the analytic and research resources available to conduct merit systems studies. Competition for analytic and research resources is likely to continue, and MPSB will be developing a new studies research agenda, the process of which will require analytic resources. In addition, continued viability of the studies program relies on obtaining an effective and efficient web-based survey platform to conduct surveys of Federal employees. Despite these challenges, MSPB will continue to maintain the current program targets, thus setting the FY 2014-2015 targets at the same level as for FY 2013. In addition, MSPB is planning to update its studies research agenda in in the next few months.

Performance Goal 1C-1: Maintain the number and scope of <i>Issues of Merit</i> newsletter editions or other articles.			
Measure: Number and scope of <i>Issues of Merit</i> (IoM) newsletter editions or other articles published.			
Results		Targets	
FY 2012*	New measure in FY 2013.	FY 2013	Publish 3–4 <i>IoM</i> eds. or articles.
FY 2013	3 editions of the newsletter and 1 article related to 8 MSPs	FY 2014	Publish 3–4 <i>IoM</i> eds. or articles.
		FY 2015	Publish 3–4 <i>IoM</i> eds. or articles.

* FY 2012 and prior years

Performance Goal 1C-2: Maintain the number and scope of MSPB study reports.			
Measure: Number and scope (percent of the workforce, agencies, or policy areas impacted) of merit systems studies reports published each year.			
Results		Targets	
FY 2007	3 reports completed.	FY 2013	3-5 study reports completed.
FY 2008	6 reports completed.	FY 2014	3-5 study reports completed.
FY 2009	6 reports completed.	FY 2015	3-5 study reports completed.
FY 2010	5 reports completed.		
FY 2011	4 reports completed.		
FY 2012	3 reports completed.		
FY 2013	1 report related to 3 MSPs completed.		

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

Results and targets: This strategic objective focuses on MSPB statutory authorities to review OPM’s rules, regulations, and significant actions. The objective was **MET**. MSPB anticipates that resource constraints will continue to affect MSPB’s OPM review function. Therefore, MSPB will shift from strengthening to maintaining these programs. The FY 2014-2015 targets for review of OPM rules and regulations is to track program activity and scope. The FY 2014-2015 targets for reviewing and reporting on OPM significant actions focus on maintaining the scope of the review and publishing the results of the review in its Annual Report.

Performance Goal 1D-1: Maintain program for review of OPM regulations.			
Measure: Number and scope (percent of the workforce, agencies, or policy areas impacted) of OPM rules and regulations, or implementation of the same, reviewed.			
Results		Targets	
FY 2011*	New Measure in FY 2012.	FY 2013	Conduct an after-action review of MSPB’s internal approach and procedures relating to review of at least one previous major change in an OPM rule or regulation.

FY 2012	After-action review of MSPB internal processes for review of OPM regulations postponed due to resource limitations & competing priorities.	FY 2014	Track program activity and scope.
FY 2013	Reviewed MSPB internal procedures for reviewing OPM rules and regulations.	FY 2015	Track program activity and scope.

*FY 2011 and prior years

Performance Goal 1D-2: Maintain program for review and reporting of OPM significant actions.			
Measure: Number and scope (percent of the workforce, agencies, or policy areas impacted) of OPM significant actions reviewed and reported.			
Results		Targets	
FY 2011*	New Measure in FY2012.	FY 2013	Publish review of OPM Significant Actions; conduct an after-action review of MSPB's internal approach and procedures related to reviewing and reporting on at least one OPM significant action.
FY 2012	Published FY 2011 Annual Report, which contained a broader range of OPM significant actions, updates of earlier actions, and added contextual information. After-action review of MSPB procedures of at least one OPM significant action postponed due to resource limitations, staff changes, and competing priorities.	FY 2014	Maintain scope of review, publish review of OPM significant actions in MSPB Annual Report.
FY 2013	Published MSPB's FY 2012 Annual Report, which included summary of OPM's Significant Actions. After-Action review completed and submitted to Executive Director.	FY 2015	Maintain scope of review, publish review of OPM significant actions in MSPB Annual Report.

*FY 2011 and prior years

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

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

Results and targets: This strategic objective focuses on MSPB efforts to develop and share information from its work with policy-makers and others who can use the information to improve merit-based laws, regulations, and policies. The objective was **MET**. Contacts with policy-makers focused on furloughs and the new MSPB Strategic Plan (2A-1). Beginning in FY 2014, this performance goal will be discontinued and contacts with policy-makers may be tracked and reported under outreach (2B-1). MSPB's legal and studies work were cited in over 70 worldwide sources (2A-2). However, MSPB was not able to identify a cost-effective method for automatically tracking

references to MSPB’s work. The FY 2014-2015 targets are to maintain the scope of references to MSPB’s work, and the performance goal will be renumbered as 2A-1. Three new one-page *Research Highlights* were created focused on policy issues (2A-3). The FY 2014-2015 targets are to post highlights for all new MSPB studies that focus on policy issues, and this goal will be renumbered as 2A-2.

Performance Goal 2A-1: Share merit systems products or information with policy-makers that may be useful in in strengthening merit systems laws and regulations.			
Measure: Number and scope of merit system products or information shared with Governmentwide policy-makers (e.g., Congress, CHCO Council, OPM, and others involved in merit systems policy) focused on supporting or improving Governmentwide merit systems laws, regulations, rules, Executive Orders, and other policies.			
Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Distribute Governmentwide policy products (at least those developed under Goal 2A-3) directly to policy-makers, as appropriate.
FY 2012	MSPB’s Chairman testified at Senate authorizing subcommittee oversight hearing, and had two pre-hearing meetings with staff; meetings were held with staff of Senate and House Appropriations subcommittee; policy contacts will be tracked under outreach calendar.	Beginning in FY 2014, this performance goal will be discontinued. Contacts with policy-makers may be tracked and reported under the outreach performance goal (2B-1).	
FY 2013	MSPB’s Chairman met with Senate Homeland Security & Govt. Affairs Committee Chairman Carper & House Committee on Oversight & Govt. Reform Ranking Member Cummings about furlough appeals. MSPB General Counsel &/or Exec. Dir. met with Senate and House Appropriations Subcommittee staff about furlough appeals. Congress and a wide range of other stakeholders were consulted about the new MSPB Strategic Plan.		

* FY 2011 and prior years

Performance Goal 2A-2: Maintain scope of references to MSPB work and products.			
Measure: Scope (location or identity of citing organization) of references to MSPB decisions, reports, newsletters, web content, or other materials in policy papers, Federal legislation, professional literature, Executive Orders, the media, or other sources.			
Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Continue to search for an automated tracking method; MSPB work is cited in print or web-based media, and by one or more other organizations.

FY 2012	MSPB legal and studies work were referenced in electronic and print sources (e.g., the Washington Post, GovExec.com, & FedlNewsRadio); in testimony by Special Counsel Carolyn Lerner about OSC's education and legislative efforts, in her presentation at the Federal Dispute Resolution conference, and in an OSC 11/22/2011 press release; A cost-effective method to automatically track of references to MSPB work was not identified.	FY 2014	Maintain scope of references. (Renumber as Performance Goal 2A-1.)
FY 2013	MSPB studies or legal work was cited in over 70 online or print media sources, trade publications (e.g., published by legal, employees, management, or union groups), and scientific journals from around the world; and several blogs and websites. MSPB's study on training supervisors was cited in OPM's new guidance on supervisory training; and reports on employee engagement were referenced in a book about engaging government employees published by the American Management Association.	FY 2015	Maintain scope of references.

* FY 2011 and prior years

Performance Goal 2A-3: Maintain the number and scope of MSPB products focused on policy-makers or changing governmentwide policy.

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

Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Develop at least one new policy-focused product that covers the policy recommendations made in MSPB studies.
FY 2012	Products include text of the Chairman's testimony for the Senate oversight hearing, and a Video of Chairman's testimony linked on MSPB's website.	FY 2014	Develop and post highlights from all new MSPB studies that focus on policy issues, as appropriate. (Renumber as Performance Goal 2A-2.)
FY 2013	Developed and posted 3 one-page 'Research Highlights' - brief summaries of the findings & recommendations of merit system study reports related to policy issues.	FY 2015	Develop and post highlights from all new MSPB studies that focus on policy issues, as appropriate.

* FY 2011 and prior years

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

Results and targets: This strategic objective focuses on MSPB’s efforts to improve the practice of merit through outreach and web usage. This objective was **MET**. MSPB experienced a significant increase in the number of visits to the webpages and hits to the documents related to improving the practice of merit in the workplace. Beginning in FY 2014, MSPB will discontinue this separate measure for web usage and report all web usage data under performance goal 1C-1. MSPB conducted 94 outreach events on topics related to legal issues, merit system studies, and merit/MSPs/PPPs. MSPB will continue to track and report on the number and scope of outreach events. Processing furlough appeals is likely to limit the resources available for outreach events, especially when they require travel or significant resources for developing presentations or materials. Therefore, the FY 2014 target is to conduct 70 outreach events. In FY 2014, we will also implement improvements in our system for recording outreach events, and focus on collecting audience feedback from events. The FY 2015 is to be determined based on FY 2014 results.

Performance Goal 2B-1: Maintain the number and scope of materials viewed or accessed from MSPB’s website intended to improve the practice of merit.			
<u>Measure:</u> Number of visits and hits (1 or more documents accessed per hit) of web-based materials meant to improve the practice of merit, adherence to MSPs, or prevention of PPPs in the workplace including MSPB precedential decisions, non-precedential final orders (NPFOS), studies reports, and similar materials from MSPB’s website.			
Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Number of visits & accesses within \pm 5% of FY 2012 results.
FY 2012	Recorded over 128,000 visits to the studies and decisions webpages & nearly 2 million hits to documents on these webpages.	Beginning in FY 2014, this performance goal will be discontinued. The number of website visits and hits related to improving practice will be reported under performance goal 2C-1.	
FY 2013	Recorded almost 154,000 visits to the studies and decisions webpages and over 5 million hits to documents on these webpages.		

*FY 2011 and prior years

Performance Goal 2B-2: Maintain the number and scope of outreach contacts.			
<u>Measure:</u> 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 2011*	New measure in FY 2012.	FY 2013	Conduct or participate in 90 events focused on legal, studies, or other issues; consider how to collect reliable feedback from participants of outreach events.

FY 2012	Almost 150 events were recorded in the outreach calendar on topics focused on legal, merit system studies, and other issues; additional events include visits by sister agencies (invited visits by OSC, OPM, Federal Circuit, and DoL/ARB), and several events involving MSPB regulations.	FY 2014	Conduct or participate in 70 outreach events; implement improvements in the recording of outreach events; focus on collecting audience feedback. (Renummer as Performance Goal 2B-1.)
FY 2013	Conducted 94 outreach events on topics related to MSPB studies, legal cases and processes, merit/MSPs/PPPs, and other issues.	FY 2015	TBD based on FY 2014 results.

*FY 2011 and prior years

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

Results and targets: This strategic objective focuses on MSPB’s efforts to improve the understanding of merit, MSPs, and PPPs. This objective was **EXCEEDED**. MSPB experienced a significant increase in the number of visits to the webpages and hits to the documents related to improving the understanding of merit. Beginning in FY 2014, MSPB will report all web usage, including that focused on improving the practice of merit in the workplace, under this objective. The FY 2014 – 2015 targets are set to maintain web usage within $\pm 5\%$ of levels reported for the previous FY. In FY 2013, MSPB developed and posted at least 13 educational documents related to improve the understanding of merit, MSPs, and PPPs; and at least that many more documents related to improving the understanding of legal processes and appeals issues. The number of furlough appeals may affect the resources available to create new or substantially revised educational products, materials, or standards. Therefore, the FY 2014 target for this measure is 5 products, and the target for FY 2015 is TBD based on FY 2014 results.

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

Measure: Number of visits & hits (1 or more documents accessed per hit) of information, materials, or guidance related to improving the practice and understanding of merit from MSPB’s website.

Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Number of visits & accesses within 5% of FY 2012 results.
FY 2012	Recorded almost 260,000 visits and almost 3,800,000 hits to documents on the MSPs, PPPs, <i>IoM</i> newsletter, and training webpages.	FY 2014	Number of visits & accesses within $\pm 5\%$ of FY 2013 results
FY 2013	Recorded over 400,000 visits and over 11.5 million hits to documents on the MSPs, PPPs, <i>IoM</i> newsletter, case report, and training webpages.	FY 2015	Number of visits & accesses within $\pm 5\%$ of FY 2014 results.

*FY 2011 and prior years

Performance Goal 2C-2: Maintain number and scope of available educational materials and guidance.			
Measure: Number and type of merit system educational materials and guidance MSPB makes available electronically or on MSPB's website.			
Results		Targets	
FY 2011*	New measure in FY 2012.	FY 2013	Post on the website/electronically distribute 6–10 new/updated textual or multimedia educational products.
FY 2012	Materials include 11 PPP's of the month, four training videos, and several significant case reports. Additional materials include the Chairman's interview and article following the Senate hearing, live radio interviews of MSPB officials and staff, and the oral argument page for <i>Latham v. USPS</i> .	FY 2014	Post or distribute electronically 5 new or updated textual or multimedia educational products.
FY 2013	13 or more new or revised documents related to merit/MSPs/ PPPs, and at least that many documents related to legal process and appeals issues were made available on the website including: <ul style="list-style-type: none"> • 3+ on the WPEA and changes to the Hatch Act • 2 PPP summaries including a summary of new PPP number 13; • 8 <i>Research Highlights</i> from MSPB study reports • 4+ on MSPB's new adjudication regulations • 4+ on MSPB's new appeal form • 5+ on furlough appeals 	FY 2015	TBD based on FY 2014 results.

*FY 2011 and prior years

Management Objectives

Management Objective M1: Lead and manage employees to ensure an engaged workforce with the competencies to perform MSPB's mission.

Results and targets: This management objective focuses on leading and managing employees to ensure an engaged workforce with the competencies needed to accomplish MSPB's work. The performance goals focus on the competencies needed to do our work, positive perceptions of diversity and inclusion in the workplace, and employee engagement. The measures consist of average composite scores of employee responses on defined sets of items from the Federal Employee Viewpoint Survey (EVS), or the Internal Survey (IS).

Performance Goal M1-1: Ensure MSPB's workforce has competencies needed to perform its mission.			
Measure: Percent employees who report that they have and that others in the workforce have the appropriate competencies needed to perform MSPB's mission (EVS or IS).			
Results		Targets	
FY 2012	2012 EVS average composite of competency questions 68%	FY 2013	Determine measure of employee perceptions of competency, set future targets.
FY 2013	2013 EVS average composite of competency questions 63%	FY 2014	65% average agreement or more
		FY 2015	65% average agreement or more

Performance Goal M1-2: Maintain positive perceptions of diversity and inclusion by MSPB employees.			
Measure: Average ratings of workforce diversity and workplace inclusion questions (EVS or IS).			
Results		Targets	
FY 2012	Conducted several events and MSPB Unity Day with activities designed to improve understanding of diversity and inclusion. 2012 EVS Diversity Comp. 66% 2012 EVS Inclusion Comp. 67% 2012 IS Inclusion Comp. 73%	FY 2013	Determine baseline and set future targets; conduct events to improve understanding of diversity and inclusion.
FY 2013	Conducted 9 diversity awareness events designed to improve inclusion and understanding of diversity. 2013 EVS Diversity Comp. 67% 2013 EVS Inclusion Comp. 65% 2013 IS Inclusion Comp. 75%	FY 2014	68% or more average agreement (EVS Diversity) & 65% (EVS or IS Inclusion composite)
		FY 2015	TBD based on 2014 results

Performance Goal M1-3: Strengthen and maintain employee engagement and address engagement issues identified in the EVS.			
Measure: Average percent agreement on EVS engagement questions.			
Results		Targets	
FY 2012	Employee engagement was discussed in Chairman's all-hands meeting and in Office briefings by the ED & PIO. An engagement ombudsman was appointed to track agency engagement efforts; XCOM subcommittees established and began work. 2012 EVS Engagement 68%	FY 2013	Develop strategies to address 2012 EVS results; set target to improve/maintain employee engagement.

FY 2013	Small group of agency leaders (ED, OEEO, GC, CB, PIO) established to review survey results and recommend; most recommendation by subcommittees were approved and are being implemented or under development. (e.g., 'Kudos' page, & Languages of Appreciation training for leaders and supervisors); MSPB IdeaScale Community implemented to improve the suggestions process; Will use EVS scores because 2012 EVS & IS scores were consistent; 2013 EVS Engagement 68%	FY 2014	68% or more average agreement on EVS Engagement questions
		FY 2015	68% or more average agreement on EVS Engagement questions

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

Results and targets: This objective involves managing MSPB's budget and financial resources and improving adjudication efficiency to ensure MSPB has the necessary resources to carry out its mission. The performance goal for budget and financial management could be measured in a number of ways. The target for FY 2014 is to determine the best measure and set future targets. MSPB intends to invest in long-term improvement in adjudication efficiency to meet the needs of its external customers and improve internal efficiency. When cases are filed electronically, we should be able to process them electronically rather than printing paper copies. The extraordinary volume of furlough cases underscores the need to shift from mostly paper to mostly electronic adjudication. This shift involves changes in process, IT systems and tools, and the culture of how we perform our adjudication work. The changes will result in long-term efficiencies but will require an initial investment of resources to develop requirements and an implementation plan for this major change initiative. In FY 2014, MSPB will pilot test aspects of electronic case processing using furlough appeals and invest resources in developing requirements and a long-term plan for this change initiative. Beginning in FY 2014, MSPB will discontinue the performance goals for electronic filing of initial appeals and pleadings and will use these results as interim indicators for M2-2.

Performance Goal M2-1: Develop fully-justified budgets & ensure resource accountability			
Measure: Percent of funded & unfunded critical positions vacant 6 months or more, Percent of justified requirements delayed due to lack of resources, or other measure.			
Results		Targets	
FY 2012	6% of 226 positions (funded in budget request) vacant for 6 months or more.	FY 2013	Monitor and track funded, unfunded, and vacant positions.
FY 2013	12% of 226 positions (funded in the budget request) vacant for 6 months or more.	FY 2014	Define appropriate measure to accurately track use of resources.
		FY 2015	TBD based on FY 2014 results.

Performance Goal M2-2: Improve efficiency of case processing (long-term goal).			
Measure: Proportion of cases processed entirely electronically.			
Results		Targets	
FY 2012	Interim indicators: 55% of initial appeals and 56% of pleadings filed electronically.	FY 2013	Establish long-term perf. goal and new measure. Interim indicators are % initial appeals and % pleadings filed electronically.
FY 2013	Interim indicators: 47% of initial appeals and 66% pleadings filed electronically	FY 2014	Pilot aspects of electronic processing with furlough appeals; obtain resources to develop requirements & implementation plan for change in processing; continue to track and report interim indicators.
		FY 2015	TBD based on FY 2014 results.

Management Objective M3: Manage information technology and information services programs to support our mission.

Results and targets: This objective focuses on managing IT and information services to support MSPB’s mission. The performance goals include customer satisfaction with MSPB’s external website, operational effectiveness and efficiency of our IT systems, and internal and external IT customer support. Collecting feedback from website customers requires obtaining and implementing an effective web-based survey platform. The FY 2014 and 2015 targets relate to MSPB’s efforts to obtain and use the survey platform. Ensuring operational capability of our IT systems is critical to support MSPB’s objectives. Shifting to electronic adjudication will require full operational capability and increased capacity of our IT infrastructure and applications. Our IT adjudication systems are designed to handle approximately 7,500-8,500 cases, far fewer to the current total of about 38,000 cases. Supporting the infrastructure and ensuring operational capacity with no increase in resources will be a challenge. Even so, MSPB is setting the FY 2014-2015 targets for average percent of unscheduled “downtime” for our key systems at 1.75% or less. In addition, MSPB will track the percent of total help-desk tickets (internal and external) resolved within service level agreement (SLA). The number of external help desk tickets increased 78% in 2013, but most were first time users with easy to resolve login issues. The number of help-desk tickets will continue to be high and will be more complicated to resolve as the parties come back to our systems to file pleadings and responses and access official documents. In addition, the person who designed and provided primary support for e-Appeal retired recently, thus reducing the available expertise for resolving issues or challenges with the systems. Even so, MSPB is setting the 2014-2015 targets for proportion of help desk tickets (internal and external) resolved within SLA at 85% or more.

Performance Goal M3-1: Website contains complete, accurate, timely, well-organized, easy-to-use, searchable and accessible information.			
Measure: Proportion of website users surveyed who agree website information is complete, accurate, timely, well organized, easy-to-use, searchable, and accessible (including Section 508 compliant) (external survey).			
Results		Targets	
FY 2012	Survey platform under consideration, no survey data collected in 2012.	FY 2013	Establish baseline and set future targets.
FY 2013	Survey platform operability and security requirements developed; Reviewed results from RFI containing industry availability of solutions. GSA conducted usability test of the website and provided a report.	FY 2014	Obtain and implement survey platform capability.
		FY 2015	Begin administering website customer service and customer satisfaction surveys using new survey platform.

Performance Goal M3-2: Ensure availability of IT applications and systems.			
Measure: Average percent unscheduled key system downtime (and related cost of lost work) at HQ, Regional and Field offices (including network, Office 365, public website, e-Appeal, DMS, CMS/LM, Phone, and VTC, etc.)			
Results		Targets	
FY 2012	Prioritized systems to make tracking unscheduled downtime more meaningful and manageable; Redesigned MSPB data center to minimize electrical, AC, and cabling issues; procured disaster recovery site (not yet operational).	FY 2013	Select measure, establish measurement process, set future targets.
FY 2013	Average unscheduled downtime for key systems was 0.48%	FY 2014	1.75 % average downtime or less.
		FY 2015	1.75 % average downtime or less.

Performance Goal M3-3: Ensure effective customer support for external IT customers.			
Measure: Proportion of external IT service help-desk tickets resolved within required service level agreements (SLA) (C-support ticketing system).			
Results		Targets	
FY 2012	97% (3412/3502) external tickets resolved within SLA. (Assistance to external customers should not prevent or delay assistance to internal customers.)	FY 2013	Establish baseline and set future targets.
FY 2013	97.8% external tickets resolved within SLA	FY 2014	85% or more.
		FY 2015	85% or more.

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

Results and targets: This objective focuses on individual and workplace safety and security from natural or man-made threats or emergencies. MSPB conducts drills and provides employee training on safety and security issues. The measure is the average percent composite of employees who agree with questions on the IS about their preparedness to ensure safety and security. The FY 2014 – 2015 targets are set at 70% average agreement on the IS questions.

Performance Goal M4-1: Offices, employees, and visitors are safe and secure from internal and external natural or man-made threats or emergencies.			
Measure: Average percent of MSPB employees who agree with questions on the IS about their preparedness to ensure safety & security.			
Results		Targets	
FY 2012	Established a Safety and Security XCOM subcommittee based on EVS results and recent security issues; developed an interim emergency protocol; all employees completed required Workplace Security Awareness training; rewrote COOP Plan and participated in Eagle Horizon exercise; conducted shelter-in-place drill. 2012 IS Comp. 72%	FY 2013	Establish baseline and set future targets.
FY 2013	Trained all employees on Active Shooter and Workplace Violence Awareness; implemented Visible Visitor badge program; conducted earthquake and shelter-in-place drills; updated and briefed COOP plan to all offices. 2013 IS Comp. 78%	FY 2014	75% or more average agreement.
		FY 2015	75% or more average agreement.

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Trends and Challenges that May Affect Agency Performance

External Challenges and Trends

The most significant external trends or issues affecting MSPB's ability to carry out its mission in FY 2014-2015 include; budget reduction and sequestration and related consequences such as thousands of furlough appeals, increasing retirements of Federal employees, changes in law and jurisdiction, and changes in employee management flexibilities. This section contains information about these trends and how they may affect MSPB, along with contextual information from FY 2013.

Budget reductions and sequestration, and related consequences such as furlough appeals.

In March 2013, governmentwide "sequestration" was implemented. As a result, many agencies furloughed employees for several days (including EPA, FAA, IRS, SSA, and others). In July 2013, DoD began implementing furloughs for most of its over 650,000 civilian employees. Under Federal law, employees have the right to appeal furloughs to MSPB. In FY 2013, MSPB received over 32,500 (32,000 from DoD employees) furlough appeals in its Regional and Field Offices. This was approximately five times the 6,200 initial appeals MSPB receives on average each year (2007-2012, not counting addendum appeals). In addition, in accordance with statute, 7 agencies requested permission from MSPB to furlough 158 administrative law judges (ALJs). These appeals incurred direct costs (e.g., salary, travel, and transcript costs) for MSPB associated with the adjudication of these cases by ALJs under reimbursable agreement with other agencies and required substantial administrative and ministerial support from MSPB legal staff.

The extraordinary increase in the number of cases filed has had a profound effect on MSPB. Accurate docketing requires reviewing the appeal and entering additional information into our case management system (even when appeals are filed electronically through e-Appeal). MSPB's paralegals and legal assistants in the regional and field offices worked overtime to manage this workload and MSPB hired temporary employees to assist in docketing cases. In addition, a furlough appeal docketing "strike team" was established at HQ to assist the regional and field offices in docketing these appeals. On the busiest day, 1,656 appeals were filed via e-Appeal Online, 80 times the average daily number of appeals filed online. This one-day total was over half the 2,872 appeals filed online through the first nine months of FY 2013. The volume of electronic filing caused IT resources such as processors, memory, disk space, and internet bandwidth to exceed maximum operational capacity at various points; this required constant monitoring during the peak filing period and frequent rebooting of the system to recover system resources. We developed and implemented new *ad hoc* processes such as docketing short-cuts and batch processing of legal notices to help manage the workload. Our programmers also updated multiple case processing systems to accommodate case docket numbers that could exceed 9999 cases per office in a fiscal year. In addition, the number of external help-desk tickets increased proportionally to the number of first time users of e-Appeal, overwhelming MSPB's help-desk services.

MSPB responded to a large number of press inquiries and interview requests and managed a large increase in telephone calls, voicemails, and emails from individuals, attorneys, and agencies requesting information on the appeal process, identifying problems with e-Appeal Online, and requesting status of their appeals. We had additional contacts with Members of Congress and Congressional staff to provide information about furlough appeals and their impact on MSPB. We posted notices on our website and through social media to share important information on furlough appeals. Furlough appeals were docketed and are being consolidated in order to process them more effectively and efficiently. Updates on this process are posted on MSPB's website at www.mspb.gov.

As MSPB receives and processes tens of thousands of DoD furlough appeals, it must continue to process its existing caseload of approximately 7,500-8,500 initial appeals and PFRs; and perform its other statutory functions to conduct studies, review OPM, promote stronger merit-based policy and practice, and improve the understanding of merit. MSPB is carrying out this work with 196 (as of the end of FY 2013) employees (approximately 13 percent of its FTE are vacant due to resource constraints and budget uncertainty). Moreover, MSPB must carry out this work when it, like most other executive agencies, is being effected by budget reductions.

Although sequestration is not expected to affect agencies in FY 2014 or 2015, over the longer term, Federal budgets are still expected to decrease. To the degree that agencies have lower budgets over the long term, agencies to begin to use reductions in force (RIFs) and other actions to permanently decrease or restructure their workforces. Historical trends indicate that RIFs would lead to potentially large increases in the number of RIF appeals to MSPB. In response to reduced budgets, agencies may also implement hiring delays or freezes and reductions in training and development. In addition to actions by individual agencies, Governmentwide actions in response to decreasing Federal budgets may include pay freezes, severe limitations in employee awards (e.g., performance, special acts, and quality step increases), and limits on within-grade increases. The freeze in Federal pay and limits on awards may increase retirements and adversely impact employee morale and productivity. Constraints on pay and awards may also shift employees' attention to the application of performance appraisal systems and ratings which could in turn increase performance-based appeals to MSPB.

Repetitive Federal pay freezes may encourage employees to leave government jobs, and budget reductions may lead to reductions or long delays in hiring, and reductions in workforce training. These actions have logical consequences such as the loss of workforce expertise and reduction in workforce capacity to carry out agencies' missions. In addition, it is difficult to predict how personal financial stress may affect employee conduct, performance, morale, or engagement. Depending on how these issues develop and affect the workforce, it could take years for Federal agencies to recover from these issues. Emphasis on merit systems studies is important to continue studying the impact of these workforce changes on adherence to MSPs and avoidance of PPPs. It is also important to promote merit and educate the workforce, especially managers and leaders, about how to adhere to MSPs and to avoid PPPs when making management decisions such as those related to reducing the workforce.

Increasing retirements of Federal employees. The proportion of retirement-eligible Federal employees also continues to increase. The number of Federal employees who are retiring has begun to increase and that trend will likely continue. As retirements increase, we expect to see an increase in retirement appeals. Although OPM's efforts to reduce the retirement backlog have been affected by sequestration, it has reduced some of the backlog of retirement claims, increasing the number of retirement decisions that may be appealable to MSPB. Finally, the proportion of Federal Employee Retirement System (FERS) retirement claims to all retirement claims is increasing. According to OPM, FERS retirement claims are more complex than CSRS claims, thus appeals of FERS decisions filed with MSPB may take more time to process than CSRS claims. As the Government replaces retiring employees with relatively younger, less experienced employees, the average age of the workforce is likely to decrease. As this occurs, we may see an increase in appeals as historical information indicates that less experienced employees typically have more appealable actions taken against them than do more experienced employees.

Statutory changes in Federal retirement such as the authority that phases in the opportunity for employees in the FERS to claim service credit toward retirement for their sick leave balance, and the potential to allow full-time Federal employees to phase their retirements or work in part-time status,

may alter retirement rates and thus may impact retirement appeals. Changes to Federal retirement programs, such as increasing the level of employees' contributions to fund their annuity or changing the calculations for the annuity (such as basing the annuity on the average high five years instead of the average high three years), especially for current retirement-eligible employees, could lead to a surge in retirements, followed by a surge in retirement appeals to MSPB.

Changes in law and jurisdiction: The most recent changes in law and jurisdiction that have a direct impact on MSPB involve the WPEA and changes to the Hatch Act.

The modifications and supplemental coverage contained in the WPEA both extend coverage to matters not previously within the jurisdiction of MSPB and expand MSPB's adjudicatory authority in such cases. The WPEA is likely to: increase the number of individual right of action (IRA) and otherwise appealable action whistleblower appeals; reduce the number of dismissals through the expanded definition of a protected disclosure; and increase the complexity of whistleblower appeals in terms of content and review of MSPB decisions by multiple Circuit courts. The WPEA is also likely to: increase the number of hearings on the merits in such cases; increase the information and data collected and reported for such cases; increase travel to represent MSPB at various Circuit Courts; and increase addendum appeals related to attorney's fees, compensatory damages (related to IRA appeals or if the agency conducts an investigation of an employee in retaliation for whistleblowing), monetary awards, and enforcement of MSPB decisions. The act also requires MSPB to track and report additional information on whistleblowing cases. These changes have required MSPB to commit greater resources in order to implement Congress's mandates for adjudication, tracking, and reporting of WB cases. MSPB established working groups to facilitate smooth implementation of the WPEA including changes in the coding of these cases, ensuring accurate data, and reporting information about these cases as required by the WPEA (FY 2013 data on whistleblower cases is included in Appendix A).¹⁰

The Hatch Act Modernization Act of 2012 broadens the scope of permissible political activities for some Federal, state, and local employees. Under the new law, Federal employees who live in the District of Columbia may run for local political office and take an active role in political management and political campaigns to the same degree that residents of Maryland and Virginia who live in the immediate vicinity of the District of Columbia may engage in those activities. The amendments also expand the range of penalties that apply to violations of the Act by Federal employees. Under certain conditions, these new penalty provisions for Federal employees apply retroactively to any violation that occurred before the effective date.

Changes in law, appeal rights, and appellate jurisdiction also increase the importance of MSPB's statutory 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. Education on these issues, promoting merit, and sharing important information about appeals procedures should improve workforce management and reduce the cost of appeals to agencies, appellants, and the Government.

Changes in employee management flexibilities: Management flexibilities might include expanded legislative authorities or may be directed through administrative actions such as Presidential Executive Orders. For example, President Obama issued Executive Order 13562 in December 2010, establishing the Pathways Programs. The Pathways Programs creates a set of

¹⁰ It is important to also note that the WPEA does not alter MSPB's responsibility to hear additional evidence and/or witnesses in select WB cases that would increase case complexity and/or the length of hearings, in accordance with the Court of Appeals for the Federal Circuit's decision in *Whitmore v. Department of Labor* ([No. 2011-3084](#))

excepted service appointing authorities tailored to ease and encourage recruitment, hiring, development, and retention of students and recent graduates. The Pathways Programs formally acknowledge a long-standing interest of Federal agencies and Federal managers—the ability to hire high-quality college graduates into professional and administrative occupations. It is not clear what affect the Pathways Programs will have on hiring and management or if it will succeed in its goals. MSPB plans to follow closely the evolution and implementation of these programs.

Changes in Federal management flexibilities emphasize the importance of MSPB's responsibility to conduct studies of Federal merit systems and human capital management practices in order to ensure the flexibilities are implemented and operated in accordance with MSPs and are free from PPPs. Flexibilities and other changes in human resource management policies issued through OPM regulation make it imperative that MSPB maintain its ability to exercise its statutory authority to review OPM regulations. Reviewing OPM regulations can save the Government costs such as those associated with transferring employees out of new management systems that are later terminated. Finally, changes in management flexibilities also increase the importance of MSPB's role in promoting and educating employees and the public about the merit system, MSPs, and PPPs.

Internal Challenges

MSPB continues to operate below the resource level needed to execute its mission as effectively and efficiently as possible. The unprecedented number of furlough appeals have had a tremendous impact on MSPB operations, especially those involving initial appeals processed in the regional and field offices and our case management and other IT services and systems. This wave of appeals will begin to affect PFRs filed at HQ in FY 2014. MSPB intends to retain its standards for quality of initial appeal and PFR decisions. MSPB will make every effort to process this additional workload as efficiently as possible.

The arrival of tens of thousands of furlough appeals highlights the need to shift away from mostly paper processing to mostly electronic processing of initial appeals, and subsequently to PFRs. MSPB needs to ensure its ability to electronically process cases for customers who have access to electronic systems, and support the Government's focus on increasing automated systems and customer service. In FY 2015, MSPB is requesting resources to obtain technical and professional services to assist in developing the requirements and an implementation plan for this shift in processing. This effort will yield significant potential improvements in efficiency in the long term but will require an initial investment of resources. Out FY 2014 resource levels will assist us in processing furlough appeals, but even with these resources we will not be able to sustain previous results for timeliness in appeals processing.

Even ignoring the recent arrival of approximately 32,500 furlough appeals, MSPB will continue to struggle with internal challenges primarily related to the retirement eligibility of its workforce, increasing number of vacancies, limited resources, and competing priorities for existing resources. Approximately one-third of MSPB employees and nearly 50 percent of MSPB AJs are eligible to retire in the next two years. In addition, the number of writing attorneys is still significantly lower than in the past. Once hired, it takes 2–3 years for an AJ or a writing attorney to reach journey-level status. Replacing experienced AJs and writing attorneys with relatively less experienced attorneys lowers affects overall adjudication processing. The average processing times for initial decisions and PFRs are increasing and will increase further as a result of furlough cases. Changes in adjudication staff will also likely contribute to increased processing times. In addition, MSPB is pursuing changes to its regulations covering jurisdiction. It is unclear how such changes may affect the adjudication process. Having an enacted budget earlier in FY 2014 will assist in planning and advertising in anticipation of anticipated retirements and vacancies. Uncertain budgets for FY 2015 and beyond

require a balanced approach to filling vacancies, meeting short-term resource, and investing for the long-term

MSPB also is affected by competing priorities for its limited analytic and research staff. The external issues discussed above, including sequestration and furloughs, challenge the ability of Federal agencies to achieve their missions within resource constraints. Efforts to manage resources almost always directly or indirectly impact Federal employees. Such tension can adversely affect the culture of merit-based management and potentially weaken adherence to merit principles and even increase the occurrence of PPPs. It is critical for MSPB to continue to conduct merit systems studies to track such issues and make recommendations that will support agencies' ability to both manage resources and support merit. Likewise, MSPB must also maintain its review of OPM rules, regulations, and significant actions. However, the analytic and research staff skills needed for merit systems studies and OPM review are also needed to conduct internal program evaluation and support agency-wide requirements under GPRAMA including the collection of customer service and customer satisfaction data. This competition for resources will continue absent an increase in the number of analytic and research staff members. Limited and competing resources is also affecting MSPB's ability to conduct outreach, especially if it involves travel or extensive preparation time, which take the participants away from their other work.

MSPB employees continue to report high levels of commitment to MSPB's mission. However, employee ratings on FEVS questions related to having the resources needed to accomplish the mission dropped significantly in 2012 and again in 2013. MSPB will focus on setting clear priorities, strong internal management, communication, and other strategies to mitigate the impact of fewer resources. MSPB will use its FY 2014 enacted budget resources to mitigate its short term resource issues and make long-term investments to ensure its ability to effectively achieve its mission.

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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 effectively and efficiently achieve its mission and to provide value now and in the future. MSPB is committed to high-quality program evaluation. However, ensuring our ability to perform our statutory mission, as well as ensuring compliance with requirements of the GPRAMA and recent program evaluation guidance from OMB, will require increased resources and program evaluation staff. A relatively small increase in MSPB's program evaluation resources and staff will likely yield a large return in efficiency and cost savings for MSPB.

Performance Measurement: Verification and Validation of Performance Information

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

Proposed Program Evaluation and Performance Measurement System Review Schedule

In FY 2013, MSPB finalized an internal program evaluation policy and began a program evaluation of its PFR process. Assuming sufficient resources are available, MSPB will develop an agency policy for performance measurement, verification, and validation beginning in FY 2014. Based on the availability of resources, MSPB will undertake independent program evaluations of its mission and administrative support programs and assess its performance measurement systems and processes over the next few years. A projected schedule for these activities is provided below.

Program/Performance Measurement System	Evaluation Start Year
PFR case processing	2013
Case processing in the regional and field offices	2015
Law manager case management system	2015

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Appendix A: Information About Whistleblower Appeals¹¹

In accordance with the Whistleblower Protection Enhancement Act (WPEA) of 2012, MSPB is providing this information about whistleblower appeals in FY 2013. These data reflect case processing for the entire year, October 1, 2012 through September 30, 2013, during which the Board received approximately 38,800 total initial appeals, including approximately 32,500 furlough appeals. Most provisions of the WPEA went into effect on December 27, 2012. On June 26, 2013, the Board issued a precedential decision in *Day v. Department of Homeland Security*, 119 MSPR 589, in which it addressed the applicability of the WPEA to appeals that were pending at the time the WPEA went into effect.

There are generally two types of whistleblower appeals. 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, both the appealable matter and the claim of reprisal for whistleblowing will be reviewed by the Board. In an individual right of action (IRA) appeal, the individual is subject to a personnel action and claims that the action was taken in reprisal for whistleblowing, but the action is not one that is directly appealable to the Board (e.g., a reassignment with no reduction in pay or grade). In this kind of case, the individual can appeal to the Board only if he or she files a complaint with the Office of Special Counsel (OSC) first and OSC does not seek corrective action on the individual's behalf. In an IRA appeal, the Board will not review the merits of the action (because it is not appealable to MSPB) but will resolve only the claim of reprisal for whistleblowing. Figure 1 includes data on the number and percent of each type of whistleblower appeal MSPB received.

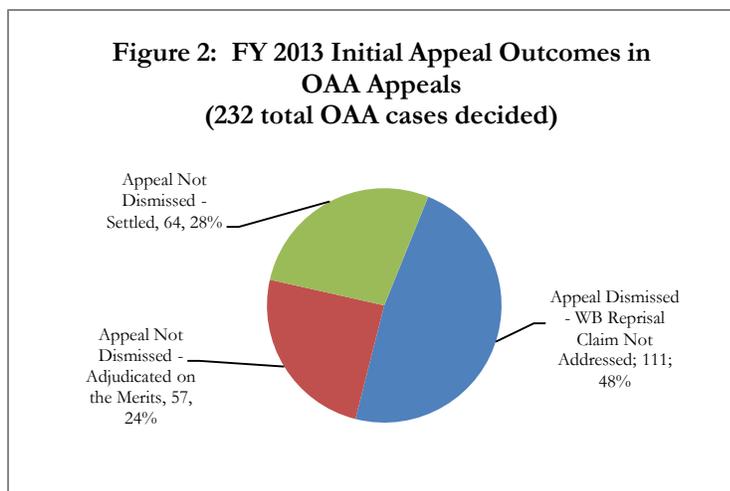
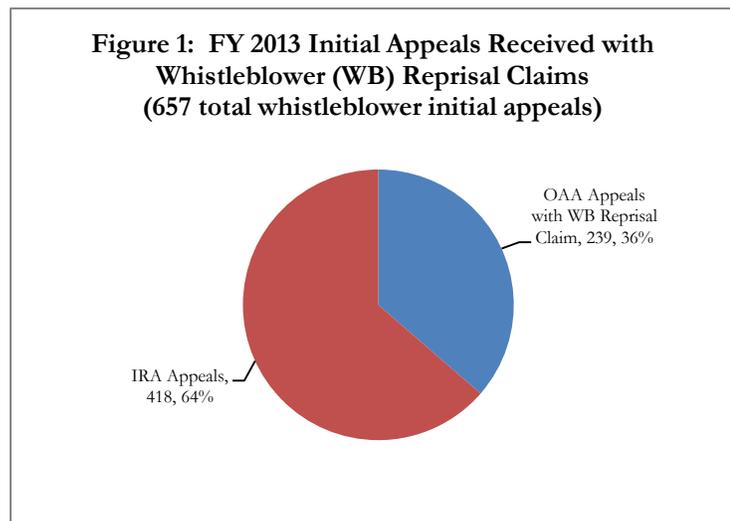


Figure 2 includes the outcomes of the OAA appeals with claims of whistleblowing reprisal. It is important to note that an otherwise appealable action appeal can be dismissed for a variety of reasons that have nothing to do with the merits of any whistleblower reprisal claim raised therein. For example, the appeal may be untimely, 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

¹¹ In September 2014, these data were updated to correct transcription errors.

another forum (such as through negotiated grievance or arbitration procedures). This figure excludes the initial appeals that were dismissed without prejudice (DWOP). Dismissal without prejudice is a procedural option that allows for the dismissal and subsequent refile on an appeal. These cases were not counted because a final outcome would only be determined when the case is refiled.

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

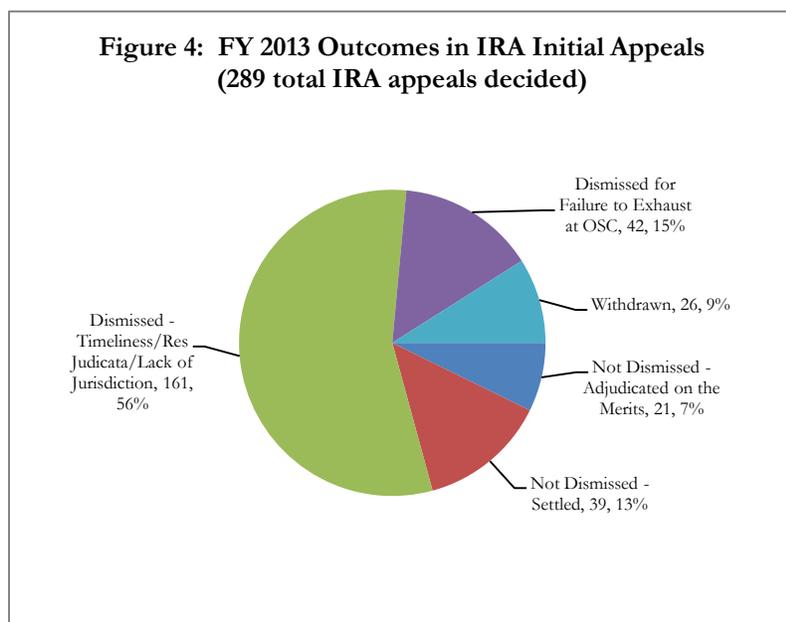
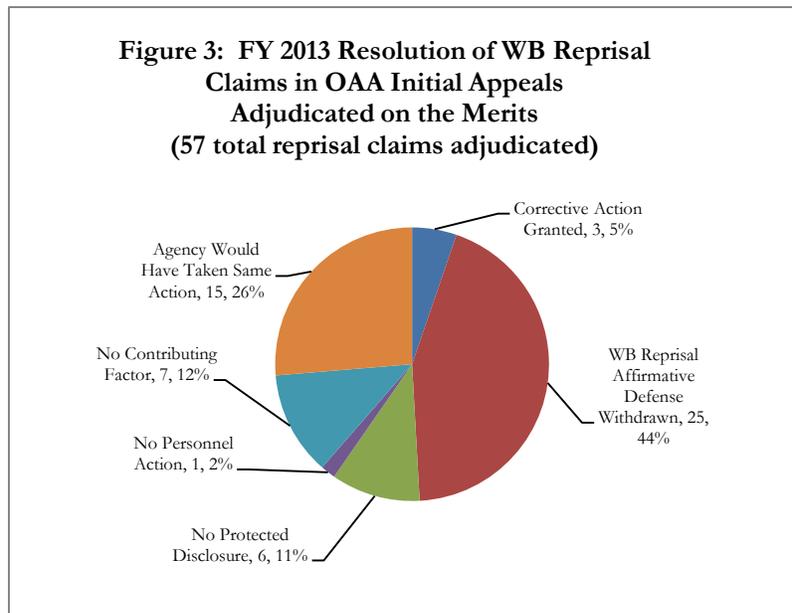
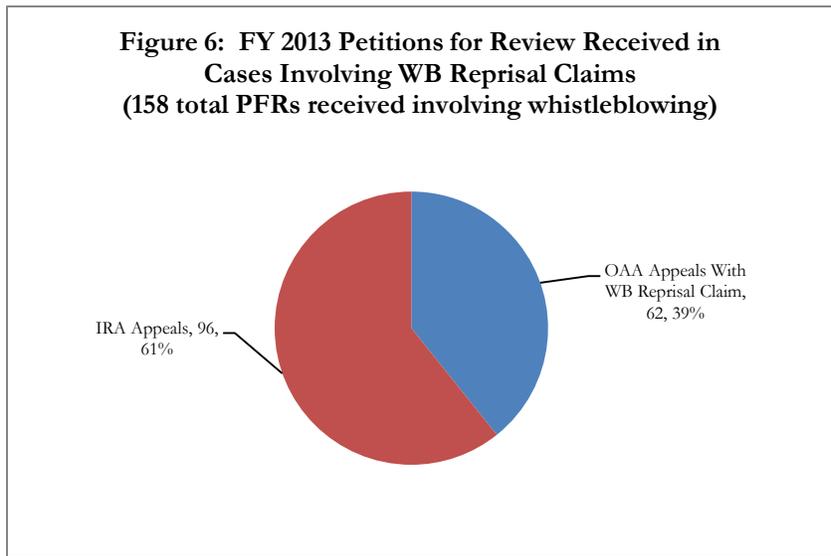
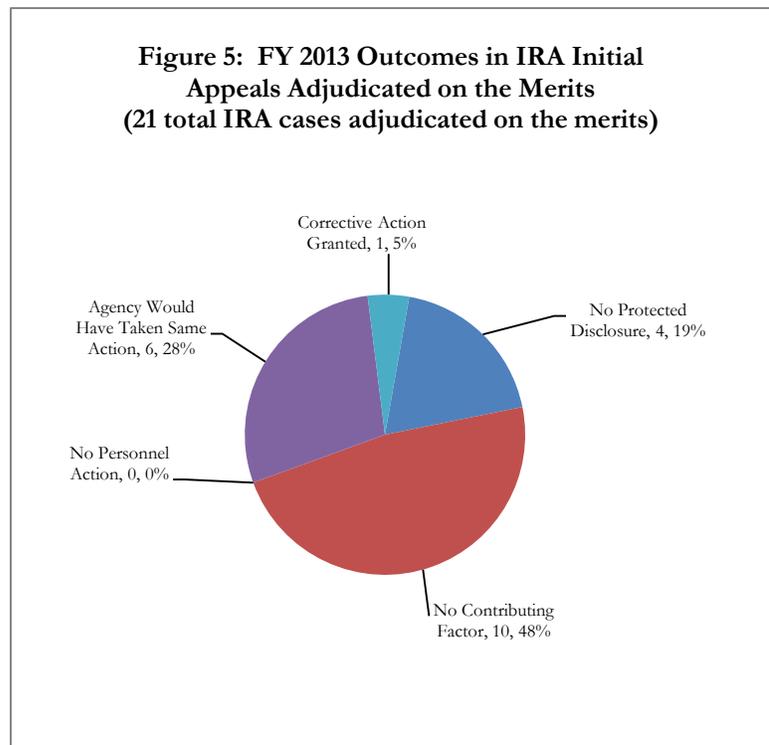


Figure 4 contains the outcomes of IRA appeals. In an IRA appeal, an appellant “shall seek corrective action from the Office of Special Counsel (OSC) before seeking corrective action from the Board.” 5 U.S.C. § 1214(a)(3). If an IRA appeal is dismissed for “failure to exhaust,” (i.e., because the appellant failed to first seek corrective action from OSC), the appellant can file a new IRA appeal after fulfilling the administrative exhaustion requirement. This chart does not include IRA appeals dismissed without prejudice.

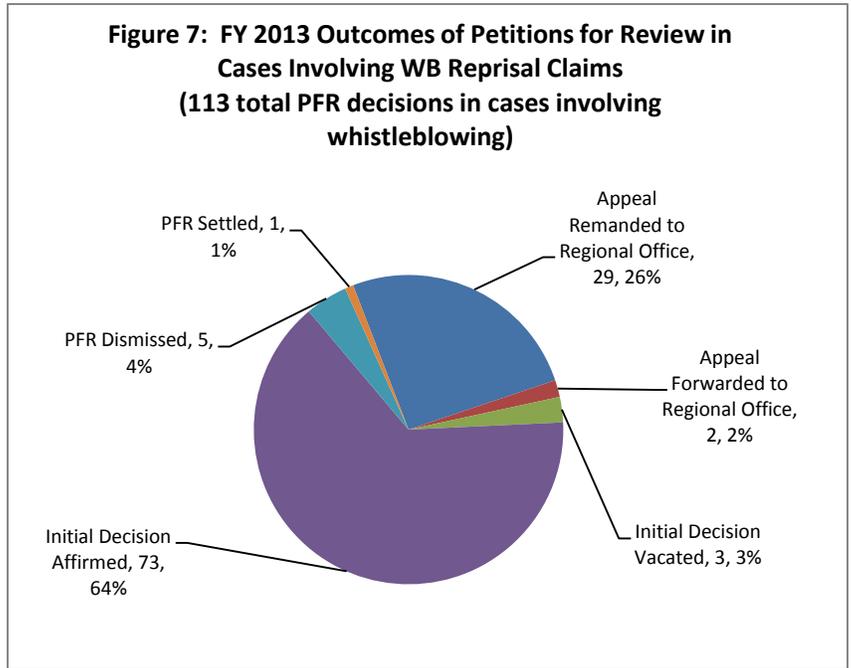
Figure 5 contains the outcome of IRA appeals adjudicated on the merits. Just as in an OAA appeal, the Board shall order corrective action in an IRA appeal if the appellant has demonstrated that (1) he or she made a protected disclosure, (2) the agency has taken or threatened to take a personnel action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



An appellant or agency who is dissatisfied with an initial decision of an administrative judge on an OAA or IRA whistleblower appeal may file a petition for review (PFR) for review by the full Board at MSPB headquarters. Figure 6 shows the number of PFRs (both OAA and IRA) the Board received on initial appeals involving claims of whistleblowing (of approximately 730 total PFRs received).

Figure 7 shows the outcomes of PFR cases with whistleblower claims. It is important to note that PFR outcomes are the decisions of the Board relative to the initial decision issued by the AJ. Under 5 C.F.R. §1201.115, the Board may issue a decision that denies or grants the petition for review and affirms, reverses, or vacates, in whole or in part, the initial decision. Whether or not a PFR is denied or granted may have nothing to do with the claim related to whistleblowing. If the Board’s decision is final, it will include appropriate notice of appeal rights to the appellant. Alternatively, the Board may remand the appeal to the administrative judge for further proceedings, in which case the Board’s decision is not yet final and no appeal rights are given. The Board forwards a matter to a regional office for docketing when there is an issue raised that should be address in the context of a separate Board appeal. The Board vacates an initial decisions when it issues a final decision that

reaches a different outcome from that reached in the initial decisions. When the Board forwards/remands a decision to the AJ, it generally means that the appellant has stated or proven some element of his or her claim. During FY 2013, the Board issued decisions on approximately 841 PFRs of initial appeals (including addendum), 113 of which involved whistleblower claims. During FY 2013, 29 of the whistleblower appeals were remanded. Of those 29 appeals, 10 were OAA appeals and as such, the scope of the remand may or may not pertain to the whistleblower reprisal claim. Therefore, when a PFR in an OAA appeal is remanded to the regional or field offices, it may present an opportunity for whistleblower claims within the case to be re-evaluated. The remaining 19 remands were in IRA appeals, in which the only issue before the Board was whether a personnel action was taken in reprisal for whistleblowing.



Appendix B: MSPB Offices and Their Functions

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

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

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

The **Office of Appeals Counsel** conducts legal research and prepares proposed decisions for the Board to consider for cases in which a party files a Petition for Review (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 rulings made by AJs, makes recommendations on reopening cases on the Board's own motion, and provides research, policy memoranda, and advice to the Board on legal issues.

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

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

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

The **Office of the General Counsel**, as legal counsel to MSPB, advises the Board and MSPB offices on a wide range of legal matters arising from day-to-day operations. The office represents MSPB in litigation; coordinates the review of OPM rules and regulations; prepares proposed decisions for the Board to enforce a final MSPB decision or order, in response to requests to review

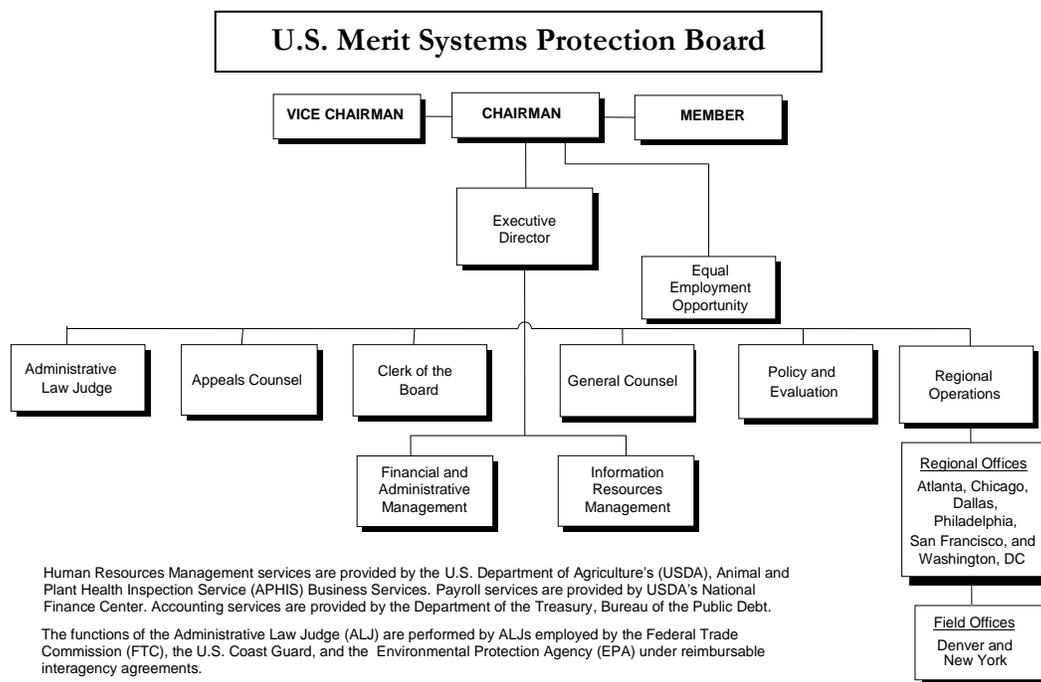
OPM regulations, and for other assigned cases; conducts the agency’s PFR settlement program; and coordinates the agency’s legislative policy and congressional relations functions. The office also drafts regulations, conducts MSPB’s ethics program, performs the Inspector General function, and plans and directs audits and investigations.

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

The **Office of Policy and Evaluation** carries out MSPB’s statutory responsibility to conduct special studies of the civil service and other Federal merit systems. Reports of these studies are sent to the President and the Congress and are distributed to a national audience. The office provides information and advice to Federal agencies on issues that have been the subject of MSPB studies. The office also 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 the agency and has responsibility for preparing MSPB’s strategic and performance plans and performance reports required by the Government Performance and Results Act Modernization Act of 2010 (GPRAMA).

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

MSPB Organizational Chart



Appendix C: Information Required Under 5 USC §7701(i)(1) and (2)

In accordance with 5 USC §7701(i)(1) and (2), MSPB provides case processing information for FY 2013. In FY 2013, MSPB received 39,527 initial appeals, PFRs, and addendum case (including approximately 32,500 furlough initial appeals). MSPB processed 7,100 cases (not including ALJ and original jurisdiction cases at HQ). Seventy-one percent of initial appeals (including addendum) were processed in 110 days or less (81 percent in 120 days or less). Five percent of PFRs (including addendum) were processed in 110 days or less (8 percent in 150 days or less). Therefore, 29 percent of initial appeals took over 110 days to process, 19 percent took over 120 days to process; 95 percent of PFRs took over 110 days to process and 92 percent took 150 days or more to process.

In general, each case is adjudicated on its merits in accordance with law and legal precedent and in a manner consistent with the interests of fairness, which is achieved by assuring due process and the parties' full participation at all stages of the appeal. Several factors contribute to the length of time it takes to resolve a particular case. It takes time to issue notices, respond to discovery and other motions, subpoena documents, arrange for and question witness, present evidence, conduct a hearing, and often to participate in alternative dispute resolution efforts. When there is good cause to do so, the parties may be granted additional time in an effort to preserve due process. Adjudication also may require more time when cases involve new, particularly complex, or numerous factual issues, or the interpretation of new statutory or regulatory provisions. In addition, when Board members do not agree regarding the disposition of PFR issues or cases, the need to resolve disagreements or prepare separate opinions may increase the time needed for adjudication. Additional factors that affect processing time are discussed in the results section of this APR-APP.

The approximately 32,500 furlough initial appeals received this year, most received from DoD employees in the 4th quarter, did not markedly affect initial appeals processing of cases already in the system. However, receiving, docketing, consolidating, and issuing preliminary orders in furlough cases is requiring considerable time and attention from our adjudication staff. Therefore, it is likely that furlough cases will have a profound affect on adjudication processing in FY 2014.



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