PERFORMANCE
—*and*—
ACCOUNTABILITY REPORT
—*for*—
FISCAL YEAR 2018

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A MESSAGE FROM SPECIAL COUNSEL HENRY KERNER

It is my pleasure to present the Office of Special Counsel's (OSC) Performance and Accountability Report for fiscal year (FY) 2018. This report marks the start of the second year of my leadership tenure at OSC, the agency whose noble mission it is to protect federal workers while holding government accountable.

OSC provides a safe channel for federal employees to report fraud, waste, mismanagement and abuse, and dangers to public health and safety. The agency safeguards federal employee rights and protects the employment rights of federal employees and returning members of the uniformed services. Overall, OSC protects the public, stands up for taxpayers, and increases the confidence of the public and the federal community in their government. Ensuring accountability is a job I do not take lightly, and I will be working diligently within OSC and with the federal community, Congress, and stakeholders towards that goal.

OSC has continued to provide outsized returns for the federal government and has achieved unparalleled success for complainants. In the past year OSC has nearly tripled its historic success rate in achieving favorable actions for federal employees subjected to retaliation and other prohibited personnel practices (PPP). For FY 2018, OSC managed to achieve more than 300 favorable outcomes for complainants. At the same time, OSC has redoubled its efforts to address whistleblower disclosures in a timely fashion and to ensure that waste, fraud, abuse, and violations of law are identified and remedied quickly. For FY 2018, OSC's whistleblower disclosure work resulted in 36 substantiated instances of wrongdoing and the identification of tens of millions of dollars of wasteful government spending across multiple agencies.

OSC has also continued to achieve impressive results in its handling of Hatch Act and Uniformed Service Employment and Reemployment Rights Act Enforcement (USERRA) cases. OSC's Hatch Act unit issued more than 1300 advisory opinions and achieved eight disciplinary actions for violations of the Hatch Act. The USERRA unit received more than 25 cases, achieving positive outcomes for the complainants in three cases for FY 2018.

All of these successes have created an increased awareness of OSC among federal employees. As employees see the positive results achieved by OSC for their colleagues, it encourages more individuals to avail themselves of OSC as a route to remedy wrongdoing. The result has been record numbers of new filings, currently averaging around 6,000 new cases each year. Along with the new filings, OSC has been carrying a backlog of around 2,600 cases. Although the agency has taken steps to increase efficiencies and has reduced the growth in the backlog, it will need additional resources to better carry out its mission and serve federal employees.

FY 2018 marked the fourteenth year the Office of Special Counsel has conducted a financial audit. I am confident that the financial and performance data presented in this report are complete, reliable, and accurate.

Achieving solid financial footing is foundational to the agency's success. This report also addresses the program outcomes and achievements during the pursuit of our mission. We believe it was a successful year, and we look forward to building on this success in the coming years.

Sincerely,

Henry J. Kerner
November 15, 2018

PART 1: MANAGEMENT DISCUSSION AND ANALYSIS

I. About the Office of Special Counsel

OSC's core mission is to protect federal whistleblowers by providing a safe and secure channel for whistleblowers to identify waste, fraud, abuse, violations of law, or threats to public health and safety. OSC also acts as a crucial backstop to ensure that whistleblowers are safe from retaliation when they disclose these problems. By doing so, OSC helps to create and promote a more efficient, accountable, and responsible federal government.

When Federal Aviation Administration (FAA) air traffic controllers witness dangerous flight protocols, when Department of Veterans Affairs (VA) professionals observe unsafe practices in hospitals and clinics, or when Pentagon procurement officers find significant irregularities in government contracts, OSC acts to ensure that whistleblowers' disclosures are heard and acted upon. OSC also protects federal employees from prohibited personnel practices (PPPs), such as retaliation for revealing wrongdoing.

Through its enforcement of the Hatch Act, OSC preserves the integrity of the civil service system, ensuring that federal employees do not engage in partisan politics while on duty and are not coerced by their superiors into partisan political activity. OSC also enforces the Uniformed Services Employment and Reemployment Rights Act (USERRA) to protect returning service members and reservists against employment discrimination and retaliation in their federal jobs.

OSC's status as an avenue for federal employees to report waste, fraud, and abuse ensures that when federal agencies are not handling tax dollars properly, it is quickly identified and corrected. By doing so, OSC creates a real return for taxpayers from every dollar invested in the agency. Indeed, by providing a safe channel for whistleblowers and their disclosures, OSC can prevent wasteful practices and disasters from ever occurring.

II. Statutory Background

The Civil Service Reform Act of 1978 (CSRA) established OSC on January 1, 1979. Under the CSRA, OSC operated as an autonomous investigative and prosecutorial arm of the Merit Systems Protection Board (MSPB or Board). Pursuant to the CSRA, OSC: (1) received and investigated complaints alleging PPPs; (2) received and investigated complaints regarding the political activity of federal employees and covered state and local employees and provided advice on restrictions imposed by the Hatch Act on the political activity of covered federal, state, and local government employees; and (3) received disclosures from federal whistleblowers about government wrongdoing. Additionally, OSC, when appropriate, filed petitions for corrective or disciplinary action with the Board in PPP and Hatch Act cases.

A decade later, Congress enacted the Whistleblower Protection Act of 1989 (WPA). Under the WPA, OSC became an independent agency within the executive branch, with continued responsibility for the functions described above. The WPA also enhanced protections for employees who allege reprisal for whistleblowing and strengthened OSC’s ability to enforce those protections.

Congress passed legislation in 1993 that significantly amended the Hatch Act provisions applicable to federal and District of Columbia government employees to enable them to have expanded roles in political campaigns. The 1993 amendments to the Hatch Act did not affect covered state and local government employees.

The following year, Congress enacted the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA protects the civilian employment and reemployment rights of those who serve or have served in the Armed Forces, including the National Guard and Reserve, and other uniformed services. It prohibits employment discrimination based on past, present, or future military service; requires prompt reinstatement in civilian employment upon return from military service; and prohibits retaliation for exercising USERRA rights. Under USERRA, OSC may seek corrective action for service members whose rights have been violated by federal agencies (*i.e.*, where a federal agency is the civilian employer).

OSC’s 1994 Reauthorization Act expanded protections for federal employees and defined new responsibilities for OSC and other federal agencies. For example, the Reauthorization Act provided that within 240 days after receiving a PPP complaint, OSC should determine whether there are reasonable grounds to believe that a PPP has occurred, exists, or is to be taken. Also, the Reauthorization Act extended protections to approximately 60,000 employees at the VA, and whistleblower retaliation protections were extended to employees of listed government corporations. Further, the Reauthorization Act broadened the scope of personnel actions covered under these provisions. Finally, the Reauthorization Act required that federal agencies inform employees of their rights and remedies under the WPA in consultation with OSC.

The Whistleblower Protection Enhancement Act of 2012 (WPEA) was signed into law in November 2012 and strengthened the WPA. This law overturned legal precedents that narrowed protections for government whistleblowers; provided whistleblower protections to employees who were not previously covered, including Transportation Security Administration (TSA) officers; restored OSC’s ability to seek disciplinary actions against supervisors who retaliate; and held agencies accountable for retaliatory investigations.

That same year, Congress passed the Hatch Act Modernization Act of 2012 (HAMA). HAMA modified the penalty provision of the Hatch Act to provide a range of possible disciplinary actions for federal employees. It also permitted state or local government employees to run for partisan political office unless the employee’s salary was entirely funded by the federal government. Lastly, it changed the status of District of Columbia government employees by including them in the prohibitions on state and local employees rather than treating them as federal employees.

In October 2017, the Dr. Chris Kirkpatrick Whistleblower Protection Act was signed into law. The Act created a new PPP for accessing medical records in furtherance of another PPP, and it required agencies to notify OSC if an agency employee committed suicide after making a protected disclosure and experiencing a personnel action by their agency in response. The Act also required agencies to train supervisors on how to handle complaints of whistleblower retaliation and mandated disciplinary action for supervisors who have violated specific sections of the WPEA. Finally, the Act required agencies to give priority to the transfer requests of employees who have been granted stays of personnel actions by the MSPB.

On December 12, 2017 legislation reauthorizing OSC was signed. The legislation, included in the National Defense Authorization Act for Fiscal Year 2018, reauthorizes OSC through 2023. Section 1097 of the bill clarifies that when complying with OSC's information requests, federal agencies may not withhold information and documents from OSC by asserting common law privileges such as attorney-client privilege. The reauthorization measure re-asserts OSC's ability to obtain needed information and documents. The reauthorization also promotes greater efficiency and accountability within OSC, improves protections against retaliatory investigations and other forms of reprisal for whistleblowing, and requires managers across the federal government to respond appropriately to disclosures of waste, fraud, and abuse.

III. Organizational Structure

OSC maintains a headquarters office in Washington, D.C. and has three field offices located in Dallas, Detroit, and Oakland. The agency includes several program and support units.

Immediate Office of the Special Counsel (IOSC). The Special Counsel and his immediate staff are responsible for policy-making and the overall management of OSC, including supervision of each of OSC's program areas. This encompasses management of the agency's congressional liaison and public affairs activities as well as coordination of its outreach program. The latter includes promoting federal agencies' compliance with the employee information requirement at 5 U.S.C. § 2302(c).

Office of General Counsel. This office provides legal advice and support in connection with management and administrative matters, defense of OSC interests in litigation filed against the agency, ethics programs, policy planning, and development.

Case Review Division (CRD). This new division, which began operations on October 1, 2018, serves as the point of intake for all PPP and disclosure allegations. This unit screens nearly all new allegations filed with OSC to ensure that PPPs and disclosures are directed to the appropriate units. The CRD also performs the function of closing out PPP allegations under the new authorities OSC received in the Reauthorization Act of 2017: those which are duplicative (5 U.S.C. § 1214(a)(6)(A)(i)(I)), filed with the MSPB (§ 1214(a)(6)(A)(i)(II)), outside of OSC's jurisdiction (§ 1214(a)(6)(A)(ii)), or more than three years old (§ 1214(a)(6)(A)(iii)).

Investigation and Prosecution Division (IPD). The newly-expanded IPD continues to be comprised of attorneys and investigators at OSC's headquarters and three field offices. IPD receives PPP allegations from the CRD and opens a case to determine whether the evidence is sufficient to establish that a violation has occurred. If it is not, the matter is closed. If the evidence is sufficient, IPD decides whether the matter warrants corrective action, disciplinary action, or both. IPD works closely with OSC's Alternative Dispute Resolution Unit in appropriate cases. If a meritorious case cannot be resolved through negotiation with the agency involved, IPD may bring an enforcement action before the MSPB.

Disclosure Unit (DU). This unit receives and reviews disclosures from federal whistleblowers. DU recommends the appropriate disposition of disclosures, which may include referral to the head of the relevant agency to conduct an investigation and report its findings to the Special Counsel, informal referral to the Office of Inspector General (OIG) or general counsel of the agency involved, or closure without further action. Unit attorneys review each agency report of investigation to determine its sufficiency and reasonableness. The Special Counsel then sends the report, along with any comments by the whistleblower, to the President and appropriate congressional oversight committees. OSC also posts the report and whistleblower comments in its public file.

Retaliation and Disclosure Unit (RDU). This unit reviews related PPP complaints and disclosures submitted by the same complainant. The assigned RDU attorney serves as the single OSC point of contact for both filings, performing a similar function to the IPD and DU attorneys. Where appropriate, RDU attorneys investigate PPP complaints, obtain corrective or disciplinary actions, and refer disclosures for investigation. RDU attorneys also refer cases to Alternative Dispute Resolution (ADR).

Hatch Act Unit (HAU). This unit enforces and investigates complaints of unlawful political activity by government employees under the Hatch Act of 1939 and represents OSC in seeking disciplinary actions before the MSPB. In addition, the HAU is responsible for providing legal advice on the Hatch Act to federal, state, and local employees, as well as to the public at large.

USERRA Unit. OSC enforces USERRA for civilian federal employees. OSC may seek corrective action for violations of USERRA and provides outreach and education to veterans and agencies on their rights and responsibilities under USERRA.

ADR Unit. This unit supports OSC's operational program units, mediating appropriate matters where both the affected employee and agency consent to ADR. The ADR unit is equipped to negotiate global settlements of OSC and other claims, for example resolving PPP and Title VII discrimination claims stemming from the same personnel action.

Diversity, Outreach, and Training (DOT) Unit. This unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c). This provision requires that federal agencies inform their workforces, in consultation with the OSC, about the rights and remedies available to them under the whistleblower protection and PPP provisions of the WPA. OSC designed and implements a five-step educational program, the Section 2302(c) Certification Program. Unit staff also provide related training government-wide. OSC provides formal and informal outreach, including making materials available on the agency website. This unit also helps develop and implement training programs for OSC's internal staff in order to meet compliance requirements.

Administrative Services Division. This division manages OSC's budget and financial operations and oversees the agency's technical, analytical, records, and administrative needs. Component units are the Budget and Finance Branch, Human Capital Office, Administrative Services Office, and Information Technology Branch. During FY 2017, the Office of the Clerk was established under the Administrative Services Division. This office leads several functional areas, including Freedom of Information Act (FOIA), Privacy Act, Controlled Unclassified Information, and records management.

IV. Performance Highlights

In FY 2018, OSC continued to see elevated levels of new cases. For the fourth year in a row, OSC received around 6,000 new matters. While operating with only a modest increase in resources to perform its mission, OSC has nevertheless continued to help bring enhanced accountability, integrity, and fairness to the federal workplace.

As recognition of, and confidence in, OSC and the agency's ability to achieve desirable outcomes for whistleblowers increases in the federal community, more individuals will seek out OSC's assistance. The agency's success in handling high-profile cases and achieving outsized corrective actions and outcomes for complainants generates significant media attention. OSC also proactively utilizes press releases and social media to promote its success stories. In addition, OSC is increasingly gaining the attention of the federal community due to the substantial training OSC conducts under the Section 2302(c) Certification Program. All of these actions drive a greater recognition of OSC, which, in turn, leads to an increase in the number of cases filed.

Although resources have been tight, OSC has managed to increase productivity across its multiple units to address rising caseloads. In FY 2018, OSC resolved more than 6,000 cases, 61% above recent historical averages. OSC also matched its high water marks in terms of favorable actions obtained in PPP cases—specifically in whistleblower retaliation cases.

OSC has also experienced increased success in handling its Hatch Act and USERRA cases. On the Hatch Act front, OSC issued 49 warning letters and successfully obtained six disciplinary actions against agency officials who committed the violations. OSC also helped 22 service members with their employment and reemployment rights in USERRA cases.

In addition, OSC filed an *amicus curiae* brief to clarify the scope of whistleblower protections for federal employees. Furthermore, OSC filed five motions/letters with federal courts of appeals and the MSPB, informing these adjudicatory bodies of supplemental authorities that may affect pending cases in which OSC previously filed amicus briefs.

OSC continues to set records in achieving favorable results. In PPP cases this past year, OSC achieved 314 favorable actions, triple the number of an average year. Over FY 2017-18, OSC obtained favorable results in 479 whistleblower retaliation actions, which is also triple the rate of an average two-year span.

Whistleblower disclosures of wrongdoing have also led to immense success in ensuring identified problems are addressed and corrected. Of the disclosures referred for investigation by OSC, agencies substantiated 88 percent in FY 2018. OSC's high substantiation rate results in improved public safety, the prevention of fraud and abuse, and recouping significant funds to the U.S. Treasury.

In FY 2018, OSC worked with whistleblowers to identify millions of dollars in wasteful spending and prevent further waste. For example, a Navy whistleblower reported to OSC that $32 million in equipment was unaccounted for due to lax accountability measures at the facility, a claim which the agency substantiated As a result of this case, new policies were put in place to improve accountability and prevent further loss of equipment, saving valuable taxpayer resources. In addition to identifying waste, whistleblowers work with OSC to continue to bring improvements to the VA. OSC's work with whistleblowers continues to identify quality of care issues at VA health facilities in order to help our government fulfill its solemn commitment to veterans.

A core tenet of my leadership at OSC is ensuring that agencies receive robust training to prevent PPPs and Hatch Act violations before they can occur. For FY 2018, OSC again dramatically increased its training of the federal community. OSC conducted 198 outreach events during FY 2018, a new agency record, and certified an additional 23 agencies under its Section 2302(c) Certification Program, which requires agencies to take specific steps to inform their managers and employees about whistleblower protections and PPPs.

Overall, OSC is performing at unprecedented levels in carrying out its role as an independent investigative and enforcement agency, bringing greater integrity and efficiency to the federal government. OSC is also working harder and smarter, and with better results than at any time in its history.

V. <u>OSC's Notable Successes</u>

OSC has four primary statutory enforcement programs: (1) investigating, prosecuting, and resolving PPPs, including whistleblower retaliation; (2) serving as a safe and secure channel for whistleblower disclosures; (3) advising, investigating, litigating, and resolving improper political activity violations of the Hatch Act; and (4) litigating and resolving matters under USERRA.

A. <u>PPPs</u>

1. Program Overview

The volume of PPP complaints received by OSC is substantial and growing. In FY 2018, OSC received 4,168 new cases, the largest amount received in agency history and more than 1,000 more cases than were filed a mere five years ago. Where appropriate, OSC seeks corrective action, disciplinary action, and systemic relief through informal resolutions or litigation before the MSPB, and is currently achieving an unprecedented number of favorable actions. For some cases, mediation may offer the timeliest and most mutually beneficial outcome.
In FY 2018, OSC gained 314 favorable actions in its cases, the 2^{nd} highest level in agency history, and 143% over recent agency historical averages (since 2001). This translates into improved accountability and fairness in government, as well as jobs saved, whistleblowers protected, and rights restored.

Of the favorable actions achieved in FY 2018, 235 involved whistleblower retaliation. OSC negotiated 47 stays with agencies to protect employees from premature or improper personnel actions. OSC also obtained twelve stays or stay extensions from the MSPB and achieved 22 disciplinary actions, upholding accountability and serving as a warning against unacceptable conduct.

2. Notable Successes

OSC protects federal employees and applicants for federal employment from PPPs. The following are examples of recent successes in resolving PPP complaints filed with OSC.

<u>*Whistleblower Retaliation*</u>

- Complainant, the then-Chief of Staff of an agency component, alleged she was retaliated against for reporting the misappropriation of tens of millions of dollars. The complainant's leadership had authorized her to work remotely abroad with her family and then, following her protected activity, revoked the agreement and threatened her with Absent Without Leave (AWOL) if she did not return with several days' notice. OSC worked with the complainant and the agency to negotiate an agreement to compensate the complainant, among other favorable terms, when she elected to resign.

- Complainants, high-level security officials at the Transportation Security Administration (TSA), alleged that after making several safety and security protocol disclosures, the TSA geographically reassigned them. One of the complainants was reassigned twice more, issued a failing evaluation, and informed she would be demoted. She resigned under duress. With OSC's assistance, the parties entered into an agreement, which included monetary damages of approximately $1 million combined for all three complainants.

- Complainant, a law enforcement officer, alleged that the agency subjected him to a retaliatory investigation and ended his detail assignment because the agency suspected that he had made protected disclosures to the press. In addition to an earlier corrective action settlement, OSC obtained systemic corrective action to help ensure that the agency's guidance regarding whistleblower rights is correct and updated. The agency agreed to update its policies, which are posted on its intranet, to clarify that its media release policy does not prohibit employees from making protected disclosures; its anti-discrimination policy also prohibits retaliation against employees for making protected disclosures; and its policy on reporting violations does not limit where employees can make protected disclosures.

- Complainant, a director of business operations and chief master sergeant (retired), alleged she was retaliated against for reporting a sexual assault against one of her subordinates among other protected activity. The agency issued complainant a "no contact" order as to employees, transferred her out of her job, and threatened her with an investigation. OSC obtained a stay of a hiring action after one of the subject officials tried to block complainant's selection. OSC investigated, including an on-site visit, and ultimately negotiated a settlement where complainant was promoted to one of the top ten leadership positions (with 10 percent salary increase) at the facility, and complainant received compensatory damages and corrected personnel records. The agency also agreed to suspend one subject official for 10 days and reassign him to a non-leadership position. Another subject official, who was in senior management and was accused of the most significant wrongdoing, resigned during the course of OSC's investigation.

- Complainant, a staff dentist, alleged that the agency initiated an administrative investigation, suspended his clinical privileges, and proposed his removal in retaliation for disclosures he made regarding recordkeeping failures that compromised patient care and treatment outcomes. Following a finding of retaliation by both OSC and an internal investigative body, the agency agreed to rescind the proposed removal; fully restore complainant's clinical privileges; and reverse any prior reporting actions to the National Practitioner Data Bank and/or state licensing boards. The agency agreed to propose a removal and a reprimand against the responsible officials.

- Complainant, a safety and occupational health specialist, alleged that the agency removed him during his probationary period for disclosing workplace fall hazards and violations of OSHA reporting requirements. OSC concluded that his probationary removal violated 5 U.S.C. § 2302(b)(8) and issued a Report of Prohibited Personnel Practices to the agency that resulted in a settlement for the whistleblower. In exchange for withdrawing his OSC complaint and resigning, the agency agreed to compensate complainant with ten months of back pay, pay complainant $85,000 in compensatory damages, and waive recoupment of a $15,000 recruitment incentive.

Improper Selection Practices and Other Violations

- Complainant, a fire prevention technician, alleged that her supervisory duties were removed in retaliation for reporting her supervisor for sexual harassment and assault. Complainant further alleged that the agency failed to select her for promotion that would have restored her supervisory duties in retaliation for testifying before Congress to the supervisor's abuse. With OSC's assistance, the complainant settled her case. The agency restored complainant's supervisory duties; promoted her to her desired position; and assigned her to her preferred duty station and supervisor.

- OSC received allegations that an agency had an anti-leak poster displayed with a slogan and imagery that may discourage lawful whistleblowing. The allegations also asserted that since the poster was akin to implementing a non-disclosure agreement, the poster needed to mention the language required by 5 U.S.C. § 2302(b)(13). OSC verified that the poster had been removed from the agency's facilities and would no longer be used in any of facilities or publications. OSC also updated a 2012 memorandum on agency monitoring practices, as well as a 2013 memorandum on non-disclosure agreements, and re-circulated these memoranda to the federal community. In addition, OSC contacted the agency that created the poster, and that agency agreed to remove the poster from circulation. Last, OSC provided training on PPPs to agency officials.

- OSC received allegations of several possible recruitment violations at an agency. Earlier, an audit revealed that the agency attempted to use improper criteria to hire only attorneys for six separate non-attorney positions. As agency leadership expressed confusion about how their actions were improper and questions remained about the guidance they received, OSC issued a PPP report to clarify the standards applicable to this type of hiring manipulation. The agency accepted OSC's findings and agreed to training. OSC published the redacted PPP report in this case to educate the federal community.

- OSC investigated allegations referred by the U.S. Office of Personnel Management that an assistant human resources director engaged in manipulation of the hiring process in order to hire a contractor and avoid veterans' preference rules. After OSC completed its investigation and discussed its findings with the agency, the agency counseled the subject official and agreed to OSC-provided training on PPPs and merit system principles.

- Complainant, a pharmacy supervisor, alleged that the agency required supervisors to sign a confidentiality agreement that did not conform to 5 U.S.C. § 2302(b)(13). OSC concluded that the terms of the confidentiality agreement could discourage whistleblowing. In settlement, the agency included in a revised agreement specific language informing employees of their right to make disclosures without suffering reprisal.

Stays of Personnel Actions

- Complainant, an environmental officer, alleged that he reported to management and to the Inspector General (IG) that his agency violated environmental laws and regulations in a rush to approve oil drilling in the Arctic Ocean. OSC's investigation determined a senior official not in the complainant's supervisory chain requested that he be investigated for unspecified misconduct within hours of learning of the IG investigation. Based on the unspecified misconduct investigation, the agency removed the complainant. OSC determined that the removal was based on a retaliatory investigation and petitioned the MSPB for a stay of the removal, which was granted and repeatedly extended. OSC has issued a statutory finding of reprisal and a recommendation to the agency for corrective and disciplinary action.

- Complainant, a dentist, alleged that the agency initiated an administrative investigation, suspended his clinical privileges, and proposed his removal in retaliation for disclosures he made regarding recordkeeping failures that compromised patient care and treatment outcomes. OSC found reasonable grounds to believe that the investigation and proposed removal were retaliation for complainant's protected activities and obtained an initial 45-day stay order from the MSPB to prevent his removal. Following the expiration of the say, OSC obtained an additional 90-day Board-ordered extension. The agency later agreed to stay the removal indefinitely until OSC completed its investigation.

- Complainant, an assistant chief of human resources, alleged that the agency proposed her removal in retaliation for disclosing that the chief financial officer (CFO) and other high-level officials repeatedly pressured her to qualify the CFO's husband for a position. OSC obtained a 120-day informal stay of the proposed removal, and a new supervisor for complainant.

- Complainant, a nurse, alleged that her supervisor proposed her removal in retaliation for her protected disclosures. Specifically, she disclosed that wound dressings were not being changed, colleagues were sleeping on the job, and residents were being neglected. At OSC's request, the agency agreed to stay the removal while OSC investigated.

- Complainant, a technical specialist, alleged that he was placed on a performance improvement plan (PIP) and threatened with demotion because of a prior OSC complaint that also alleged that he was placed on a PIP and threatened with demotion in reprisal for having assisted another employee in protected activity. OSC obtained corrective action in the earlier complaint. At OSC's request, the agency agree to stay the proposed demotion while OSC investigated the second complaint.

B. <u>Whistleblower Disclosures</u>

1. Program Overview

OSC provides a safe and secure channel for whistleblowers, who are often in the best position to detect wrongdoing on the job and disclose waste, fraud, abuse, illegality, and dangers to public health and safety. Through this process, OSC contributes to improving the efficiency and accountability of government.

Over the last few years, the agency has handled record numbers of disclosures from federal whistleblowers. OSC received nearly 3,500 whistleblower disclosures in FY 2017 and FY 2018 combined. In FY 2018 specifically, OSC sent 41 whistleblower disclosure reports to the President and Congress. In 36 of those cases, agencies substantiated wrongdoing referred by OSC.

Substantiated disclosures can often result in direct financial returns to the government. However, the real measure of OSC's financial contribution is preventive; by providing a safe channel for whistleblower disclosures, OSC helps address threats to public health and safety that pose the very real risk of catastrophic harm to the public and huge remedial and liability costs for the government. For example, OSC played a central role in highlighting VA employee disclosures of patient scheduling protocols, causing delays in access to care and significant risks to the health of our nation's veterans. In past years, OSC substantiated allegations that Department of Defense (DoD) Commissary workers improperly inspected meat and poultry, posing a danger to public health and safety. OSC has handled previously dozens of disclosures from courageous FAA employees who blew the whistle on systemic failures in air traffic control and the oversight of airline safety.

2. Notable Successes

OSC is authorized to refer whistleblower disclosures of wrongdoing in five areas: (1) violations of a law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; and (5) substantial and specific dangers to public health or safety. In FY 2018, examples of OSC successes involving whistleblower disclosures include the following:

Violation of Law, Rule or Regulation, Gross Mismanagement and Gross Waste of Funds

- **Mismanagement of Navy Inventory of Operating Materials and Supplies for Ships.** OSC referred to the Secretary of the Navy allegations that employees of the Naval Seas Systems Command, Port Hueneme, California, grossly mismanaged the inventory of the facility's operating materials and supplies (OM&S). The whistleblower disclosed that Port Hueneme employees failed to properly maintain and record inventory over a number of years and that classified inventory items were not identified and stored in a secure manner in accordance with Department of Defense and Navy regulations. The whistleblower also alleged that management failed to properly respond to and remedy these inventory shortcomings and that these failures resulted in a loss of over $20 million to the Navy and readiness issues for Navy ships requesting parts.

The agency report substantiated three of the four allegations. Specifically, the agency found that employees failed to properly maintain and record OM&S inventory over a number of years, resulting in more than $32,250,000 of unaccounted for material, in violation of Navy Instructions. The agency also substantiated that employees failed to properly identify and store classified material in violation of Department of Defense Manual 4140.01 and failed to properly investigate instances in which classified and Level 1/Submarine Safety inventory items were identified as unaccounted for, in violation of Navy Manual 5510.36. The Navy transferred responsibility for management of the warehouse and installed appropriate areas for storing classified and SubSafe material. The Navy also relocated all classified material and is drafting specific guidance regarding classified materials.

- **Failure to Follow Required Processes for Aircraft Oil Analysis**. OSC referred to the Secretary of the Army allegations that Army leadership at Redstone Arsenal, Alabama, and Washington, D.C., failed to employ available state-of-the-art oil analysis technology on T700 aircraft engines, resulting in significant costs to the agency. The whistleblower disclosed that Army leadership failed to direct aircraft program managers to use test processes offered by the Army Oil Analysis Program (AOAP) despite Army policies requiring participation and that the failure to employ AOAP resources resulted in the gross waste of approximately $95 million annually and prevented AOAP from fully meeting its mission objectives.

  The Army partially substantiated the allegations. The Army determined that the T700 engine is not subject to the requirement to use AOAP processes because it has a high-performance engine oil filter and other components that permit an accurate assessment of required maintenance. However, the Army investigation determined the T700 was never formally exempted from AOAP. The Army initiated corrective actions to complete an administrative exemption. The Army further determined that the costs of leadership's refusal to enroll the T700 in AOAP were significantly lower than the amount alleged, finding expenses between $1.5 million and $6.9 million. Regardless of the dollar amounts, the Army averred that costs could not be characterized as a gross waste of funds because the associated engine maintenance was intended to ensure personnel and aircraft safety. The Army acknowledged a professional disagreement between T700 and AOAP leadership regarding the efficacy of AOAP's proposed pilot program to test state-of-the-art analysis technology. Nevertheless, the Army began a reassessment of AOAP's proposal to ensure that the Army is taking advantage of the best available technology.

- **Fraud and Use of Government Purchase Card for Personal Benefit**. OSC referred to the Secretary of the VA a disclosure alleging employee wrongdoing at the Bedford VA Medical Center (Bedford VAMC), Bedford, Massachusetts. The whistleblower disclosed that employees engaged in widespread and serious misconduct in the purchase and acquisition of landscaping and building materials. He asserted that purchasing agents made suspicious, frequent, and significant purchase orders for landscaping materials, such as rock salt, mulch, and crushed stone, and that the majority of these orders were never delivered to the facility, despite payment. The whistleblower contended that these purchases and payments were part of a kickback arrangement, whereby purchase orders to local companies were made in exchange for pecuniary benefits to VA employees.

The investigation largely substantiated the whistleblower's allegations, finding that at the direction of the former-Bedford VAMC Maintenance and Grounds Supervisor, the unit purchased in excess of $200,000 for snow removal and grounds-keeping materials from Earth Creations Landscaping, a company owned by his son. The daughter of the Bedford VAMC Maintenance and Grounds Supervisor was also a VA employee and was directly involved in purchase orders made to Earth Creations Landscaping, as a temporary purchase card holder. The investigation determined this was a violation of VA and government ethics regulations. See 18 U.S.C. § 208 and 5 C.F.R. § 2635. The investigation found that since FY2011, at the direction of the supervisor, Maintenance and Grounds purchasing agents ordered over $750,000 in landscaping materials in a manner that violated VA and government-wide acquisition integrity policies.

During the investigation, the supervisor's daughter provided inaccurate statements to federal special agents concerning this conduct. During a 2016 interview with criminal investigators, she claimed that she was unaware that Earth Creations Landscaping was owned by her brother and noted that she had never discussed the company with family members. She explained that she first learned of this association after seeing an Earth Creations truck parked at a residence hosting a family party in either 2012 or 2013. Subsequently discovered email communications determined that despite her statements to agents, she corresponded via email with family members about the VA making payments to Earth Creations as early as May 2011.

Investigators provided evidence to the VA OIG for criminal investigation in the summer of 2015 and the matter was presented by the VA OIG to the U.S. Attorney for the District of Massachusetts, who declined prosecution in August 2017. After the criminal component of this matter concluded, the VA proposed disciplinary action in October 2017, charging the supervisor's daughter with lack of candor and conduct unbecoming a VA employee, and demoted her from a GS-12 to a GS-11. The Special Counsel determined that while the reports met the statutory requirements and the investigatory findings appeared reasonable, the agency's response to the findings and employee misconduct did not appear reasonable.

Violation of Law, Rule or Regulation, Gross Mismanagement, Abuse of Authority and a Substantial and Specific Danger to Public Health

- **Clinical Neglect of Spinal Cord Maladies**. OSC referred to the Secretary of the VA disclosures submitted by four whistleblowers of wrongdoing at the VA Medical Center Manchester (VAMC Manchester), Manchester, New Hampshire. The whistleblowers disclosed that a large number of VAMC Manchester patients developed serious spinal cord disease as a result of clinical neglect at the VA; that the former Chief of the Spinal Cord Unit improperly copied and pasted patient chart notes for over 10 years; and that VAMC Manchester's operating room has repeatedly been infested with flies.

VA investigators found that in fiscal years 2015 and 2016, 11 consult appointments, or 20 percent of appointments, were not made in the required time, and in more than half of these instances there was no documented reason for the delay. Despite these findings, VA Investigators were "unable to substantiate" that the referral process from VAMC Manchester to the Boston SCI/D Center created undue delays in care. Regarding a patient who died from surgical complications, the VA noted it was "unclear" if the surgery contributed to his disease progression, but later concluded that his care was appropriate. Nevertheless, the VA stated that the treatment of this patient, as well as six others, would be reviewed by an independent, non-VA external reviewer, raising questions regarding the sufficiency of the initial review of this information. The report first acknowledged that the former Chief of the Spinal Cord Unit inappropriately copied and pasted chart notes between 2008 and 2012, but asserted no harm resulted because associated patient records did not contain any indicia of adverse patient outcomes. The report subsequently acknowledged that investigators only reviewed his charts from a limited time period, yet claimed they had sufficient information to broadly conclude that no patients were harmed.

The Special Counsel determined these findings did not appear reasonable and took issue with the VA's response to these allegations when they were featured in a Boston Globe article, noting that the VA did not initiate substantive changes to resolve identified issues until over seven months had elapsed, and only after widespread public attention focused on these matters.

Violation of Law, Rule or Regulation, and Substantial and Specific Danger to Public Health and Safety

- **Employee Exposure to Toxic Chemicals**. OSC referred to the Secretary of Agriculture allegations that Animal and Plant Health Inspection Service (APHIS) personnel improperly exposed Department of Homeland Security (DHS), U.S. Customs and Border Patrol (CBP) horses to toxic chemical sprays. The whistleblower, manager of the CBP Horse Patrol Program, learned that several CBP horses patrolling the U.S. border in western Texas began to exhibit serious health problems. The patrolled area serves as a tick quarantine zone, with APHIS personnel providing chemical treatments for all livestock who enter the area. As a result, APHIS mandated that all CBP horses patrolling the zone undergo a spray-cycle of an organophosphate compound known as Co-Ral. The whistleblower worked with several veterinarians to identify the cause of the CBP horses' symptoms. Ultimately, he received a diagnosis of organophosphate poisoning from a private veterinarian, and immediately stopped the spraying of the CBP horses. APHIS personnel authorized an interim treatment program, allowing the CBP to temporarily switch to an alternative chemical; nevertheless, the whistleblower asserted that APHIS personnel failed to provide CBP with the Material Safety Data Sheet (MSDS) of the Co-Ral spray solutions and other pertinent information. He also disclosed that APHIS personnel did not provide the CBP agents with personal protective equipment (PPE) when they were required to physically restrain the horses during the Co-Ral spray cycles.

USDA did not substantiate the whistleblower's allegation that APHIS engaged in misconduct by spraying CBP horses with Co-Ral. The report found that while the CBP horses' symptoms could be associated with organophosphate toxicity caused by Co-Ral, other causes could not be ruled out. Due to substantial technical and scientific disagreement, the evidence was insufficient to find that APHIS personnel engaged in gross misconduct in applying the Co-Ral spray. However, USDA did find that APHIS personnel were not fully cooperative and forthcoming with CBP personnel. The report also substantiated the allegation that APHIS personnel did not direct CBP personnel to take proper precautions when handling horses treated with Co-Ral. While neither APHIS nor CBP personnel were found to have suffered any ill effects from Co-Ral exposure, USDA determined that all personnel should have been using PPE or taking other appropriate precautions.

In response to the investigation, the agency implemented several corrective actions. USDA required that APHIS personnel reach an amicable solution with CBP personnel for future tick treatment of CBP horses; the agency confirmed that APHIS personnel will use permethrin, a less potent chemical solution, to treat the CBP horses moving forward. APHIS also provided the MSDS of the Co-Ral chemical spray and all requested information to CBP. Finally, USDA established requirements for all personnel present during any application of chemicals on CBP horses, including implementation of standard operating procedures and the use of PPE. The Special Counsel also commended the USDA Secretary for a prompt and thorough response and his recognition that both DHS and USDA must work together to protect public safety.

Violation of Law, Rule or Regulation

- **Improper Imposition of Requirements for Law Enforcement Status.** OSC referred to the Secretary of the Army allegations that the DoD and Army Office of the Provost Marshal General in Washington, D.C. implemented policies that appeared to violate federal law. Specifically, the whistleblower alleged DoD instructions allowed components to implement instructions that improperly imposed additional criteria on qualified law enforcement officer status, a designation explicitly defined by the Amended Law Enforcement Officers Safety Act of 2004 (LEOSA). See 18 U.S.C. § 926B. The whistleblower further asserted that an Army Directive (the Directive) created an additional requirement that appeared to violate LEOSA.

  DoD's investigation substantiated that the Directive violated LEOSA. The report noted that, while well-intentioned, the Directive improperly imposed additional restrictions on Army law enforcement officers to obtain "qualified law enforcement officer status." The agency confirmed that the addition of the experience requirement violated LEOSA, which does not contemplate additional restrictions on eligibility beyond those enumerated in the statute. The investigation did not substantiate the allegation that DoD instructions improperly granted components the authority to impose additional criteria. In response, DoD is rewriting its policy to clarify conditions under which DoD components may supplement department-wide instructions. The Secretary of Defense directed the Army to revise the Directive to remove the impermissible LEOSA eligibility criteria. DoD is also reviewing the LEOSA policies of all DoD components.

Violation of Law, Rule or Regulation, Gross Mismanagement, and Substantial and Specific Danger to Public Health and Safety

- **Failure to Conduct Proper Lead-Based Paint Inspections.** OSC referred a whistleblower's disclosure that an Environmental Protection Agency (EPA) regional office had failed to conduct proper lead-based paint inspections as required by law. The EPA OIG investigated and largely substantiated the whistleblower's disclosures. The EPA agreed to multiple systemic improvements, including forming an annual national audit program to increase oversight and accountability; hiring new staff; and issuing national policy guidance to reinforce the importance of checking for women and children occupants at lead-exposed renovation sites—a central thrust of the EPA's mandate.

C. Hatch Act

1. *Program Overview*

OSC aims to reduce prohibited political activities by: (1) educating and warning employees about unlawful partisan political activity, and (2) bringing disciplinary actions against federal employees who violate the Hatch Act. To achieve these goals, this year OSC responded to 1,394 requests for advice, issued 49 warning letters, and obtained ten corrective actions and eight disciplinary actions, either by negotiation or through MSPB orders. OSC also fulfilled 100 percent of training requests it received from other government agencies to educate their personnel to avoid violations.

2. *Notable Successes*

OSC protects federal employees from political coercion in the workplace, safeguards against improper political activity by agency officials, and ensures that federal programs are administered in a nonpartisan fashion. Examples of recent OSC successes under the Hatch Act include the following:

Litigation

- OSC filed a complaint with the MSPB against a VA doctor alleging that he violated the Hatch Act when he ran as an independent candidate in the 2014 partisan election for the U.S. Senate (Tennessee) and promoted his candidacy by distributing business cards featuring the VA's official seal and touting his campaign video, which included a testimonial from a patient he had treated at the VA. The complaint also alleged that the doctor encouraged several VA colleagues and at least one patient to watch his campaign video; solicited campaign contributions both online and in person; and invited at least one patient to a campaign event. The case is pending before the MSPB.

- OSC filed a complaint with the MSPB against a U.S. Department of Justice immigration judge alleging that she violated the Hatch Act when she promoted then-presidential candidate Hillary Clinton’s plan for immigration reform and advocated against the Republican Party’s immigration plans during a deportation hearing over which the judge was presiding. The case is pending before the MSPB.

Disciplinary Action Obtained through Settlement Negotiations

- OSC entered into a settlement agreement with a U.S. Postal Service (USPS) employee who violated the Hatch Act by making at least 116 partisan political Facebook postings while on duty. Nearly all of the employee’s actions were in the form of a “share” posting from pro-Bernie Sanders, anti-Hillary Clinton, or anti-Donald Trump Facebook accounts. The employee also wore in and out of work for at least a week a USPS-logoed cardigan sweater with a Bernie Sanders campaign sticker on it and draped the cardigan on the back of a work chair, where it was visible to others. USPS had provided the employee with information and training about the Hatch Act prior to these violations. As disciplinary action for her violations, the employee agreed to accept a 50-day suspension without pay.

- OSC entered into a settlement agreement with a U.S. Coast Guard employee who violated the Hatch Act by posting numerous partisan political messages on Facebook while on duty or in the workplace. Several of her Facebook “friends” were subordinate employees. The employee knew about the Hatch Act’s prohibitions when she posted the messages; in fact, she earlier had consulted OSC about the prohibition against engaging in political activity on duty. As disciplinary action for her violations, she agreed to serve a 10-day suspension without pay.

- OSC entered into a settlement agreement with an Immigration and Customs Enforcement employee who while at work posted more than 100 partisan political messages to Facebook and Twitter that supported then-presidential candidate Hillary Clinton and/or opposed then-presidential candidate Donald Trump. The employee had significant knowledge of the Hatch Act and had even previously accused a coworker of violating the Act. The employee continued to engage in prohibited political activity despite knowing that she was under investigation. As disciplinary action for her violations, the employee agreed to resign her federal employment and accepted a five-year debarment from returning to federal service.

Investigations Involving High-Level Officials

- OSC sent an investigative report to President Donald Trump finding that Counselor to the President Kellyanne Conway violated the Hatch Act during two television interviews in which she appeared in her official capacity. In the first interview, Conway advocated against one Senate candidate and gave an implied endorsement of another candidate. In the second interview, she advocated for the defeat of one Senate candidate and the election of another candidate. Both instances constituted prohibited political activity and occurred after Conway received significant training on Hatch Act prohibitions. OSC sent a report to the President because some presidentially appointed White House employees, such as Conway, fall under the President's authority to discipline for Hatch Act violations.

D. USERRA Enforcement Program

1. Program Overview

OSC continues to assist reservists and National Guard members who face obstacles in their federal civilian jobs due to their military service. OSC receives referrals of USERRA cases for prosecution from the Department of Labor, which investigates these cases. OSC received 25 new cases in FY 2018, and negotiated corrective actions for three complainants.

Notable Successes

OSC protects the civilian employment rights of federal workers who are veterans or serve in the National Guard and Reserves by enforcing USERRA. Examples of recent OSC successes under USERRA include the following case resolutions:

- OSC filed a USERRA appeal with the MSPB on behalf of a U.S. Postal Service (USPS) letter carrier and retired Lieutenant Colonel with the Air National Guard. After the terror attacks of September 11, 2001, the employee served in the military continuously for approximately 14 years, but most of his service was exempt from USERRA's "five-year limit" for reemployment rights because it was in support of the Global War on Terror. After his orders ended and he requested reemployment, USPS refused to reemploy him, asserting that he "abandoned" his civilian job in favor of a military career. OSC argues that because the employee satisfied all statutory requirements, he is entitled to reemployment under USERRA. The case is pending before the MSPB.

- A civilian Navy employee stationed in Singapore requested to use paid "home leave" he had accrued to perform Air Force Reserve duty in the domestic U.S. from June to September 2017. After the Navy denied his request, he was forced to use other types of leave to cover his duty. He filed a USERRA complaint with DOL, which investigated and attempted to resolve his claim. When the Navy refused to provide him any relief, he requested that DOL refer his claim to OSC. After OSC contacted the Navy and explained why its refusal potentially violated USERRA, it agreed to retroactively award him the “home leave” he requested and to adjust his pay records accordingly.

- A U.S. Army Corps of Engineers park ranger in Pittsburgh, Pennsylvania, was deployed to Iraq with the Army Reserve for almost three years. When he returned to work, he found that many of his peers had been reclassified to new positions and/or promoted during his absence, but the agency refused to do the same for him for two more years. After receiving his USERRA complaint from DOL, OSC negotiated an agreement whereby he received a lump sum payment approximating what he would have received had he been reclassified and promoted upon his return from military duty.

- A Federal Emergency Management Agency (FEMA) employee deployed with the Navy Reserve for almost one year continued to be charged premiums for federal employee health insurance, even though she had elected military healthcare coverage. After she was unable to resolve the issue on her own, she filed a USERRA complaint with DOL, which referred it to OSC. At OSC’s request, FEMA agreed to fully reimburse her for the mischarged premiums.

VI. Systems, Controls, and Legal Compliance

Management control activities carried out by OSC include periodic reviews of agency administrative and program elements to ensure that: obligations and costs comply with applicable laws and funds; property and other assets are safeguarded; revenues and expenditures are properly recorded and accounted for; and programs are efficiently and effectively carried out in accordance with management policy. During FY 2018, reviews were completed on the following agency administrative operations:

Information Security Program. OSC’s Chief Information Officer reports the state of compliance and progress of cybersecurity metrics and initiatives at OSC. The results of this review were summarized in the agency’s Federal Information Security Management Act (FISMA) Report, submitted to OMB in October 2018. FY 2018 was the fourth year OSC conducted an external IG metrics audit of the FISMA. OSC also submitted the IG section of the report for the third time. Overall, OSC has intensified its information security review. Following this year’s review, OSC will be prioritizing needed improvements, and developing and executing a plan of action and milestones in the year ahead.

This year OSC completed its first-ever interim Authority to Operate (ATO). An independent external auditor reviewed our agency’s general support system, policies and controls.
In addition, in FY 2018 OSC continued work under its formal agreement with DHS’s Continuous Diagnostic & Mitigation program, and has conducted regular review meetings of our Cyber Hygiene program and Cyber readiness status through FY 2018. A committee on IT was

established in FY 2017 and continued to meet this year to help receive end-user guidance in terms of program needs and requirements, as well as to provide operational feedback to the IT team.

Financial Audit. OSC underwent its fifteenth annual financial audit in FY 2018. The FY 2018 audit addresses the financial statements and accounting processes, almost all of which were conducted by the Interior Business Center (IBC) at the Department of Interior under an interagency outsourcing agreement.

Risk Management Program. OSC established an agency risk management council in FY 2017, as well as developed a risk charter, profile and risk register. In FY 2018 OSC conducted quarterly council meetings to review the agency's risks and take steps to mitigate those risks.

OSC has outsourced many of its financial management and administrative activities to the Interior Business Center, including financial accounting and reporting, invoice payment, contracting operations, financial and procurement systems software and hosting, and travel services. The Program Support Center (PSC) unit of the Department of Health and Human Services conducts contracting operations for OSC. OSC personnel and payroll data entry transactions are processed by the Department of Agriculture's National Finance Center (NFC). All of these operations are administered under cross-servicing agreements with these certified shared services providers. For information on any significant management control issues related to services provided under these agreements, OSC relies on information received from IBC and NFC, and any audits or reviews issued by the Inspectors General and Chief Financial Officers of the Departments of Treasury and Agriculture, and the Government Accountability Office (GAO). IBC conducts multiple internal and external reviews on its operations, which are captured in the Annual Assurance statement on Internal Controls provided yearly to OSC.

The Oracle Federal Financials Major Application is reviewed on a continuous monitoring basis in conformance with NIST guidelines, and is authorized through September of 2023. The IBC certified the system in September of 2013, in accordance with OMB Circular A-130, Appendix III, and approved the system for continued operation. NFC's Payroll System was also certified in September 2013, and has operated with a continuous monitoring program since then. Also, an annual SSAE 18 evaluation was conducted this year on the Oracle Federal Financials Major Application, as well as on NFC's Payroll System and the PSC's Contracting System. OSC has updated Interconnect Security Agreements previously in place with IBC and NFC to cover the travel, financial and payroll systems.

VII. Management Assurances

Annual Assurance Statement on Risk Management, Internal Controls and Internal Control over Financial Reporting

OSC's management is responsible for managing risks, as well as establishing and maintaining effective internal control and financial management systems that meet the objectives of the

Federal Managers' Financial Integrity Act (FMFIA). OSC conducted its assessment of internal controls over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular A-123, "Management's Responsibility for Enterprise Risk Management and Internal Control." Based on the results of this evaluation, OSC can provide reasonable assurance that, as of September 30, 2018, its internal controls over the effectiveness and efficiency of operations were compliant with applicable laws and regulations. Further, OSC certifies that the appropriate policies and controls are in place or corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices.

For its financial reporting needs, OSC works with the Interior Business Center (IBC). OSC obtains the SSAE 18 report from IBC, as well as the year-end roll forward assertion letter, and reviews them to assist in assessing internal controls over financial reporting. With the exception of the matter discussed below, OSC has not identified any significant issues or deviations in its financial reporting during FY 2018 and thus concludes that the agency's internal controls over financial reporting are sufficiently strong.

OSC has been fortunate to receive 14 straight years of unmodified, unqualified financial opinions, however, this year our financial auditors identified one material weakness in internal control over financial reporting relating to the improper tracking and recording of payments to its vendors that should have been reported as advances and prepayments. This has since been corrected, and procedures to remedy this are in place going forward.

OSC has no in-house financial system. OSC has chosen to use Oracle Federal Financials in an environment hosted by IBC, a shared service provider. Because of the rigorous testing that IBC undergoes, OSC considers its financial system to be reliable and effective.

Henry Kerner
Special Counsel
November 15, 2018

VIII. Management Challenges

OSC continues to experience increased demand for its services from federal employees. In FY 2018, OSC received approximately 6,000 new matters, continuing a multiyear trend. The now standard of 6,000 new cases received each year represents double the case levels of a decade ago, a 50 percent increase over the levels just five years ago. The increased interest in OSC, made clear by the dramatic rise in new cases, is a direct result of OSC's success in achieving favorable outcomes for individuals. In particular, OSC's success have continued to result in a large number of filing from VA employees.

OSC is currently at the limit of our ability to process all new cases in the same year that they are received due to resource constraints. While Congress modestly increased OSC's appropriation, the demand for our services continues to outpace the growth in our resources. Receiving around 6,000 new cases per year has become the agency's new normal, and OSC is struggling to keep pace with demand. Prohibited Personnel Practices cases, which can take a significant amount of time to investigate and resolve, have increased significantly—up to 4,168 cases in FY 2018, the highest level in agency history. Despite reaching record efficiencies, OSC is now facing its largest case backlog ever. In order to get back on track and eliminate outstanding backlogs, OSC needs resources commensurate with the growing demand.

In FY 2018, OSC's case backlog reached a new record level of over 2,600 cases. OSC is cognizant of the fact that whistleblowers and complainants become frustrated by the longer processing times driven, in part, by the backlog. The frustration can in turn lead whistleblowers and complainants to avoid filing with OSC. We strongly believe the taxpayer will ultimately be the harmed if government inefficiencies go unchecked because federal workers stop coming to OSC with their disclosures.

Despite the resource challenges OSC faces, the agency is committed to using all available options and opportunities to utilize existing resources to address both new cases and backlogs. OSC is constantly seeking new strategies and creative methods for improving our work processes and efficiency. Recently, Special Counsel Kerner has taken steps to make OSC more agile in adopting new strategies to address case processing challenges. OSC has undertaken an effort to reorganize its program units to more efficiently conduct its operations, centralizing the processing of PPP cases in a single unit and creating the Case Review Division (CRD). As a result of this new centralization of PPP processing, a single attorney will now be responsible for each PPP case, from the start of the review process through closure of the case. The new process will eliminate duplicative review and allow OSC to process PPP complaints in a quicker, more efficient manner. This new Case Review Division will help to filter out those cases that can be closed quickly. The unit will ensure that OSC's scarce resources are directly focused on cases that OSC can potentially resolve fully.

OSC has also adopted periodic reviews of our case processing data in order to identify weaknesses, improve performance, and get results. OSC understands that data-driven, periodic reviews of our internal business processes and program performance is a necessary step toward improving our efficiency and saving taxpayer dollars, as is analyzing the results, asking tough questions, and proposing improvements.

Finally, OSC continues to invest in our IT infrastructure, seeking to modernize our case management system and communication networks. When fully complete, this should make it easier for the public to submit cases to OSC and allow our attorneys to share information and work together more efficiently. Our end goal is to automate as many work processes as possible so that overall case processing times start to decrease. Moreover, as these IT projects move from the development and production phases into the maintenance phase, OSC will be able to strategically shift our limited resources to other areas, which will likewise yield productivity gains.

The challenges faced by OSC extend beyond the internal borders of the agency. Much of OSC's authority is tied directly to the Merit Systems Protection Board (MSPB). OSC relies on the Board to adjudicate claims of violations of personnel practices, the Hatch Act, and USERRA. However, as it currently stands the MSPB lacks a quorum necessary to issue final opinions and may soon be besieged by a backlog of its own. The absence of a quorum at the MSPB limits OSC's ability to proceed in cases and provide timely resolution for complainants.

Regardless of the challenges that lie ahead, OSC remains committed to identifying opportunities to improve our work processes and operate more efficiently and effectively. We believe this will allow us to successfully fulfill our mission by better streamlining government, reducing waste, fraud, and abuse, promoting public health and safety, and saving valuable taxpayer dollars.

IX. Comments on Final FY 2018 Financial Statements

Financial Highlights

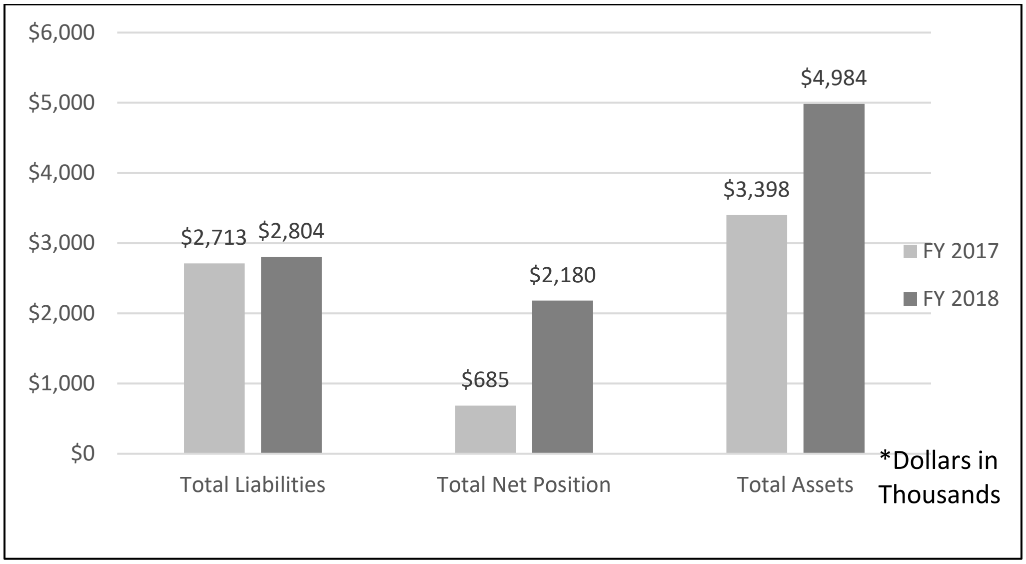
Consolidated Balance Sheet

The Consolidated Balance Sheet presents amounts that are owned or managed by OSC (assets); amounts owed (liabilities); and the net position (assets minus liabilities) of the agency divided between the cumulative results of operations and unexpended appropriations.

OSC's balance sheets show total assets of $4,984,000 at the end of FY 2018. This is an increase of $1,586,000, compared to OSC's total assets of $3,398,000 for FY 2017. Fund Balances with Treasury comprise 87 percent of OSC's assets.

Total Liabilities for OSC increased by $91,000 from $2,713,000 in FY 2017 to $2,804,000 in FY 2018, an increase of 3 percent. The three largest components of Total Liabilities are Unfunded Leave ($1,177,000), Federal Employee and Veteran Benefits ($505,000), and Accrued Funded Payroll ($605,000).

US Office of Special Counsel Balance Sheet



The Net Position is the sum of Unexpended Appropriations and the Cumulative Results of Operations. At the end of FY 2018, OSC's Net Position on its Balance Sheets and the Statement of Changes in Net Position was $2,180,000, an increase of $1,495,000 as compared to the FY 2017 ending Net Position of $685,000. This increase is due primarily to an increase in Total Unexpended Appropriations for FY 2018.

Combined Statements of Budgetary Resources

The Combined Statements of Budgetary Resources show how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY 2018, OSC received a $26,535,000 appropriation. OSC ended FY 2018 with an increase in total budgetary resources of $2,088,000, or 8 percent, above FY 2017. Most of this change is attributable to a $1,785,000 increase in the amount of appropriations OSC received in FY 2018.

Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2018 and FY 2017 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position increased last year by $1,495,000 as compared to FY 2017.

Other Financial Information

OSC's capitalization policy has a threshold of capitalizing individual assets greater than $50,000. OSC's total Property, Plant and Equipment acquisition value stood at $1,140,000, with accumulated depreciation of $955,000 and a 2018 Net Book value of $185,000. (Note 4 to Principal Financial Statements)

OSC had $1,662,000 more in Total New Obligations and Upward Adjustments this year; $26,441,000 in FY 2018 as compared to $24,779,000 in FY 2017. (Note 9 to Principal Financial Statements) This was due to OSC having a higher appropriation base to obligate against.

OSC recognizes Imputed Financing sources and corresponding expense to represent its share of the cost to the federal government of providing accrued pension and post-retirement health and life insurance benefits. These benefit expenses for current employees increased by $375,000, from $742,000 in FY 2017 to $1,117,000 in FY 2018. Assets and Liabilities relating to these benefits are the responsibility of the Office of Personnel Management.

- The dollar amounts listed above are rounded to the nearest thousand, in accordance with the rounding on the Financial Statements.

- Percentages are rounded off to the nearest whole percentage.

Limitations of the Financial Statements: The principal financial statements have been prepared to report the financial position and results of operations of OSC, pursuant to the requirements of 31 U.S.C. 3515 (b).

PART 2: PERFORMANCE SECTION

I. New FY 2017-2022 Strategic Plan and Corresponding Goals

The Performance Section presents detailed information on the annual performance results of programs related to OSC's primary statutory enforcement responsibilities.

OSC developed a new Strategic Plan that became effective in FY 2017. According to the Strategic Plan, OSC's mission is to safeguard employee rights and hold government accountable. To do so, OSC identified three overarching strategic goals:

(1) Protect and promote the integrity and fairness of the federal workplace.
(2) Ensure government accountability.
(3) Achieve organizational excellence.

Each goal has three to six specific objectives aimed at implementing the larger strategic goals. Each objective, in turn, relates to one of OSC's enforcement authorities or programs or improving OSC as an organization. Specific performance metrics are provided to measure OSC's success in the identified areas. A complete copy of OSC's Strategic Plan for FY 2017 – FY 2022 can be found in Appendix I.

Below are OSC's performance results showing the agency's results against the targets in our Strategic Plan. In some cases—particularly for new or revised metrics—OSC needs to establish a baseline of data in order to set realistic targets for future years. Some items on the table are indicated as data points to assist in showing data trends as they impact performance outcomes. Data points are not performance metrics as OSC does not control the outcomes.

Below are Goal Tables listing each of OSC's Performance Measures for the FY 2018 goals. The metrics they contain correspond to the appropriate Budget-Related Goals. Several of the metrics have explanatory notes that follow the Goal Tables, and these notes are assigned the same number that correspond to its respective metric number listed in the table.

In FY 2018, OSC successfully met or partially met 53 out of 64 goals, or 83 percent of its goals this year. Because OSC has continued to see high levels of new cases in FY 2018, we consider this to be a successful performance in the face of difficult resource allocation decisions to achieve these goals.

II. Strategic Goal 1, Tables 1-5 – Protect and promote the integrity and fairness of the federal workplace.

Strategic Goal 1 has six objectives:

Objective 1: Fairly and promptly investigate and prosecute cases.

Objective 2: Obtain timely and effective relief in cases.
Objective 3: Enhance strategic use of enforcement authority.
Objective 4: Provide time and quality Hatch Act advisory opinions and guidance.
Objective 5: Expand training and outreach efforts nationwide.
Objective 6: Effectively and innovatively communicate with stakeholders and the public.

Goal Tables 1A, 1B, and 1C relate to the first two objectives regarding OSC's investigations of alleged PPPs, Hatch Act violations, and USERRA complaints, respectively.

A. **Goal Table 1A** details the data points and performance metrics for OSC's work investigating, litigating, and resolving PPP complaints. In FY 2018 OSC met 8 out of 10 goals.

Generally, OSC's Strategic Plan contemplates a standing working group to improve efficiency of case handling in allegations of PPPs, Hatch Act cases, and USERRA complaints with a broad mandate to look at intake, workflow, investigative, prosecutive, and resolution processes. In its first year, the working group focused on prohibited personnel practices. The working group gathered data on OSC efficiency and effectiveness over the past several years and identified innovation that correlated with improved efficiencies. The working group also considered both internal and external catalysts, including OSC statistical data on workload and performance, organizational and operational changes, leadership, budget, public perception, and legislative changes. The working group is completing a report summarizing the information gathered and its conclusions.

Goal Table 1A: Goals 1-14

Goal 1 - Protect and promote the integrity and fairness of the federal workplace

Objective 1: Fairly and promptly investigate and prosecute cases

Objective 2: Obtain timely and effective relief in cases

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
1	Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
2	Number of PPP complaints received	Data-point	3,784	Data-point	4,112	Data-point		Data-point			
3	Number of whistleblower retaliation complaints received	Data-point	1,899	Data-point	1,861	Data-point		Data-point			
4	Number of whistleblower retaliation complaints closed within 240 days	Baseline	1,305	Baseline	1,667	Baseline		Baseline			
5	Average age of PPP complaints at closure	Baseline	131	Baseline	166	Baseline		Baseline			
6	Number of PPP complaints filed with MSPB	1	0	1	1	1		1			
7	Number of successful PPP prosecutions before MSPB	1	0	1	0	1		1			
8	Number of PPP complaints mediated	30	37[8]	33	29	33		33			
9	Number of PPP complaints mediated resulting in settlement	18	32	20	22	20		20			
10	Number of informal stays obtained	25	34	25	47	25		25			
11	Number of formal stays and related extensions obtained	4	16	4	12	8		8			
12	Total favorable PPP actions	203	190[12]	206	309	206		275			
13	Number of systemic corrective actions obtained	28	47	30	57	32		32			
14	Number of disciplinary actions obtained	15	16	15	19	15		15			

<u>Goal Table 1A Explanatory Notes</u>

8: This amount represents the number of completed mediations out of a total of 66 cases that entered mediation in FY 2017.

12: This metric was revised. Total favorable actions in PPP cases include informal stays, formal stays (including extensions), individual and systemic corrective actions, as well as disciplinary actions. OSC's historical average for total favorable actions in PPP cases is 186. The recent favorable action average for the past three years is higher at 251, with OSC obtaining 276 favorable actions in FY 2016. The FY 2017 and FY 2018 targets for Metric 12 (individual corrective actions obtained) of the new strategic plan are therefore revised to 203 and 206 respectively. This revision reflects the more accurate and appropriate targets of 275 anticipated total favorable actions in FY 2017 and 276 in FY 2018, and is consistent with OSC's historical trends for PPP cases.

B. **Goal Table 1B** details the data points and performance metrics for OSC's work investigating, litigating, and resolving Hatch Act complaints. OSC met five out of five goals in FY 2018. Metric 15 is a data-point and for metric 16 baseline is being established.

Goal Table 1B: Goals 15-21
Goal 1: Protect and promote the integrity and fairness of the federal workplace
Objective 1: Fairly and promptly investigate and prosecute cases
Objective 2: Obtain timely and effective relief in cases

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
15	Number of Hatch Act complaints received	Data-point	253	Data-point	263	Data-point		Data-point			
16	Percent of Hatch Act complaints closed within 240 days	Baseline	63%	Baseline	65%	Baseline		60%			
17	Number of Hatch Act complaints filed with MSPB	1	0	1	3	1		1			
18	Percent of successful Hatch Act prosecutions before MSPB	100%	N/A	100%	100%	100%		100%			
19	Number of Hatch Act warning letters issued	25	37	20	49	22		25			
20	Number of corrective actions obtained	10	10	10	10	10		10			
21	Number of disciplinary actions obtained	5	4	5	6	5		5			

C. **Goal Table 1C** details the data points and performance metrics for OSC's work investigating, litigating, and resolving USERRA complaints. During FY 2018, OSC met three out of three metrics. OSC completed 86% of USERRA legal reviews within 60 days and obtained 3 corrective actions.

Goal Table 1C: Goals 22-27 **Goal 1: Protect and promote the integrity and fairness of the federal workplace** **Objective 1: Fairly and promptly investigate and prosecute cases** **Objective 2: Obtain timely and effective relief in cases**											
	Description of Target	**FY 2017 Target**	**FY 2017 Result**	**FY 2018 Target**	**FY 2018 Result**	**FY 2019 Target**	**FY 2019 Result**	**FY 2020 Target**	**FY 2020 Result**	**FY 2021 Target**	**FY 2021 Result**
22	Number of USERRA referrals received	Data-point[22]	17	Data-point[22]	25	Data-point[22]		Data-point[22]			
23	Number of USERRA merit referrals	Data-point[23]	7	Data-point[23]	4	Data-point[23]		Data-point[23]			
24	Number of USERRA non-merit referrals	Data-point[24]	10	Data-point[24]	21	Data-point[24]		Data-point[24]			
25	Percent of USERRA referrals closed within 60 days	80%	79%	80%	86%	75%		80%			
26	Number of USERRA offers of representation before MSPB	1	0	1	1	1		1			
27	Number of USERRA corrective actions obtained (formally and informally)	3	6	3	3	3[27]		3			

27. In one of the three cases being reported in FY2018 the corrective action was completed while the case remained open.

D. **Goal Table 2** details OSC's efforts to enhance its strategic enforcement authority, as it related to the third objective under Strategic Goal 1. OSC met three out of three goals in FY 2018.

Goal Table 2 Goal 1: Protect and promote the integrity and fairness of the federal workplace Objective 3: Enhance strategic use of enforcement authority											
	Description of Target	**FY 2017 Target**	**FY 2017 Result**	**FY 2018 Target**	**FY 2018 Result**	**FY 2019 Target**	**FY 2019 Result**	**FY 2020 Target**	**FY 2020 Result**	**FY 2021 Target**	**FY 2021 Result**
28	Number of PPP reports published on website	2	3	2	2	2		2			
29	Number of amicus curiae briefs and interventions filed*	2	3	2	5	2		2			
30	Number of inter-agency efforts involving systemic improvements to the federal workplace	4	10	4	10	4		4			

<u>Goal Table 2 Explanatory Notes</u>

For metric 29, the total of 5 for FY 2018 includes four supplemental filings.

E. **Goal Table 3** details the Hatch Act advisory opinions provided by OSC, as contemplated by OSC fourth objective under Strategic Goal 1. In FY 2018, OSC met or partially met two out of two goals.

Goal Table 3 Goal 1: Protect and promote the integrity and fairness of the federal workplace Objective 4: Provide timely and quality Hatch Act advisory opinions and guidance											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
31	Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry	Baseline	100%	Baseline	100%	Baseline		98%			
32	Percent of informal email advisory opinions issued within 5 days of inquiry	95%	100%	95%	99.9%	95%		98%			
33	Number/percent of formal written advisory opinions issued within 60 days of inquiry	Baseline	75%	Baseline	89%	Baseline		75%			
34	Revised Hatch Act regulations by FY 2018	N/A	N/A	Met	Partially Met	Met		Met			

Goal Table 3 Explanatory Notes

For metrics 31 and 33, baseline is being established.

F. **Goal Table 4** details OSC's training and outreach efforts pursuant to OSC's fifth objective under Strategic Goal 1. OSC met two out of three goals in FY 2018.

Goal Table 4 Goal 1: Protect and promote the integrity and fairness of the federal workplace Objective 5: Expand training and outreach efforts nationwide											
Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
35	Number of agencies/components contacted regarding the 2302(c) Certification Program	70	127[35]	35	164	70		100			
36	Number of agencies/components registered for the 2302(c) Certification Program	Baseline	24	Baseline	21	20		15			
37	Number of agencies/components certified and recertified for	Baseline	43[37]	Baseline	23[37]	20		15			

	the 2302(c) Certification Program										
38	Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program	9 months	8.35 months	6 months	10.17 months	9 months		8 months			
39	Number of training and outreach activities, broken down by program area and geographic location	Baseline	148[39]	Baseline	198[39]	150		165			
40	Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

<u>Goal Table 4 Explanatory Notes</u>
37: Number of agencies and agency components certifying/recertifying for the Section 2302(c) Certification Program will vary in response to the three-year recertification cycle. For example, we expect lower figures in FY 2018, because most agencies have already certified and are not yet due for recertification. Thus, we anticipate increased numbers in FY 2019 due to agencies recertifying at the end of the three-year cycle.
39: Number of trainings will increase and decrease in each fiscal year based on a number of factors, including, for instance, (1) the almost 75% increase in Hatch Act trainings we have observed during election years; and (2) an increase in Section 2302(c) trainings based on years in which a higher percentage of agencies are due for recertification at the end of the three-year cycle, creating a "lumpy forecast." Whistleblower disclosure trainings are held in conjunction with PPP trainings and counted separately. In FY 2018, OSC experienced a 33.78% increase in trainings over last fiscal year.

Program Area	**Total**	**Outside Beltway***
PPP	105	26
HA	53	5
DU	39	4
USERRA	1	0

*Trainings held outside the D.C. area occurred in Alabama, California, Florida, Georgia, Idaho, Massachusetts, Maryland, New York, Oklahoma, Pennsylvania, South Carolina, Texas, and Virginia.

G. **Goal Table 5** details OSC's communications with stakeholders and the public, consistent with the sixth objective under Strategic Goal 1. OSC met three out of four goals in FY 2018. OSC issued a total of 46 press releases in FY 2018.

Goal Table 5 **Goal 1: Protect and promote the integrity and fairness of the federal workplace** **Objective 6: Effectively and innovatively communicate with stakeholders and the public**											
	Description of Target	**FY 2017 Target**	**FY 2017 Result**	**FY 2018 Target**	**FY 2018 Result**	**FY 2019 Target**	**FY 2019 Result**	**FY 2020 Target**	**FY 2020 Result**	**FY 2021 Target**	**FY 2021 Result**
41	Number of press releases issued	25	20	25	46	40		40			
42	Types and frequency of digital media used to share information	250	153	275	211	275		275			
43	Number of meetings with stakeholder groups	4	10	4	52	10		10			
44	Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly	Met	Partially[44] Met	Met	Met	Met		Met			

<u>Goal Table 5 Explanatory Notes</u>
43: OSC had 52 meetings with stakeholder groups, including most notable:

- 12 meetings with agency officials, including secretaries and general counsels
- 8 meetings with congressional representatives and staff
- 6 meetings with good government groups
- 6 meetings with inspector general offices
- 4 meetings with MSPB officials

44: Building on the successes of past Whistleblower Retaliation Roundtable discussions, OSC representatives met with stakeholders and began brainstorming ideas for the proposal of the establishment of a regularly-held conference on whistleblowing in the federal workplace. We paused our efforts at developing a formal proposal for budgetary reasons. When OSC is able to identify appropriate funds to establish a regular conference, OSC will resume such efforts.

III. <u>Strategic Goal 2, Goal Tables 6-8 – Ensure government accountability.</u>

Strategic Goal 2 has three objectives:

Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing.
Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures.
Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures.

These objectives directly relate to OSC's investigations of whistleblower disclosures. Similar to prior fiscal years, OSC continues to receive historically high numbers of new disclosures. OSC will continue its commitment to providing a safe, confidential channel for federal employees to report evidence of fraud, waste, abuse, or threats to public safety. OSC is in the process of development of a new electronic filing form that is designed to improve convenience and enhance the whistleblower reporting experience.

A. **Goal Table 6** relates to the first objective under Strategic Goal 2 and details OSC's efforts to ensure government accountability by providing a safe, confidential and secure reporting channel for stakeholders and the public. In FY 2017 OSC received 1,777 new whistleblower disclosures. OSC met two out of three goals in FY 2017.

Established as a strategy to achieve Objective 1, Goal 2 of the strategic goals identified in OSC's 2017 Strategic Plan, OSC's Whistleblower Reporting Experience Working Group seeks to develop actionable methods to assess and improve whistleblower reporting experiences. The working group has established a FY 2018 action plan to address six key areas over the course of the next fiscal year: (1) external communications regarding whistleblower reporting; (2) outreach efforts regarding whistleblower reporting; (3) internal coordination with OGC and Clerk; (4) coordination with IT on Form 14 implementation and integration with eCMS; (5) internal staff communications; and, (6) internal processes to improve the whistleblower reporting experience. The working group has formed smaller teams of two members each, tasked with exploring each of the identified key areas. At the conclusion of the fiscal year, the working group will present a report on the implementation of interim measures to improve whistleblower reporting experiences, along with recommendations for future action based on its assessments. As an initial step, the working group will establish an internal email address for inquiries, ideas, and concerns about the whistleblower reporting experience.

Goal Table 6
Goal 2: Ensure government accountability
Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
45	New electronic form by FY 2017, and refine as appropriate	Met	Not Met	Met	Not Met	Met		Met			

46	Number of whistleblower disclosures received	Data-point	1,777	Data-point	1,554	Data-point		Data-point			
47	Number of whistleblower disclosures that also allege related retaliation	Data-point	81	Data-point	492	Data-point		Data-point			
48	Number of whistleblower disclosures referred to agencies for investigation	50	59 formal / 10 informal	50	139 formal / 22 informal	50		75			
49	Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

<u>Goal Table 6 Explanatory Notes</u>

45: New electronic form will be implemented and released in FY 2019.

B. **Goal Table 7** relates to the second objective under Strategic Goal 2 and details OSC's efforts to ensure government accountability by providing timely and appropriate outcomes for referred whistleblower disclosures. For Goal Table 7 OSC met one out of three goals in FY 2018.

Goal Table 7

Goal 2: Ensure government accountability

Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures

Description of Target		FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
50	Percentage of referred whistleblower disclosures that	Data-point	59% formal / 50% informal	Data-point	76% formal / 46% informal	Data-point		Data-point			

	are substantiated by agencies										
51	Number of cases with favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures	Baseline	10 disciplinary / 58 corrective[51]	Baseline	6 disciplinary / 47 corrective[51]	Baseline		Baseline			
52	Timeliness of OSC's communication to the President and Congress after receiving an agency investigation report and whistleblower's comments	Baseline	148 days	Baseline	71 days	Baseline		Baseline			
53	Implementation of measurement to capture scope of benefits to government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security and/or tax dollars saved or recovered, by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

<u>Goal Table 7 Explanatory Notes</u>

51: FY 2018 Formal referrals with disciplinary action – 4
FY 2018 Informal referrals with disciplinary action – 2
FY 2018 Formal referrals with corrective action – 31
FY 2018 Informal referrals with corrective action – 16

C. **Goal Table 8** related to the third objective under Strategic Goal 2 and details OSC's efforts to enhance awareness of outcomes of referred whistleblower disclosures. For Goal Table 8, OSC met two out of three goals in FY 2018.

Goal Table 8 **Goal 2: Ensure government accountability** **Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures**											
	Description of Target	**FY 2017 Target**	**FY 2017 Result**	**FY 2018 Target**	**FY 2018 Result**	**FY 2019 Target**	**FY 2019 Result**	**FY 2020 Target**	**FY 2020 Result**	**FY 2021 Target**	**FY 2021 Result**
54	Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly	Met	Not Met	Met	Not Met	Met		Met			
55	Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.	12	10	12	42	40		40			
56	Number of training and outreach events that address whistleblower disclosures	Baseline	86[56]	Baseline	105	90		95			
57	Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			

<u>Goal Table 8 Explanatory Notes</u>

56: Includes individual presentations covering whistleblower retaliation and/or whistleblower disclosures under 5 U.S.C. § 1213.

IV. Strategic Goal 3, Goal Tables 9-11 – Achieve organizational excellence.

Strategic Goal 3 has three objectives:

> Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce.
> Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations.
> Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes.

To accomplish its mission with excellence, OSC must use targeted recruitment methods that attract talented employees who believe in the work of the agency. A diverse workforce from various backgrounds will help OSC tackle problems from different perspectives and find optimal solutions. OSC is committed to retaining this skilled and diverse workforce through work-life balance strategies, career and skills development, cross-training, recognition of strong performance, and other initiatives that will keep employees engaged and equip them to achieve the mission.

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will deploy mobile access to network programs in compliance with directives that move the government toward a virtual work environment, while ensuring continuity of operations in times of work interruption and providing greater flexibility to employees. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

While OSC is a small agency, it takes complaints from throughout the federal government; it handles cases from all over the country; and its authority to act derives from several different federal statutes. OSC will undertake a comprehensive and transparent evaluation of the most efficient approach for safeguarding employee rights and holding the government accountable. The evaluation will identify best practices and areas of improvement. This will be part of a vigilant process of continual evaluation of OSC's existing program areas and new programs to ensure the most effective delivery of services. To accomplish these goals, OSC will give federal employees and other stakeholders a greater opportunity to provide input into shaping its work.

A. **Goal Table 9** tacks the first objective under Strategic Goal 3 and details OSC's efforts to achieve organizational excellence by recruiting, developing, and retaining a highly talented, engaged, and diverse workforce. For Goal Table 9, OSC met eight out of eight goals in FY 2018.

Goal Table 9 Goal 3: Achieve organizational excellence Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce											
	Description of Target	**FY 2017 Target**	**FY 2017 Result**	**FY 2018 Target**	**FY 2018 Result**	**FY 2019 Target**	**FY 2019 Result**	**FY 2020 Target**	**FY 2020 Result**	**FY 2021 Target**	**FY 2021 Result**
58	Human Capital Plan by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
59	Honors Program by FY 2017 and reassess regularly[59]	Met	Met	Met	Met	Met		Met			
60	Improved and standardized onboarding process by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
61	Staff training plan by FY 2017, and reassess regularly	Met	Met[61]	Met	Met	Met		Met			
62	Mentorship program by FY 2017, and reassess regularly	Met	Met[62]	Met	Met	Met		Met			
63	Ongoing internal cross-training opportunities by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
64	Ongoing employee engagement efforts, and reassess regularly	Met	Met	Met	Met	Met		Met			
65	Ongoing work/life balance and other related benefits, and reassess regularly	Met	Met	Met	Met	Met		Met			

Goal Table 9 Explanatory Notes

59: The Honors Program was drafted and approved by the former Special Counsel, but OSC has not put it into action due to questions about our ability to hire Honors Program employees under current fiscal constraints. A revised policy will be implemented and planned recruitment efforts will start in FY2019.

61: OSC has developed a training plan and policy.

62: The OSC Mentoring Program was developed in response to OSC's 2016 FEVS results. The official program commenced in May 2017. The overall objective was to establish a formal mentoring program within OSC to promote an employee's development and ensure positive developmental and organizational outcomes. The program was also designed to allow for a smooth transition for new employees into the OSC; promote an employee's professional development; share different perspectives; and, encourage a more personal style of leadership within the agency.

A senior manager serves as a team member and provides visibility and advocacy for team members and provides guidance to team on direction and priorities.

B. **Goal Table 10** relates to the second objective under Strategic Goal 3 and details OSC's efforts to improve the use of existing technology and deploy new IT systems to enhance organizational operations. For Goal Table 10 OSC met or partially met four out of six goals in FY 2018.

Goal Table 10

Goal 3: Achieve organizational excellence

Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
66	Transition to electronic case management system by FY 2017, and reassess regularly; Going live with the records in the eCMS by FY 2018; Incorporate business process by FY 2019	Met	Partially Met	Met	Not Met	Met		Met			
67	100% deployment of mobile access to network program resources by FY 2017, and reassess regularly	Met	Partially Met[67]	Met	Met	Met		Met			
68	100% data encryption by FY 2017, and reassess regularly; A – encryption of data at rest B – encryption of data in transit	Met	A – Met B - Not Met	Met	A – Met B - Not Met	Met[68]		Met[68]			
69	Ongoing semi-annual assessment of IT needs, and reassess regularly	Met	Met	Met	Met	Met		Met			
70	Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly	Met	Met	Met	Met	Met		Met			
71	Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly	Met	Met[71]	Met	Not Met	Met[71]		Met[71]			

Goal Table 10 Explanatory Notes

66: U.S. OSC has entered into a new contract to redesign the existing eCMS system and we plan to go live in FY19.

67: OSC is currently at 100% deployment of mobile access to network program resources for all FTEs.

68: FY 2018 target was partially met. Data was encrypted on tablets and laptops, but not on email transmissions. This outcome was constrained by resources this fiscal year. OSC will conduct a pilot in FY19 to assess the results for encryption of data in transit. Achieving this target is contingent on available budget resources.

71: In fiscal year 2018, OSC has not met the goal of maintaining IT staff of 5% of agency workforce. We are currently in the process of hiring to backfill the vacant positions. Meeting this target in future fiscal years will be contingent on availability of budgetary resources.

C. **Goal Table 11**, consistent with the third objective under Strategic Goal 3, details OSC's efforts to monitor, evaluate, and improve efficiency and effectiveness of programs and processes. For Goal Table 11, OSC met five out of five goals in FY 2018.

Goal Table 11
Goal 3: Achieve organizational excellence
Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes

	Description of Target	FY 2017 Target	FY 2017 Result	FY 2018 Target	FY 2018 Result	FY 2019 Target	FY 2019 Result	FY 2020 Target	FY 2020 Result	FY 2021 Target	FY 2021 Result
72	Creation and implementation of institutional approach to evaluate programs and processes by FY 2017, and reassess regularly	Met	Met	Met	Met	Met		Met			
73	Completion of first evaluation of program(s) or process(es) to identify best practices and areas of improvement by FY 2018, and proceed with evaluation of additional programs and processes regularly thereafter	Met	Met	Met	Met	Met		Met			
74	Implementation of best practices and responses to areas of improvement identified in first evaluation of program(s) or process(es) by FY 2019, and reassess regularly	N/A	N/A	Met	Met	Met		Met			

75	Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly	Met	N/A[75]	Met	Met	Met		Met			
76	Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly	N/A	N/A	Met	Met	Met		Met			

Goal Table 11 Explanatory Notes

75: The 2018 OSC reauthorization as found in section 1097 of the National Defense Authorization Act for Fiscal Year 2018 (NDAA) requires OSC to establish a survey pilot program to collect information and improve service at various stages of case review. OSC has formed a working group to design and establish a survey, seek appropriate external approvals for the collection of information, and implement the survey in Fiscal Year 2019.

PART 3: FINANCIAL SECTION

U.S. OFFICE OF SPECIAL COUNSEL
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CFO Letter

November 15, 2018

This letter usually addresses any recommendations for improvement made by the auditor concerning deficiencies in internal controls which may have an effect on the auditor's ability to express an opinion on the financial statements.

This year our financial auditor noted two deficiencies in internal control over financial reporting, which included a material weakness and a significant deficiency. The material weakness was that OSC did not properly track and record payments to its vendors that should have been recorded as advances and prepayments. This accounting treatment was corrected during FY 2018 and the FY 2017 financial statements have been restated to include this activity. In addition, OSC now has a process in place to recognize and report advance payments; thus, we do not expect a recurrence of the issue going forward.

Improvement is also needed in the review and approval of personnel actions, specifically when key personnel are absent, and the maintenance of electronic official personnel folder (eOPF), which was deemed to be a significant deficiency in internal control for FY 2018. In response, OSC has amended its directives to delegate authority when a responsible party such as the Chief Human Capital Officer (CHCO) is absent, issued a procedure that all personnel actions are to be reviewed and approved within the pay period they are processed, and ensuring that all documents are scanned and imported into the employee's eOPF within that same pay period.

The auditor did not note any noncompliance with laws or regulations which would have an effect on the financial statements.

Thank you for the opportunity to comment on the audit report. The U.S. Office of Special Counsel is committed to continuous improvement of our internal controls, processes, and the quality of our financial reporting.

Sincerely,

Karl P. Kammann

Karl Kammann
Chief Financial Officer
U.S. Office of Special Counsel

Material Weakness

Improvements needed in the recording of advances and prepayments

The financial management service provider (DOI IBC) which recorded the transactions was not aware of the appropriate accounting treatment for advance payments or does not review the underlying documentation, including purchase orders, inter-agency agreements, and IPACs, which contained information such as a future period of performance or explicit language identifying the transfer of funds as an advance payments, which resulted in the payment being posted as an expense. In addition, OSC and/or the financial management service provider did not track the status of the contracts serviced by the acquisitions service provider (DOI AQD) in order to determine the amount of each advance payment, if any, to be expensed for each reporting period. Finally, the errors were not detected during OSC's management review of the financial statements and notes.

Allmond and Company made several recommendations to strengthen OSC's internal controls and financial reporting. OSC concurs with the auditors recommendations, and implemented procedures to address Allmond and Company's findings, as well as corrected the financial statements and footnotes for this reporting period, and restated the prior fiscal year's financial statements and footnotes.

Significant Deficiency

Improvements Needed in Processing Personnel Actions and Maintaining Official Personnel Files (OPFs)

Improvements are needed in Office of Special Counsel (OSC) procedures for initiating and processing personnel actions and maintaining employee personnel files. During the fiscal year (FY) 2018 audit of the review and approval of personnel actions, Allmond and Company noted 86 discrepancies with personnel actions which required a Standard Form (SF) 52 Request for Personnel Action to initiate a change to an employee's salary and wages.

The discrepancies included the following issues: the SF-52 form was not approved timely by an appropriate management official; there was no evidence that review and approval of the action took place; unable to provide suitable documentation to support the action that was processed, thus were not able to determine if the actions that were processed were appropriate or accurate; the actions were not approved by the Chief Human Capital Officer, or a properly delegated management official.

Allmond and Company made several recommendations, including having procedures that if the designated management official is unavailable, having delegation of authority in writing to an experienced and appropriately trained individual; ensuring OSC is performing routine reviews at the end of each pay period to ensure that all personnel actions processed during the pay period are appropriately reviewed and approved, evidenced by the signature of the CHCO who has delegated authority in writing to approve personnel actions; and that the above-mentioned review will also verify that appropriate documentation is maintained, including management approval of the request and detailed information regarding the proposed change.

OSC concurs with the auditors findings and has taken action to amend its Directives and procedures accordingly. Specifically, OSC's Directive 6, Delegation of Administrative Authorities, has been updated to explicitly state that if there is a vacancy in a position (such as the CHCO), the delegation will be to the individual "Acting" in that capacity. OSC's HCO issued a Standard Operating Procedure that outlines that all personnel actions are reviewed and approved within the pay period processed; and per HCO's Standard Operating Procedure, all appropriate documentation will be scanned and imported into the employee's personnel folder within the pay period when the action is taken.

U.S. OFFICE OF SPECIAL COUNSEL
AUDIT REPORT
SEPTEMBER 30, 2018

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U.S. OFFICE OF SPECIAL COUNSEL
AUDIT REPORT
SEPTEMBER 30, 2018

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A/C

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Independent Auditors' Report

Special Counsel
U.S. Office of Special Counsel:

Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Office of Special Counsel (OSC), which comprise the balance sheet as of September 30, 2018 and 2017, and the related statement of net cost, changes in net position, and budgetary resources for the year ended, and the related notes to the financial statements (hereinafter referred to as the financial statements).

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the fiscal year 2018 and 2017 financial statements of OSC based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Bulletin No. 19-01, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-01 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity' s internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Office of Special Counsel as of September 30, 2018 and 2017, and its net costs, changes in net position, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As stated in Note 14 to the financial statements, OSC restated its fiscal year 2017 balance sheet, statement of net cost, and statement of changes in net position to correct balances related to advances and prepayments due to an accounting treatment that was not in conformity with generally accepted accounting principles. As a result the balance sheet, statement of net cost, statement of net position, and the related footnotes were materially misstated. Therefore, the previously issued auditor's report dated November 10, 2017 is withdrawn and replaced by an unmodified opinion on the restated balance sheet, statement of net cost, statement of changes in net position, and related notes. This matter is further discussed in our report on internal control over financial reporting and Exhibit I.

Other Matters

Required Supplementary Information

The information in OSC's *Message from the Special Counsel*, *Management Discussion and Analysis*, and *CFO Letter* is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of OSC's financial statements. However, we did not audit this information and, accordingly, we express no opinion on it.

Other Reporting Required by Government Auditing Standards

Internal Control over Financial Reporting

In planning and performing our audit of OSC's financial statements as of and for the year ended September 30, 2018, in accordance with generally accepted government auditing standards, we considered OSC's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of OSC's internal control over financial reporting. Accordingly, we do not express an opinion on OSC's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 19-01. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Exhibits I and II, we identified certain deficiencies in internal control that we consider to be a material weakness and a significant deficiency, respectively.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in their normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We consider the deficiency described in the accompanying *Exhibit I Findings and Recommendations* to be a material weakness (2018-02).

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with governance. We consider the deficiency described in the accompanying *Exhibit II Findings and Recommendations* to be a significant deficiency (2018-01).

Compliance and Other Matters

As part of obtaining reasonable assurance about whether OSC's fiscal year 2018 financial statements are free of material misstatements, we performed tests of OSC's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in OSC's financial statements, and certain provisions of other laws specified in OMB Bulletin No. 19-01. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance as described in the preceding paragraph, disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-01.

OSC's Response to Findings

OSC's responses to the findings identified in our audit are described immediately following the auditors' recommendations in Exhibits I and II. OSC's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of the Other Reporting Required by Government Auditing Standards

The purpose of the communication described in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provision of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of OSC's internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect on OSC's financial statements. Accordingly, this communication is not suitable for any other purpose.

Allmond & Company, LLC

Landover, MD
November 13, 2018

Improvements Needed over the Recording of Advances and Prepayments (2018-02)

CONDITION

OSC was not recording advances or prepayments in accordance with generally accepted accounting principles. During our review of non-payroll disbursement transactions and the OSC financial statements and notes, we noted the following:

- Contracts or awards procured and serviced by DOI AQD were fully expensed in the general ledger when payments were made to DOI AQD. In addition, expenses were recognized prior to the beginning of the contract period of performance and receipt of goods and services by OSC.

- OSC was not recognizing an advance or prepayment in the financial statements or general ledger for payments made to DOI AQD for contract procurement and administration services in accordance with generally accepted accounting principles.

CRITERIA

The Federal Accounting Standards Advisory Board (FASAB) Statement of Federal Financial Accounting Standards (SFFAS) 1: *Accounting for Selected Assets and Liabilities,* Advances and Prepayments, bullet 57, states, "Advances are cash outlays made by a federal entity to its employees, contractors, grantees, or others to cover a part or all of the recipients' anticipated expenses or as advance payments for the cost of goods and services the entity acquires. Examples include travel advances disbursed to employees prior to business trips, and cash or other assets disbursed under a contract, grant, or cooperative agreement before services or goods are provided by the contractor or grantee." Bullet 59 states that "Advances and prepayments should be recorded as assets. Advances and prepayments are reduced when goods or services are received, contract terms are met, progress is made under a contract, or prepaid expenses expire."

The Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014), Principle 10 – Design Control Activities, Section 10.01 states, "Management designs control activities in response to the entity's objectives and risks to achieve an effective internal control system. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives and address related risks….As part of the risk assessment component, management identifies the risks related to the entity and its objectives, including its service organizations…."

The Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014), Section 4 – Additional Considerations, Service Organizations, OV4.03 states, "Management may consider the following when determining the extent of oversight for the operational processes assigned to the service organization: The nature of services outsourced…..[and] the extent to which the entity's internal controls are sufficient so that the entity achieves its objectives and addresses risks related to the assigned operational process."

OMB Circular A-136 (July 2018, revised), *Financial Reporting Requirements*, Section II.3.1. Instructions for the Annual Financial Statements states, "Reporting entities should ensure that information is presented in accordance with GAAP for Federal entities and the requirements of this Circular. Preparers seeking additional guidance on matters involving recognition, measurement, and disclosure requirements should refer to the specific FASAB standards governing those requirements found at http://www.fasab.gov."

CAUSE

The financial management service provider (DOI IBC) which recorded the transactions was not aware of the appropriate accounting treatment for advance payments or does not review the underlying documentation, including purchase orders, inter-agency agreements, and IPACs, which contained information such as a future period of performance or explicit language identifying the transfer of funds as an advance payment, which resulted in the payment being posted as an expense.

In addition, OSC and/or the financial management service provider did not track the status of the contracts serviced by the acquisitions service provider (DOI AQD) in order to determine the amount of each advance payment, if any, to be expensed for each reporting period. Finally, the errors were not detected during OSC's management review of the financial statements and notes.

EFFECT

As a result, OSC 2017 financial statements had to be restated to be presented in accordance with generally accepted accounting principles. The following material adjustments were required to fairly present OSC FY 2018 and FY 2017 financial statements and the related notes:

- Balance Sheet – understatement of Advances and Prepayments, Unexpended Appropriations, and Net Position by $446,209 in FY 2018 and $653,254 in FY 2017.

- Statement of Net Cost – overstatement of Gross Costs by $446,209 in FY 2018 and $653,254 in FY 2017;

- Statement of Changes in Net Position – overstatement of Appropriations Used, Total Financing Sources, and Net Cost of Operations and understatement of Unexpended Appropriations (beginning and ending) by $446,209 for ending balances and $653,254 for beginning balances;

- Note 11 – understatement of Undelivered Orders at the end of the period by $446,209 for FY 2018; and $653,254 for FY 2017.

- Note 13 – overstatement of Net Cost of Operations by $446,209 in FY 2018 and $653,254 in FY 2017.

RECOMMENDATION

We recommend that OSC develop a process to track the status of each open obligation for which an advance payment was made in order to determine what amount, if any, should have been recognized as an expense for each quarterly reporting period of the fiscal year and what amount should remain or be reclassified as an advance.

We further recommend that the financial statement review checklist should be amended to include the following, at a minimum:

1. Financial statement line items are properly classified and presented on the financial statements and notes and comply with all U.S. GAAP requirements.

2. Financial Statement line items relating to advances agree with the subsidiary ledger (i.e., the amount of each advance payment that has not been completely liquidated through payments for goods and services or a refund to OSC for the unused balance).

3. All OMB Circular A-136 financial reporting requirements have been met.

MANAGEMENT RESPONSE

Management concurred with the finding and indicated that corrective action will be taken and completed in the current fiscal year.
General Comments

OSC recognizes its treatment of advance payments was not compliant with U.S. G.A.A.P., and has corrected the issue.

OSC has identified the advance payments open balances and recorded them appropriately on the Financial Statements. Further, a restatement has been done on the FY 2017 Financial Statements to reflect the balance as of 30 Sept, 2017. Appropriate footnotes related to this have been included in the Financial Footnotes as well.

Going forward OSC has identified a process to identify and record advance payments with the proper accounting treatment and include them on the quarterly financial statements.

OSC will continue to monitor OMB Circular A-136 financial reporting requirements on an ongoing basis to ensure it is in compliance. In addition, our financial statements checklist has been reviewed and adjusted.

Use of the Service Provider that requires Advance Payments is tapering off, thus we expect the advance payments open balances to diminish over time.

AUDITORS' RESPONSE

We will conduct follow-up procedures in FY 2019 to determine whether corrective actions have been developed and implemented.

Improvements Needed in Processing Personnel Actions and Maintaining Personnel Files (2018-01)

CONDITION

Improvements are needed in Office of Special Counsel (OSC) procedures for initiating and processing personnel actions and maintaining employee personnel files. During our fiscal year (FY) 2018 testing of the review and approval of thirty personnel actions, we noted that personnel actions which required a Standard Form (SF) 52 Request for Personnel Action to initiate a change to an employee's salary and wages were not always properly approved. Specifically, we noted the following:

- Seventeen Requests for Personnel Actions were not approved timely by an appropriate management official. The delays in the review and approval of the forms ranged from 5 to 248 days from the last day of the pay period in which the SF-52 was processed.
- Seven Requests for Personnel Actions reviewed; there was no evidence that a review and approval of the action took place.
- Thirty Requests for Personnel Actions appeared to have been approved by the Chief Human Capital Officer, as evidenced by his electronic signature on the Standard Form (SF) 50 Notification of Personnel Action. However, we noted that this individual had resigned from OSC during fiscal year 2018 and the position was vacant during the pay periods in which our samples were selected. As such, the electronic signature on the SF-50 cannot be used in lieu of an approved SF-52 to evidence review and approval of the action.

CRITERIA

The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*, states "Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained."

The Office of Personnel Management's Guide *to Processing Personnel Actions (*revised March 2017*)*, Chapter 4. Requesting and Documenting Personnel Actions, Section 4b. Effective Dates, states, "no personnel action can be made effective prior to the date on which the appointing officer approved the action. That approval is documented by the appointing officer's pen and ink signature or by an authentication, approved by the Office of Personnel Management, in block 50 of the Standard Form 50, or in Part C-2 of the Standard Form 52. By approving an action, the appointing officer certifies that the action meets all legal and regulatory requirements and, in the case of appointments and position change actions, that the position to which the employee is being assigned has been established and properly classified."

The Office of Special Counsel Human Capital Office Standard Operating Procedures, *Processing Personnel Actions*, states the SF-52 is "reviewed for accuracy and compliance with OPM regulations by the CHCO [Chief Human Capital Officer] (or the COO [Chief Operating Officer] in her absence). If accurate, the SF-52 is then signed (Part C-2) within the pay period in which the action is being processed. Once approved, the SF-52 is signed and the personnel action is returned to the HR specialist for release in the NFC system."

CAUSE

The Office of Personnel Management and OSC Human Capital Office Standard Operating Procedures for the processing of personnel actions were not followed. A Chief Human Capital Officer was not in the office to approve personnel actions and the designated alternate official did not approve the actions or did not approve them timely.

EFFECT

The failure to properly authorize, approve, and ensure the validity and accuracy of personnel actions increases the possibility of misuse and abuse of government resources, as follows:

- An increased risk of material misstatement of payroll and benefits expense and related liabilities. Also, incorrect amounts could be withheld from employees pay.

- An increased risk of non-compliance with legal and regulatory requirements.

- An increased risk of improper payments and a reduction in the agency's ability to recover overpayments to employees in the event of an error.

- An increased risk that unauthorized actions may be initiated and processed without detection or correction.

RECOMMENDATION

We recommend that, in the event that the designated management officials (the CHCO and COO) are unavailable or one or both of the positions are vacant, OSC consider developing a contingency policy which includes the delegation of this authority (in writing) to an experienced and appropriately trained individual.

We further recommend that OSC consider performing routine reviews at the end of each pay period to ensure that all personnel actions processed during the pay period were appropriately reviewed and approved, evidenced by the signature of the CHCO, COO, or other management official who has delegated authority in writing to approve personnel actions. This review should also verify that the appropriate documentation is maintained in the employees' files to support the actions taken, including management approval of the request and detailed information regarding the proposed change (e.g., change in Grade/Step, performance appraisals, approved hiring packages, etc.).

MANAGEMENT RESPONSE

Management concurred with the finding and indicated that corrective action will be taken and completed in the current fiscal year.

General Comments

OSC concurs with the auditors' comments and has taken the following actions to address them:

1. Recommendation: In the event that the designated management officials (the CHCO and COO) are unavailable or one or both of the positions are vacant, OSC consider developing a contingency policy which includes the delegation of this authority (in writing) to an experienced and appropriately trained individual.
    a. **Action taken**: OSC's Directive 6, Delegation of Administrative Authorities, has been updated to explicitly state that if there is a vacancy in a position (such as the CHCO), the delegation will be to the individual "Acting" in that capacity.

2. Recommendation: in the event that the designated management officials (the CHCO and COO) are unavailable or one or both of the positions are vacant, OSC consider developing a contingency policy which includes the delegation of this authority (in writing) to an experienced and appropriately trained individual.
    a. **Action taken**: OSC's HCO issued a Standard Operating Procedure that outlines that all personnel actions are reviewed and approved within the pay period processed.

3. Recommendation: This review should also verify that the appropriate documentation is maintained in the employees' files to support the actions taken, including management approval of the request and detailed information regarding the proposed change (e.g., change in Grade/Step, performance appraisals, approved hiring packages, etc.).
    a. **Action taken**: Per HCO's Standard Operating Procedure, all appropriate documentation is scanned and imported into the employee's personnel folder within the pay period when the action is taken.

AUDITORS' RESPONSE

We will conduct follow-up procedures in FY 2019 to determine whether corrective actions have been developed and implemented.

U.S. OFFICE OF SPECIAL COUNSEL

Fiscal Year 2018
Financial Statements

Office of Special Counsel
Balance Sheet
As of September 30, 2018 and 2017
(dollars in thousands)

	2018	Restated See Note 14 2017
Assets		
Intragovernmental		
Fund Balance With Treasury (Note 2)	4,352	2,513
Advances and Prepayments (Note 12)	446	653
Total Intragovernmental	$ 4,798	$ 3,166
Assets With the Public		
Accounts Receivable, Net (Note 3)	1	3
General Property, Plant, and Equipment, Net (Note 4)	185	229
Total Assets	$ 4,984	$ 3,398
Liabilities		
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (Note 5)	171	163
Unfunded FECA Liability (Note 5)	94	97
Total Intragovernmental	265	260
Liabilities With the Public		
Accounts Payable	209	207
Federal Employee and Veteran Benefits (Note 5)	505	414
Accrued Funded Payroll (Note 5)	605	566
Employer Contributions and Payroll Taxes Payable (Note 5)	28	26
Unfunded Leave (Note 5)	1,177	1,228
Contingent Liabilities (Note 5, 7)	15	12
Total Liabilities	$ 2,804	$ 2,713
Net Position		
Unexpended Appropriations - Other Funds	3,786	2,203
Cumulative Results of Operations - Other Funds	(1,606)	(1,518)
Total Net Position	$ 2,180	$ 685
Total Liabilities And Net Position	$ 4,984	$ 3,398

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Statement of Net Cost
For the Years Ended September 30, 2018 and 2017
(dollars in thousands)

	2018	Restated See Note 14 2017
Gross costs (Note 13)	$ 26,069	$ 24,926
Less: Total Earned Revenue (Note 13)	-	28
Net Cost of Operations	$ 26,069	$ 24,898

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Statements of Changes in Net Position
For the Years Ended September 30, 2018 and 2017
(dollars in thousands)

	2018	Restated See Note 14 2017
Unexpended Appropriations:		
Beginning Balances	$ 2,203	$ 2,040
Beginning Balances, as Adjusted	2,203	2,040
Budgetary Financing Sources:		
Appropriations Received	26,535	24,750
Appropriations Used	(24,864)	(24,056)
Other Adjustments	(88)	(531)
Total Budgetary Financing Resources	1,583	163
Total Unexpended Appropriations	$ 3,786	$ 2,203
Cumulative Results of Operations:		
Beginning Balances	$ (1,518)	(1,418)
Beginning Balances, as Adjusted	(1,518)	(1,418)
Budgetary Financing Sources:		
Appropriations Used	24,864	24,056
Imputed Financing (Note 8)	1,117	742
Total Financing Sources	25,981	24,798
Net Cost of Operations	(26,069)	(24,898)
Net Change	(88)	(100)
Cumulative Results of Operations	$ (1,606)	$ (1,518)
Net Position	$ 2,180	$ 685

The accompanying notes are an integral part of these statements.

Office of Special Counsel
Statements of Budgetary Resources
For the Years Ended September 30, 2018 and 2017
(dollars in thousands)

		2018		2017
Budgetary resources:				
Unobligated balance from prior year budget authority, net		1,102		771
Appropriations (discretionary and mandatory)		26,535		24,750
Spending authority from offsetting collections (discretionary and m		-		28
Total budgetary resources	$	27,637	$	25,549
Status of budgetary resources:				
New obligations and upward adjustments (total) (Note 9):	$	26,441	$	24,779
Unobligated balance, end of year:				
Apportioned, unexpired accounts		279		195
Unapportioned, unexpired accounts		-		575
Unexpired unobligated balance, end of year		279		770
Expired unobligated balance, end of year		917		-
Unobligated balance, end of year (total)		1,196		770
Total budgetary resources	$	27,637	$	25,549
Budget Authority and Outlays, Net				
Outlays, net (total) (discretionary and mandatory)		24,608		24,573
Agency outlays, net (discretionary and mandatory)	$	24,608	$	24,573

The accompanying notes are an integral part of these statements.

OFFICE OF SPECIAL COUNSEL
Washington, D.C.

Notes to Principal Financial Statements
As of and for the Years Ended
September 30, 2018 and 2017

Office of Special Counsel
Notes to Principal Financial Statements
as of and for the Years Ended September 30, 2018 and 2017

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. OSC's authority comes from four federal statutes, the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniform Services Employment and Reemployment Rights Act. OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices. OSC receives, investigates, and prosecutes allegations of prohibited personnel practices, with an emphasis on protecting federal government whistleblowers.

OSC is headed by the Special Counsel, who is appointed by the President, and confirmed by the Senate. At full strength, the agency employs approximately 135 employees to carry out its government-wide responsibilities in the headquarters office in Washington, D.C., and in the Dallas, San Francisco, and Detroit field offices.

OSC has rights and ownership of all assets reported in these financial statements. There are no non-entity assets.

B. Basis of Presentation

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

The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and the Statement of Budgetary Resources. In accordance with OMB Circular A-136, the financial statements and associated notes are presented on a comparative basis.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. These financial statements were prepared following accrual accounting. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control OSC's use of budgetary resources.

D. Taxes

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

E. Fund Balance with Treasury

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

F. Accounts Receivable

Accounts receivable consists of amounts owed to OSC by other Federal agencies and the public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when either (1) based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent.

G. General Property, Plant and Equipment, Net

OSC's property and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. OSC's capitalization threshold is $50,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, plant and equipment. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Leasehold Improvements	10
Office Equipment	5
Hardware	5
Software	2

H. Advances and Prepaid Charges

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

OSC currently uses the Department of Interior, Interior Business Center, Acquisitions Directorate as a Contracting Shared Services Provider. All payments provided to them are collected as advance payments, as provided for under their authority with their Interior Franchise Fund.

I. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against OSC by other Federal agencies. Additionally, the government, acting in its sovereign capacity, can abrogate liabilities.

Accrued liabilities for OSC are comprised of program expense accruals, payroll accruals, and annual leave earned by employees. Program expense accruals represent expenses that were incurred prior to year-end but were not paid. Similarly, payroll accruals represent payroll expenses that were incurred prior to year-end but were not paid.

J. Accounts Payable

Accounts payable consists of amounts owed to other Federal agencies and the public.

K. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Sick leave is generally non-vested. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Non-vested leave is expensed when used.

L. Accrued Workers' Compensation

A liability is recorded for actual and estimated future payments to be made for workers' compensation pursuant to the Federal Employees' Compensation Act (FECA). The actual costs incurred are reflected as a liability because OSC will reimburse the Department of Labor (DOL) two years after the actual payment of expenses. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

M. Retirement Plans

OSC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). The employees who participate in CSRS are beneficiaries of OSC's matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

FERS went into effect on January 1, 1987. FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1984 elected to join either FERS, Social Security, or remain in CSRS. FERS offers a savings plan to which OSC automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, OSC also contributes the employer's matching share of Social Security.

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

OSC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. Office of Personnel Management (OPM) actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to OSC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. OSC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

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

N. Net Position

Net position is the residual difference between assets and liabilities and is comprised of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative result of operations is the net result of OSC's operations since inception.

O. Imputed Costs/Financing Sources

Federal government entities often receive goods and services from other Federal government entities without reimbursing the providing entity for all the related costs. In addition, Federal government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. OSC recognized imputed costs and financing sources in fiscal years 2018 and 2017 to the extent directed by OMB.

P. Revenues & Other Financing Resources

Congress enacts annual and multi-year appropriations to be used, within statutory limits, for operating and capital expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

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

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

Q. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. OSC recognizes contingent liabilities, in the accompanying Balance Sheet and Statement of Net Cost, when it is both probable and can be reasonably estimated. OSC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S.

Treasury rather than from the amounts appropriated to OSC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made.

R. Expired Accounts and Cancelled Authority

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

S. Use of Estimates

The preparation of financial statements in conformity with Generally Accepted Accounting Principles (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

T. Comparative Data

The financial statements and footnotes present comparative data for the prior fiscal year, in order to provide an understanding of changes in OSC's financial position and operations.

U. Re-Classified Financial Statements

The FY 2018 Financial Statements were Re-Classified due to changes in presentation between FY17 and FY18 to the Consolidated Statements of Changes in Net Position and the Consolidated Statements of Budgetary Resources in accordance with the requirement of OMB Circular No. A-136 (July 2018, revised).

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as September 30, 2018 and 2017 were:

(dollars in thousands)	2018	2017
Status of Fund Balance with Treasury		
Unobligated Balance:		
Available	$ 279	$ 195
Unavailable	917	575
Obligated Balance Not Yet Disbursed	3,156	1,743
Total	$ 4,352	$ 2,513

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

NOTE 3. ACCOUNTS RECEIVABLE

A summary of accounts receivable from the public as of September 30, 2018 and 2017 were as follows:

(dollars in thousands)	2018	2017
Accounts Receivable from the Public:		
Billed:		
Current	$ 1	$ 3
Total Accounts Receivable	1	3
Accounts Receivable from the Public, Net	$ 1	$ 3

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, Plant and Equipment account balances as of September 30, 2018 and 2017 were as follows:

(dollars in thousands)	Service Life	Acquisition Value	Accumulated Depreciation	2018 Net Book Value
Office Equipment	5 yrs	$ 652	$ (595)	$ 57
Leasehold Improvements	10 yrs	$ 488	$ (360)	$ 128
Total		$ 1,140	$ (955)	$ 185

(dollars in thousands)	Service Life	Acquisition Value	Accumulated Depreciation	2017 Net Book Value
CIP		$ 1	$ -	$ 1
Office Equipment	5 yrs	651	(573)	78
Leasehold Improvements	10 yrs	488	(338)	150
Total		$ 1,140	$ (911)	$ 229

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on OSC's Balance Sheet as of September 30, 2018 and 2017 include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

A. Intragovernmental and Public Liabilities

(dollars in thousands)		2018		2017
Intragovernmental:				
Unfunded FECA Liability		94		97
Total Intragovernmental		94		97
Public Liabilities:				
Federal Employee and Veteran Benefits		505		414
Unfunded Annual Leave		1,177		1,228
Contingent Liabilities		15		12
Total Liabilities Not Covered by Budgetary Resources	$	1,791	$	1,751
Total Liabilities Covered by Budgetary Resources	$	1,013	$	962
Total Liabilities Not Requiring Budgetary Resources		-		-
Total Liabilities	$	2,804	$	2,713

B. Other Information

Unfunded Payroll Liabilities consists of workers' compensation claims payable to the Department of Labor, which will be funded in a future period, and an unfunded estimated liability for future workers' compensation claims based on data provided from the DOL. Unfunded FECA liabilities for 2018 and 2017 were approximately $94 thousand and $97 thousand respectively. The actuarial calculation is based on benefit payments made over 12 quarters, and calculates the annual average of payments. The actuarial FECA liabilities for 2018 and 2017 were approximately $505 thousand and $414 thousand respectively. For medical expenses and compensation, this average is then multiplied by the liability-to-benefit paid ratio for the whole FECA program.

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

All other liabilities are considered to be covered by budgetary resources.

NOTE 6. OPERATING LEASES

OSC occupies office space under lease agreements in Washington DC, Dallas, Oakland, and Detroit that are accounted for as operating leases. The DC lease term began on October 26, 2009 and expires on October 25, 2019, at lease renewal a 5% increase is estimated. The Dallas lease term began on December 9, 2002 and expires on December 8, 2027; at lease renewal a 4% increase is estimated. The current Oakland lease was renewed in February 2011 for a period of 10 years through June 2021 and the Detroit lease is through November 2020. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Escalation cost estimates for Oakland and Dallas for market rate resets and lease renewals have been factored in. OSC has clauses in all its contracts whereby it can vacate space with 120 days written notice.

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

(dollars in thousands)

Fiscal Year		Total
2019		2,181
2020		2,249
2021		2,272
2022		2,312
2023		2,345
Total Future Lease Payments	$	11,359

NOTE 7. CONTINGENCIES

A contingency is an existing condition, situation or set of circumstances involving uncertainty as to possible payment by OSC. The uncertainty will ultimately be resolved when one of more future events occur or fail to occur. For pending, threatened or un-asserted litigation, a liability/cost is recognized when a past transaction or event has occurred, a future outflow or other sacrifice of resources is probable, and the related future outflow or sacrifice of resources can be reasonably estimated.

There are numerous legal actions pending against the United States in Federal courts in which claims have been asserted that may be based on action taken by OSC. Management intends to vigorously contest all such claims. Management believes, based on information provided by legal counsel, that losses, if any, for the majority of these cases would not have a material impact on the financial statements.

Probable Likelihood of an Adverse Outcome
As of September 30, 2018, OSC is subject to pending cases where an adverse outcome is probable; $15 thousand is booked on the balance sheet for these contingent liabilities. As of September 30, 2017, OSC was subject to pending cases where an adverse outcome was probable; $12 thousand was booked on the balance sheet for these contingent liabilities.

Reasonably Possible Likelihood of an Adverse Outcome
As of September 30, 2018 OSC is subject to pending cases where an adverse outcome is reasonably possible, and potential losses were assessed at $496 thousand. As of September 30, 2017 OSC was subject to pending cases where an adverse outcome was reasonably possible, and potential losses were assessed at $491 thousand.

NOTE 8. IMPUTED FINANCING SOURCES

OSC recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management. For the fiscal years ended September 30, 2018 and 2017, respectively, imputed financing from OPM were approximately $1,117 thousand and $742 thousand.

NOTE 9. APPORTIONMENT CATEGORIES OF NEW OBLIGATIONS AND UPWARD ADJUSTMENTS

New obligations and upward adjustments reported on the Statement of Budgetary Resources for the years ended September 30, 2018 and 2017 consisted of the following:

(dollars in thousands)		2018		2017
Direct Obligations:				
Category B	$	26,441	$	24,779
Total New Obligations and Upward Adjustments	$	26,441	$	24,779

NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources (SBR) and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include FY18 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2019 and can be found at the OMB website: http://www.whitehouse.gov/omb. The 2018 Budget of the United States Government, with the actual column completed for 2017, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Beginning with FY06, the format of the Statement of Budgetary Resources has changed and the amount of undelivered orders at the end of period is no longer required to be reported on the face of the statement. Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the years ended September 30, 2018 and 2017, undelivered orders amounted to:

(dollars in thousands)				Restated See Note 14
		2018		2017
Unpaid:				
Federal	$	1,264		-
Non-Federal		880		-
Paid:				
Federal		446		653
Totals	$	2,590	$	1,433

NOTE 12. ADVANCES AND PREPAYMENTS

As a matter of correction to financial reporting, Advances and Prepayments have now been recorded on the Financial Statements for FY 2018 and FY 2017 (See Note 14 below, “Restatements”).

The Advances and Prepayments for OSC is $446 thousand as of September 30, 2018. The Advances and Prepayments for OSC was $653 thousand on September 30, 2017.

NOTE 13. RECONCILIATION OF NET COST OF OPERATIONS (PROPRIETARY) TO BUDGET (FORMERLY THE STATEMENT OF FINANCING)

In fiscal year 2006 this reconciliation was presented as a fifth statement, the Statement of Financing. In accordance with OMB Circular A-136, revised June 2007, presentation requirement for this information is now a footnote disclosure. Details of the relationship between budgetary resources obligated and the net costs of operations for the fiscal years ended September 30, 2018 and 2017 are as follows:

Reconciliation of Net Cost of Operations (Proprietary) to Budget
For the Years Ended September 30, 2018 and 2017

(dollars in thousands)	2018	Restated See Note 14 2017
Resources Used to Finance Activities		
New Obligations and Upward Adjustments	$ 26,441	$ 24,779
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Collected	(33)	(30)
Recoveries of Prior Year Unpaid Obligations	(387)	(686)
Other Financing Resources		
Imputed Financing Sources	1,117	742
Total Resources Used to Finance Activity	27,138	24,805
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources Not in the Net Cost of Operations		
Change in Undelivered Orders	(1,157)	(8)
Current Year Capitalized Purchases	-	(1)
Components of Net Cost which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect		
Change in Non-Federal Receivables	-	(1)
Other Financing Sources Not in the Budget	(1,117)	(742)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	45	44
Future Funded Expenses	(53)	35
Imputed Costs	1,117	742
Other Expenses Not Requiring Budgetary Resources	96	24
Net Cost of Operations	$ 26,069	$ 24,898

NOTE 14. RESTATEMENTS

Fiscal year 2017 Financial Statements were restated due to improper accounting treatment for advance payments in the amount of $653 thousand. This resulted in all payments being posted as an expense. This caused changes to the Consolidated Balance Sheet, Consolidated Statements of Net Cost and the Consolidated Changes in Net Position as shown in the tables below. Changes to Footnote 11 also occurred. No changes resulted to the Statement of Budgetary Resources due to this restatement.
These changes are in accordance with the requirement of OMB Circular No. A-136 (July 2018, revised), *Financial Reporting Requirements*, Section II.3.1. Instructions for the Annual Financial Statements states, "Reporting entities should ensure that information is presented in accordance with GAAP for Federal entities and the requirements of this Circular. Preparers seeking additional guidance on matters involving recognition, measurement, and disclosure requirements should refer to the specific Federal Accounting Standards Advisory Board (FASAB) standards governing those requirements found at https://www.fasab.gov."

The Federal Accounting Standards Advisory Board (FASAB) Statement of Federal Financial Accounting Standards 1: Accounting for Selected Assets and Liabilities, Advances and Prepayments, bullet 57, states, "Advances are cash outlays made by a federal entity to its employees, contractors, grantees, or others to cover a part or all of the recipients' anticipated expenses or as advance payments for the cost of goods and services the entity acquires. Examples include travel advances disbursed to employees prior to business trips, and cash or other assets disbursed under a contract, grant, or cooperative agreement before services or goods are provided by the contractor or grantee." Bullet 59 states that "Advances and prepayments should be recorded as assets. Advances and prepayments are reduced when goods or services are received, contract terms are met, progress is made under a contract, or prepaid expenses expire."

Management Actions

This accounting treatment for advance expenses was corrected during FY 2018 so these expenses are accurate on the financial statements, to include the FY 2017 financial statements which have been restated as a result. In addition, OSC now has a process in place to recognize and report advance payments, thus, we do not expect a recurrence of the issue. Management has taken an active role in ensuring the accurate reporting of advance payments going forward. OSC will generate a quarterly report that shows the "advance payments" open balance. These are for the IPAC payments sent to the Interior Business Center, Acquisitions Directorate for their contract expense and services and for which they have advance payment collection authority, due to their Franchise Fund. The report will be obtained from DOI's financial system and will show the open contract balances for OSC's account at each quarter end. This report will be provided to IBC Accounting Operations who will perform the accounting entries for that respective quarter to adjust the advance payment and expense balance as needed.

Office of Special Counsel
Balance Sheet
As of September 30, 2017 and 2017

(dollars in thousands)	Restated See Note 14 2017	2017
Assets		
Intragovernmental		
Advances and Prepayments	653	-
Total Intragovernmental	653	-
Net Position		
Unexpended Appropriation - Other Funds	2,203	1,550
Total Net Position	685	32
Total Liabilities And Net Position	$ 3,398	$ 2,745

Statement of Net Cost
For the Years Ended September 30, 2017 and 2017

(dollars in thousands)	Restated See Note 14 2017	2017
Gross Costs:	24,926	25,579
Net Cost of Operations	$ 24,898	$ 25,551

Statements of Changes in Net Position
For the Years Ended September 30, 2017 and 2017

(dollars in thousands)	Restated See Note 14 2017	2017
Budgetary Financing Sources:		
Appropriations Used	24,056	24,709
Other Financing Sources (Non Exchange);		
Total Financing Sources	24,798	25,451
Net Cost of Operations	(24,898)	(25,551)
Budgetary Financing Sources:		
Appropriations Used	(24,056)	(24,709)
Total Budgetary Financing Resources	163	490
Total Unexpended Appropriations	2,203	1,550
Net Position	$ 685	$ 32

STRATEGIC PLAN*
(FY 2017-2022)

U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC.20036-4505

***Note- this document was developed at a given point in time, and will be updated as needed. As such information contained in the plan may be outdated or superseded.**

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Appendix I: Strategic Plan

Introduction

Over the past five years, the U.S. Office of Special Counsel (OSC) has vigorously enforced its mandate to protect federal employees, applicants, and former employees from various unlawful employment practices, including retaliation for whistleblowing, and to hold the government accountable by providing a safe and secure channel for whistleblower disclosures. OSC has worked to restore confidence in OSC within the federal community and among stakeholders. The success stories and statistics paint a clear picture: the positive outcomes and impact that OSC has obtained far surpass the agency's performance in past periods.

As the federal workforce's trust in OSC's ability to obtain corrective action has grown, the demand for OSC's services has hit record levels. Since 2010, the agency's workload has risen 58 percent with significant increases across all program areas, especially prohibited personnel practice complaints. Accordingly, OSC has had to be strategic in addressing the burgeoning workload. OSC has met these challenges, achieving a record number of favorable results. For example, in direct response to a dramatic surge in cases involving risks to the health and safety of patients at medical facilities in the VA, OSC initiated a holistic approach that resulted in quicker and better resolutions. These cases have shed light on and helped correct systemic challenges at medical facilities across the country. They have also provided much-needed corrective action for victims of whistleblower retaliation. Moreover, OSC has augmented government accountability by securing disciplinary action against scores of officials at various agencies for violations of civil service laws.

In addition, OSC has boosted efforts to increase education and outreach to the federal community with the goal of preventing and deterring violations of civil service laws in the first instance. Most significantly, OSC recently reinvigorated the 2302(c) Certification Program, which agencies may use to provide statutorily-mandated training on whistleblower rights and remedies to their employees. OSC also has started to publish reports of its investigatory findings (in redacted format) when doing so may serve an educational purpose. For example, in 2014, the agency published a report on a case of first impression, finding that an agency violated civil service laws when it unlawfully discriminated against a transgender employee. Equally important, OSC has improved communication with all of its federal stakeholders through its revamped website and enhanced use of social media.

Finally, OSC has worked with partners in Congress to modernize the laws it enforces, allowing OSC to be more effective in its role as a watchdog and guardian of employee rights. For example, in 2012, Congress passed the Whistleblower Protection Enhancement Act (WPEA), which overturned several legal precedents that had narrowed protections for federal whistleblowers, provided whistleblower protections to employees who were not previously covered, and restored OSC's ability to seek disciplinary actions against agency officials who retaliate against whistleblowers. That same year, Congress passed the Hatch Act Modernization Act (HAMA), which modified the law to provide a range of possible disciplinary actions for federal employees, permitted state and local government employees to run for partisan political office unless the employee's salary is entirely funded by the federal government, and changed the status of D.C. government employees from federal employees to state and local government employees.

While OSC's recent achievements are significant, broad challenges remain and new ones have developed. Building on the successes already obtained over the last five years, OSC stands ready to meet these challenges.

About OSC

Background

OSC is an independent federal investigative and prosecutorial agency. Its basic enforcement authorities come from several federal statutes: the Civil Service Reform Act (CSRA), as amended by the Whistleblower Protection Act (WPA); the Hatch Act; and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

OSC's roots lie in the reform efforts of Gilded Age America. In 1883, Congress passed the Pendleton Act, creating the Civil Service Commission, which was intended to help ensure a stable, highly qualified federal workforce free from partisan political pressure. Nearly a century later, in 1978, in the wake of the Watergate scandal and well-publicized allegations of retaliation by agencies against employees who had blown the whistle on wasteful defense spending and revelations of partisan political coercion in the federal government, Congress enacted a sweeping reform of the civil service system. As a result, the CSRA replaced the Civil Service Commission with the Office of Personnel Management (OPM), the Federal Labor Relations Authority, and the Merit Systems Protection Board (MSPB), with OSC serving as the investigative and prosecutorial arm of the MSPB for the next decade.

In 1989, Congress passed the WPA, making OSC an independent agency within the federal executive branch. The WPA also strengthened protections against retaliation for employees who disclose government wrongdoing and enhanced OSC's ability to enforce those protections. Ensuing legislation such as the WPEA and HAMA—both passed in 2012—has significantly affected the agency's enforcement responsibilities.

Mission and Responsibilities

OSC's mission is to safeguard employee rights and hold the government accountable. To achieve this mission and promote good government in the federal executive branch, OSC's obligations are, broadly speaking: (1) to uphold the merit system by protecting federal employees, applicants, and former employees from prohibited personnel practices, curbing prohibited political activities in the workplace, and preserving the civilian jobs of federal employees who are reservists and National Guardsmen; and (2) to provide a safe channel for federal employees, applicants, and former employees to disclose wrongdoing at their agencies. These two responsibilities work in tandem to maintain the integrity and fairness of the federal workplace and to make the government more accountable.

CSRA – Prohibited Personnel Practices

The federal merit system refers to laws and regulations designed to ensure that personnel decisions are made based on merit. Prohibited personnel practices (PPPs) are employment-related activities that are banned because they violate the merit system through some form of employment discrimination, retaliation, improper hiring practices, or failure to adhere to laws, rules, or regulations that directly concern the merit system principles. OSC has the authority to investigate and prosecute violations of the 13 PPPs in the CSRA, as amended.

CSRA – Whistleblower Disclosures

In addition to protecting whistleblowers from retaliation, the CSRA created OSC as a safe channel for most federal workers to disclose information about violations of laws, gross mismanagement or waste of funds, abuse of authority, and substantial and specific dangers to public health and safety. Through its oversight of government investigations of these whistleblower disclosures, OSC regularly reins in waste, fraud, abuse, illegality, and threats to public health and safety that pose the risk of catastrophic harm to the public and large remedial and liability costs for the government.

Hatch Act

The Hatch Act, passed in 1939, limits certain political activities of federal employees, as well as some state, D.C., and local government employees who work in connection with federally-funded programs. The law was intended to protect federal employees from political coercion, to ensure that federal employees are advanced based on merit rather than political affiliation, and to make certain that federal programs are administered in a non-partisan fashion. OSC has the authority to investigate and prosecute violations of, and to issue advisory opinions under, the Hatch Act.

USERRA

USERRA, passed in 1994, protects military service members and veterans from employment discrimination on the basis of their service, and allows them to regain their civilian jobs following a period of uniformed service. OSC has the authority to litigate and otherwise resolve USERRA claims by federal employees referred from the Department of Labor.

Organizational Structure

OSC is headquartered in Washington, D.C. It has three field offices located in Dallas, Texas; Detroit, Michigan; and Oakland, California. The agency includes the following components:

- *Immediate Office of Special Counsel (IOSC)*. The Special Counsel and IOSC are responsible for policy-making and overall management of OSC. This responsibility encompasses supervision of the agency's congressional liaison and public affairs activities.

- *Complaints Examining Unit (CEU)*. This unit receives complaints alleging PPPs. CEU reviews and examines each PPP complaint to determine if it is within OSC's jurisdiction and, if so, whether the matter can be resolved at that stage or should be referred for mediation, further investigation, or prosecution.

- *Investigation and Prosecution Division (IPD)*. This division is comprised of the headquarters office and three field offices, and is primarily responsible for investigating and prosecuting PPPs. IPD determines whether the evidence is sufficient to establish that a violation has occurred and, if so, whether the matter warrants corrective action, disciplinary action, or both. If a meritorious case cannot be resolved informally, IPD may bring an enforcement action before the MSPB.

- *Hatch Act Unit (HAU)*. This unit investigates and resolves complaints of unlawful political activity under the Hatch Act, and may seek corrective and disciplinary action informally as well as before the MSPB. HAU also provides advisory opinions under the Hatch Act.

- *USERRA Unit*. This unit reviews and resolves USERRA complaints by federal employees referred by the Department of Labor. The unit also may represent service members in USERRA appeals before the MSPB.

- *Alternative Dispute Resolution (ADR) Unit*. This unit supports OSC's other program units by providing mediation and other forms of ADR services to resolve appropriate cases. Where the parties agree to mediation, the unit conducts mediation sessions seeking creative and effective resolutions.

- *Disclosure Unit (DU)*. This unit reviews whistleblower disclosures of government wrongdoing. DU may refer a whistleblower disclosure to the agency to investigate and report its findings to OSC. For referred whistleblower disclosures, DU reviews each agency report for sufficiency and reasonableness, and then OSC sends the determination, the agency report, and any comments by the whistleblower to the President and responsible congressional oversight committees.

- *Retaliation and Disclosure Unit (RDU)*. This unit handles hybrid cases in which a single complainant alleges both whistleblower disclosures and retaliation. OSC created RDU to streamline its processes and provide a single point of contact for complainants with multiple claims. RDU performs the full range of action in these cases, including the referral of whistleblower disclosures to agencies and the investigation and prosecution of related retaliation claims, where appropriate.

- *Diversity, Outreach, and Training Unit*. This unit facilitates coordination with and assistance to agencies in meeting the statutory mandate of 5 U.S.C. § 2302(c), which requires that agencies inform their workforces about whistleblower rights and remedies. The unit also provides external education and outreach sessions for the laws that OSC enforces, as well as develops and implements internal Equal Employment Opportunity and other skill-based training programs for OSC's staff.

- *Office of General Counsel*. This office provides legal advice regarding management, policy, and administrative matters, including FOIA, the Privacy Act, and the ethics programs. The office also defends OSC's interests in litigation filed against the agency.

- *Administrative Services Division*. This division manages OSC's budget and financial operations, and accomplishes the technical, analytical, and administrative needs of the agency. Component units include the Finance Branch, the Human Capital Office, the Administrative Services Office, and the Information Technology (IT) Branch.

An organizational chart for OSC may be found in Appendix A.

Strategic Planning Process

Congress requires that Executive Branch agencies develop and post strategic plans on their public websites. The strategic planning process offers an opportunity for an agency to reflect on its statutory mission and mandates, reassess prior goals and objectives, and identify new goals and objectives that will enable the agency to fulfill its mission and vision. This process—and the resulting strategic plan—also serves to notify Congress and stakeholders of major factors that may affect the agency's ability to meet its statutory obligations.

In April 2016, Special Counsel Carolyn N. Lerner launched the strategic planning process for OSC. To be successful, this strategic planning effort sought input from OSC employees as well as key stakeholders from outside the agency. Accordingly, Ms. Lerner assembled a Strategic Planning Team that is diverse and representative of the entire agency to work on this project. She also tasked Associate Special Counsel Louis Lopez with leading the agency's efforts to develop the new strategic plan. A full list of participants may be found in Appendix B.

This Strategic Planning Team met regularly over six-months to conduct an organizational review of OSC's programs and services, and then identify new strategic goals, objectives, strategies, and metrics for the strategic plan. OSC also set up a page on its intranet to provide all agency personnel with information and to solicit feedback during the strategic planning process.

In August 2016, OSC posted a draft of the strategic plan on OSC's intranet and external website for public comment by employees and stakeholders. The agency also delivered the draft strategic plan to OSC's oversight and appropriations committees in Congress. OSC held meetings regarding the draft strategic plan with its employees, the Office of Management and Budget, staff from the agency's congressional oversight and appropriations committees, and stakeholders.

OSC received 12 substantive comments from internal and external stakeholders in writing as well as during the scheduled meetings: five submissions from employees, and seven submissions from good government groups, a federal management association, a public sector union, and a private citizen. Comments that went beyond the scope of the draft strategic plan were reviewed and considered generally.

OSC received several comments regarding its investigation and prosecution functions. Some comments lauded OSC's efforts to apply consistent standards of review and investigative procedure to our cases involving PPPs, the Hatch Act, and USERRA. Of course, OSC utilizes a different statutory scheme for agency investigations and reports of referred whistleblower disclosures. Generally, comments expressed support for OSC's proposed working group charged with improving the efficiency of case handling procedures, including looking for ways to be more responsive to complainants and agency representatives during OSC's investigation process. OSC has already undertaken some efforts in this area. For example, OSC currently obtains early resolution in appropriate cases without a formal referral from CEU to IPD and without a formal written settlement agreement (instead opting to memorialize these resolutions in letters to the parties). In its press releases, annual reports, and performance and accountability reports, OSC also provides case narratives showcasing the qualitative results in successful resolutions. OSC will engage stakeholders on how the agency can share more data and related case information in the future to provide a better context within which to evaluate its performance.

Some comments suggested OSC provide more information regarding its use of ADR and litigation to resolve cases. The agency currently provides mediation information on its website, during training and outreach presentations, and in meetings with parties interested in early dispute resolution of their cases. OSC also will soon release a video explaining how mediation fits into its overall case processing system. In the same vein, OSC—like most parties to legal disputes—seeks to resolve meritorious cases without resorting unnecessarily to lengthy, expensive, and protracted litigation. To balance its roles of effective enforcer of the merit system and efficient steward of taxpayer dollars, OSC will continue to look for strategic ways to enhance public enforcement and development of the law through publicized PPP reports, *amicus curiae* briefs filed with the MSPB and the federal courts, and litigation in cases that do not achieve voluntary resolution by the parties.

Some comments applauded OSC's efforts to expand training and outreach efforts nationwide, and offered specific suggestions for OSC's 2302(c) Certification Program. In response to the comments, OSC notes that it currently posts a list of 2302(c)-certified agencies on its website, which provides an incentive for agencies to provide the mandated training on whistleblower rights, including those related to scientific integrity. However, OSC has no authority to penalize agencies for non-compliance. OSC's current training and outreach programs also emphasize the important role that federal employees can play in reporting government waste, fraud, and abuse. If there are developments in the federal employee whistleblower laws, OSC will consider appropriate changes to its 2302(c) Certification Program. Finally, while OSC's training and outreach programs offer in-depth and interactive exercises to agencies, OSC looks forward to receiving ongoing feedback from stakeholders to evaluate and improve these efforts.

OSC also received several comments regarding its role of providing a safe channel to report government wrongdoing, primarily with respect to the timeliness of the process. OSC is striving to reduce the amount of time it takes between referral of whistleblower disclosures to an agency for investigation and the publication of the results of that investigation. Timeliness is difficult to assess in a standardized way because it depends on a variety of factors. For example, many whistleblower disclosures are complex and technical in nature and, by statute, whistleblowers may review and comment on the agency's report. Throughout the process, OSC communicates with the whistleblower and the agency and thoroughly analyzes the agency's report and the whistleblower's comments to ensure the agency's findings are reasonable and contain all of the required information. OSC will seek to continue to streamline the process without sacrificing quality and complete reports on referred whistleblower disclosures.

Finally, OSC received a limited number of comments regarding its internal operations and efforts at achieving organizational excellence. In response to these comments, the agency expanded its strategy to identify best practices from all agency programs, as opposed to only from certain ones. One submission suggested OSC consider having an ombudsperson to handle internal and external stakeholder disputes. In recent years, OSC has implemented several mechanisms to communicate better with employees, keep staff engaged, and resolve workplace disputes. These efforts have been well-received. In addition, OSC has been successful in working closely with external governmental and non-governmental stakeholders on the agency's work, including promptly responding to concerns brought to OSC's attention. Nevertheless, the agency will consider this recommendation as it moves forward with the implementation of the strategic plan.

On September 27, 2016, OSC's final strategic plan was approved by the Special Counsel. Implementation of the new strategic plan will begin October 1, 2016.

Mission, Vision, Strategic Goals, and Core Values

Mission: ***Safeguarding employee rights, holding government accountable.***

Vision: ***Fair and effective government inspiring public confidence.***

Strategic Goals:

1. ***Protect and promote the integrity and fairness of the federal workplace.***
2. ***Ensure government accountability.***
3. ***Achieve organizational excellence.***

OSC's Mission states: "Safeguarding Employee Rights, Holding Government Accountable." Strategic Goals 1 and 2, which focus on the agency's substantive program areas, work closely together to achieve a more responsible and merit-based federal government. Strategic Goal 3, which focuses on OSC's efforts to achieve organizational excellence, has the building blocks to make the agency a more agile, better-functioning organization. Collectively, all three Strategic Goals will help OSC to realize its Vision, which is "Fair and Effective Government Inspiring Public Confidence."

Core Values:

Commitment*: We are dedicated to seeking justice through the enforcement of laws that OSC is charged with prosecuting and to being a safe channel for whistleblowers.*

Excellence*: We foster a model workplace with respect for employees and stakeholders, and provide clear, high-quality, and timely work product in our programs and services.*

Independence*: We conduct our work free from outside influence. We act fairly and without bias to honor the merit system.*

Integrity*: We adhere to the highest legal, professional, and ethical standards to earn and maintain the public's trust.*

Vigilance*: We aim for proactive and constant improvement of both our own processes and of the merit system. We strive to identify innovative and effective ways to address and prevent government wrongdoing.*

Strategic Goals, Objectives, Strategies, and Metrics

Strategic Goal 1 – Protect and promote the integrity and fairness of the federal workplace.

Objective 1: Fairly and promptly investigate and prosecute cases.
Objective 2: Obtain timely and effective relief in cases.

OSC faces an increasing number of cases each year, particularly from federal employees alleging whistleblower retaliation. To effectively remedy wrongs and hold agencies accountable, OSC will apply consistent standards of review and investigative procedure to each matter. Some cases will demand more time and resources than others, and will require a variety of investigative strategies and techniques to resolve. Applying broadly uniform procedures but handling each matter as the facts demand will allow OSC to remain efficient, fair, and effective. OSC will continue to use ADR and other dispute resolution methods to increase case-processing efficiency and better serve its stakeholders.

Strategies:
- Handle cases in a fair and unbiased manner.
- Form working group to improve efficiency of case handling procedures.
- Maximize effective use of ADR and other resolution methods in cases.

Data Points and Metrics:

General
- Formation of working group to improve efficiency of case handling procedures in FY 2017, and reassess regularly.

PPP Enforcement
- Number of complaints received.
- Number/percent of whistleblower retaliation complaints received.
- Number/percent of whistleblower retaliation complaints closed within 240 days.
- Average age of complaints at closure.
- Number of complaints filed with MSPB.
- Number of successful prosecutions before MSPB.
- Number of informal stays obtained.
- Number of formal stays obtained.
- Number of complaints mediated.
- Number of complaints mediated resulting in settlement.
- Number of individual corrective actions obtained.
- Number of systemic corrective actions obtained.
- Number of disciplinary actions obtained.

Hatch Act Enforcement
- Number of complaints received.

- Number/percent of complaints closed within 240 days.
- Number of complaints filed with MSPB.
- Number of successful prosecutions before MSPB.
- Number of warning letters issued.
- Number of corrective actions obtained.
- Number of disciplinary actions obtained.

USERRA Enforcement

- Number of referrals received.
    - Number of merit referrals.
    - Number of non-merit referrals.
- Number/percent of referrals closed within 60 days.
- Number of offers of representation before MSPB.
- Number of corrective actions obtained (formally and informally).

Objective 3: Enhance strategic use of enforcement authority.

As a small agency responsible for safeguarding the merit system in a broad sector of the federal community, OSC strives to maximize the impact of its enforcement actions and deter future violations. In addition to seeking corrective and/or disciplinary action for PPPs, Hatch Act, and USERRA complaints, OSC may issue PPP reports and provide technical assistance for policy and legislative changes affecting the laws it enforces. The WPEA also authorized OSC to file amicus curiae briefs in cases involving whistleblower rights and intervene in cases before the MSPB. OSC will use these authorities to advance its mission of safeguarding employee rights by educating the federal community, working for systemic changes, and helping shape and clarify the law.

Strategies:

- Publish more PPP reports that serve educational purposes, as appropriate.
- Furnish expert technical assistance to aid governmental bodies with formulating policy and precedent.
- Collaborate and strategize with other agencies to make systemic improvements to the federal workplace.

Data Points and Metrics:

- Number of PPP reports published on website.
- Number of *amicus curiae* briefs and interventions filed.
- Number of inter-agency efforts involving systemic improvements to the federal workplace.

Objective 4: Provide timely and quality Hatch Act advisory opinions and guidance.

OSC is in a unique position to provide Hatch Act advice to federal, D.C., state, and local employees and officials, as well as the general public. It is important for OSC to provide consistent, well-reasoned opinions in a timely fashion so that individuals can make appropriate decisions about their political activities. OSC recognizes the importance of *revising and updating the Hatch Act regulations and will continue to pursue its efforts to partner with OPM, the agency responsible for promulgating the regulations, to achieve this goal.*

Strategies:
- Provide timely and appropriate Hatch Act advice and information.
- Work closely with OPM to revise the Hatch Act regulations.

Data Points and Metrics:
- Number/percent of informal telephonic advisory opinions issued within 3 days of inquiry.
- Number/percent of informal email advisory opinions issued within 5 days of inquiry.
- Number/percent of formal written advisory opinions issued within 60 days of inquiry.
- Revised Hatch Act regulations by FY 2018.

Objective 5: Expand training and outreach efforts nationwide.

OSC is well-suited to safeguard employee rights by educating the federal community and others about PPPs, whistleblower disclosures, the Hatch Act, and USERRA through its training and outreach programs. Since 2002, OSC has had a formal program to ensure compliance with 5 U.S.C. § 2302(c), which requires federal agencies to inform employees about their rights and remedies under the whistleblower protections and related laws. In 2014, the White House mandated that federal agencies become section 2302(c)-certified. OSC also has longstanding training programs on the Hatch Act and USERRA, as well as resources available through its website. While many agencies in the Washington, D.C., area have received OSC training and certification, OSC will endeavor to expand its efforts nationwide to better reach agencies and components that may have less familiarity with the whistleblower protections and other laws that OSC enforces. OSC will also monitor, evaluate, and reassess the effectiveness of its training and outreach activities.

Strategies:
- Increase awareness of, and provide expert technical assistance to agencies/components on, the 2302(c) Certification Program and other OSC-related training needs.
- Develop procedures to facilitate registration, certification, and recertification rates of agencies/components under the 2302(c) Certification Program.
- Certify and recertify more agencies/components through the 2302(c) Certification Program.
- Create training and outreach plan to reach agencies beyond the Washington, D.C., area.
- Collaborate with agencies to develop OSC-related web-based and other training, e.g., advanced training quiz, topical videos, etc.
- Improve methods to survey effectiveness of training and outreach activities.

Data Points and Metrics:

- Number of agencies/components contacted regarding the 2302(c) Certification Program.
- Number of agencies/components registered for the 2302(c) Certification Program.
- Number of agencies/components certified and recertified for the 2302(c) Certification Program.
- Average time for agencies/components to complete the certification after registration for the 2302(c) Certification Program.
- Number of training and outreach activities, broken down by program area and geographic location.
- Methods to survey effectiveness of training and outreach activities by FY 2017, and reassess regularly.

<u>Objective 6: Effectively and innovatively communicate with stakeholders and the public</u>.

OSC understands the necessity of effectively communicating with stakeholders and the general public about its efforts to safeguard employee rights and hold the government accountable. By appropriately publicizing enforcement outcomes through traditional and non-traditional media, OSC can help to educate the federal workforce about their rights and responsibilities and deter future wrongdoing. OSC will use a wide variety of communication methods to disseminate timely, accurate information and will provide regular opportunities for input, feedback, and collaboration from stakeholders.

<u>Strategies</u>:

- Issue press releases on major activities and key developments.
- Increase use of digital media as appropriate (e.g., website, social media, listservs, infographics, webinars, etc.).
- Enhance coordination with governmental and non-governmental stakeholder groups.
- Develop proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace.

<u>Data Points and Metrics</u>:

- Number of press releases issued.
- Types and frequency of digital media used to share information.
- Number of meetings with stakeholder groups.
- Proposal for the establishment of a regularly-held conference on whistleblowing in the federal workplace by FY 2017, and reassess regularly.

Strategic Goal 2 – Ensure government accountability.

Objective 1: Provide employees with an effective and efficient safe channel to report government wrongdoing.

OSC promotes government accountability, integrity, and efficiency by providing a safe channel for federal employees to come forward with evidence of waste, fraud, abuse, law-breaking, or threats to public health or safety. With an overall increasing trend in the number of whistleblower disclosures for the last five years, OSC must continue to ensure that this safe channel remains confidential, secure, and effective in promoting change and accountability. OSC is currently developing a new and dynamic combined form for reporting government wrongdoing, whistleblower retaliation and other PPPs, and Hatch Act violations. The form is designed to be confidential, secure, and convenient for the user. It can be downloaded and completed privately. It may be submitted electronically and immediately routed and processed. And the user need not establish an account. OSC will work vigorously to review and assess the whistleblower reporting experience to ensure that, by providing a safe channel for whistleblowers and their disclosures, OSC can better ensure government accountability.

Strategies:

- Implement new electronic complaint/disclosure form.
- Form working group aimed at developing actionable methods to assess and improve whistleblower reporting experiences.

Data Points and Metrics:

- New electronic complaint/disclosure form by FY 2017, and refine as appropriate.
- Number of whistleblower disclosures.
- Number/percent of whistleblower disclosures that also allege related retaliation.
- Number/percent of whistleblower disclosures referred to agencies for investigation.
- Working group for assessment and improvement of whistleblower reporting experiences (including use of new electronic form) by FY 2017, and reassess regularly.

Objective 2: Ensure agencies provide timely and appropriate outcomes for referred whistleblower disclosures.

OSC returns substantial sums to the federal government by pressing for appropriate action to remedy waste and fraud disclosed by whistleblowers. Through its oversight of agency reports on referred whistleblower disclosures, OSC uncovers individual and systemic violations of federal law and evaluates the reasonableness of agency responses, encourages cost savings occasioned by the identification and cessation of government waste, and resolves serious health and safety threats. A key objective is to improve the timeliness and outcomes of agency reports. OSC will improve communication with agencies concerning their statutorily-mandated reports, including their content and timeliness, as well as seek alternative resolutions of whistleblower disclosures.

Strategies:

- Engage agencies in the development of effective investigation plans of referred whistleblower disclosures.
- Maintain communications with agencies before, during, and after agencies' investigations of referred whistleblower disclosures, as appropriate.
- Provide alternate means to achieve resolutions of whistleblower disclosures.
- Expand efforts to capture scope of benefits to government resulting from outcomes of whistleblower disclosures.
- Monitor all whistleblower disclosures and referrals to agencies to identify trends or systemic challenges.

Data Points and Metrics:

- Percentage of referred whistleblower disclosures that are substantiated by agencies.
- Number of favorable outcomes—both corrective and disciplinary actions—achieved through formal and informal resolution of whistleblower disclosures.
- Timeliness of OSC's communication to the President and Congress after receiving an agency investigation report and whistleblower's comments.
- Implementation of measurement to capture scope of benefits to government resulting from outcomes of whistleblower disclosures, such as significant changes to agency operations to promote safety or security and/or tax dollars saved or recovered, by FY 2017, and reassess regularly.

Objective 3: Enhance awareness of outcomes of referred whistleblower disclosures.

For OSC's work to have the greatest impact on federal government operations, particularly in cases involving systemic abuses or practices likely to occur across government agencies, it must have a robust and continuous presence within the federal community and before the general public. OSC's public reporting requirements for investigated whistleblower disclosures make it even more imperative that federal employees, taxpayers, and other stakeholders have prompt, accurate, and easy access to information about referred whistleblower disclosures. The implementation of a variety of new technologies offers the agency the opportunity to more effectively disseminate information about the financial and other qualitative benefits to the government from the outcomes of referred whistleblower disclosures, thus ensuring accountability broadly throughout the government.

Strategies:

- Revamp online public file of whistleblower disclosures on website.
- Increase dissemination of favorable outcomes of whistleblower disclosures via press releases, social media, etc.
- Enhance training and outreach aimed at increasing awareness and deterrence of underlying government wrongdoing.
- Develop plan to enhance the profile of OSC's Public Servant Award.

Data Points and Metrics:

- Revamped online public file of whistleblower disclosure cases on website by FY 2017, and reassess regularly.

- Number of times that favorable outcomes of whistleblower disclosures are disseminated via press releases, social media, etc.
- Number of training and outreach events that address whistleblower disclosures.
- Plan to enhance the profile of OSC's Public Servant Award by FY 2017, and reassess regularly.

Strategic Goal 3 – Achieve organizational excellence.

<u>Objective 1: Recruit, develop, and retain a highly talented, engaged, and diverse workforce</u>.

To accomplish its mission with excellence, OSC must use targeted recruitment methods that attract talented employees who believe in the work of the agency. A diverse workforce from various backgrounds will help OSC tackle problems from different perspectives and find optimal solutions. OSC is committed to retaining this skilled and diverse workforce through work-life balance strategies, career and skills development, cross-training, recognition of strong performance, and other initiatives that will keep employees engaged and equip them to achieve the mission.

<u>Strategies</u>:

- Create and maintain a Human Capital Plan that includes effective recruitment strategies for attracting talent from diverse sources and appropriate succession planning.
- Establish an Honors Program for hiring attorneys from law schools or clerkships.
- Improve and standardize new employee initial onboarding processes, as appropriate.
- Create and maintain a staff training plan for all employees that regularly assesses training needs and delivers training programs.
- Implement a voluntary mentorship program.
- Continue to facilitate internal cross-training opportunities through details, rotations, reassignments, and other tools aimed at ensuring that the agency remains agile and responsive to changing organizational needs, and that staff develop professionally within the agency.
- Continue to increase employee engagement efforts through Employee Engagement Working Group, Federal Employee Viewpoint Survey participation and analysis, consistent communication, and effective recognition of staff performance.
- Continue to emphasize work/life balance and other related benefits.

<u>Data Points and Metrics</u>:

- Human Capital Plan by FY 2017, and reassess regularly.
- Honors Program by FY 2017, and reassess regularly.
- Improved and standardized onboarding process by FY 2017, and reassess regularly.
- Staff training plan by FY 2017, and reassess regularly.
- Mentorship program by FY 2017, and reassess regularly.
- Ongoing internal cross-training opportunities, and reassess regularly.
- Ongoing employee engagement efforts, and reassess regularly.
- Ongoing work/life balance and other related benefits, and reassess regularly.

Objective 2: Improve the use of existing technology and deploy new IT systems to enhance organizational operations.

OSC will be a good steward of taxpayer dollars through the strategic use of IT systems to help the agency better accomplish its mission. OSC will regularly assess the needs of its stakeholders and employees, and in response will employ cutting-edge information technology solutions to improve efficiency and the stakeholder experience. OSC will deploy mobile access to network programs in compliance with directives that move the government toward a virtual work environment, while ensuring continuity of operations in times of work interruption and providing greater flexibility to employees. OSC will also employ IT security solutions to safeguard its information systems with the purpose of protecting the privacy of employees and those seeking assistance from OSC.

Strategies:

- Identify, procure, and deploy commercial off-the-shelf IT solutions to meet the agency's needs.
- Assess and address on a continual basis the IT needs of staff and customers.
- Recruit and retain highly-skilled IT experts.
- Provide excellent IT customer service.
- Assess effectiveness of IT services and respond to stakeholder needs.

Data Points and Metrics:

- Transition to electronic case management system by FY 2017, and reassess regularly.
- 100% deployment of mobile access to network program resources by FY 2017, and reassess regularly.
- 100% data encryption by FY 2017, and reassess regularly.
- Ongoing semi-annual assessment of IT needs, and reassess regularly.
- Ongoing semi-annual assessment of the effectiveness of IT services, and reassess regularly.
- Ongoing maintenance of IT staff of 5% of agency work force, and reassess regularly.

Objective 3: Monitor, evaluate, and improve efficiency and effectiveness of programs and processes.

While OSC is a small agency, it takes complaints from throughout the federal government; it handles cases from all over the country; and its authority to act derives from several different federal statutes. OSC will undertake a comprehensive and transparent evaluation of the most efficient approach for safeguarding employee rights and holding the government accountable. The evaluation will identify best practices and areas of improvement. This will be part of a vigilant process of continual evaluation of OSC's existing program areas and new programs to ensure the most effective delivery of services. To accomplish these goals, OSC will give federal employees and other stakeholders a greater opportunity to provide input into shaping its work.

Strategies:

- Create and execute an institutional approach to evaluate OSC's programs and processes, including special projects and initiatives, to identify best practices and areas of improvement.
- Implement best practices and address areas of improvement identified in evaluations of OSC's programs and processes.
- Initiate an enhanced method for determining customer satisfaction with OSC's programs and processes, and evaluate data to improve efficiency and effectiveness.

Data Points and Metrics:

- Creation and implementation of institutional approach to evaluate programs and processes by FY 2017, and reassess regularly.
- Completion of first evaluation of program(s) or process(es) to identify best practices and areas of improvement by FY 2018, and proceed with evaluation of additional programs and processes regularly thereafter.
- Implementation of best practices and responses to areas of improvement identified in first evaluation of program(s) or process(es) by FY 2019, and reassess regularly.
- Enhanced method for determining customer satisfaction with programs and processes by FY 2017, and reassess regularly.
- Evaluation and use of customer satisfaction data to improve efficiency and effectiveness of programs and processes by FY 2018, and reassess regularly.

Factors Affecting Achievement of Strategic Plan

While OSC is committed to achieving its mission and vision, there are internal and external factors that will likely affect the agency's ability to achieve all of the goals and objectives in this strategic plan. The primary issues of concern revolve around persistent budget uncertainty, a steadily increasing workload, and significant technological challenges. For a small-sized, resource-constrained agency with a substantial mandate to safeguard employee rights and hold government accountable, these factors can present serious challenges to fulfilling OSC's important statutory obligations.

Historically, OSC has had limited funding to effectively execute its mission and support functions. The agency has had to make difficult choices to ensure that it balances its investigative and prosecution responsibilities with the training and outreach efforts critical to deterring whistleblower retaliation and other unlawful practices. In FY 2015, OSC's caseload hit an all-time high, surpassing 6,000 new matters for the first time in agency history. The dramatic rise was driven by restored confidence in OSC's ability to safeguard the merit system. OSC's continuing success in achieving favorable results through mediation and negotiation, particularly in high-priority matters, also contributed to the increased number of complaints filed. With an expected surge in Hatch Act complaints driven by the midterm elections as well as the early commencement of the presidential election cycle, OSC anticipates continued growth in its caseload. Budget uncertainty remains a significant challenge to OSC's ability to carry out its myriad responsibilities.

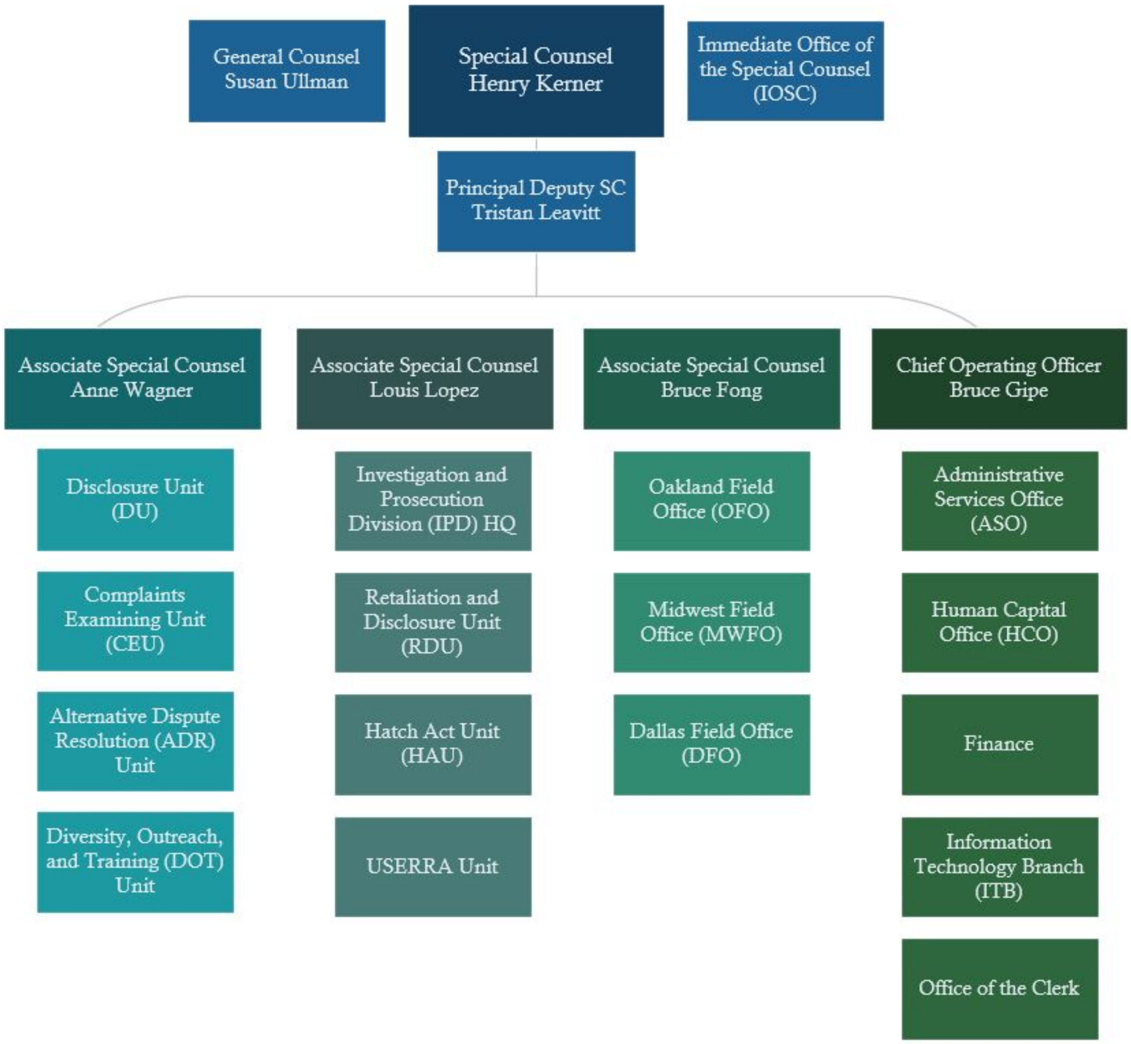
In response to these funding challenges and rising caseloads, OSC must carefully prioritize and allocate resources to remain efficient, fair, and effective in maintaining the high levels of success it has achieved in recent years. Accordingly, the agency is putting into place long-term plans to improve the efficiency of case handling procedures; is being proactive, seeking early resolution of cases through stepped up ADR and settlement efforts; is implementing innovative approaches to achieve efficiencies in cases involving both whistleblower disclosures and related retaliation claims; and is improving cross-training of staff. A better funded and more efficient OSC will result in greater cost-saving and more effective accountability throughout government.

Additionally, OSC has had limited ability to invest in, but increased need for, long-term improvements in technology. OSC will be called upon to ensure that the technological environment in which it conducts its work is modern and secure. By proactively assessing the information security needs and the technological requirements of employees and stakeholders, OSC plans to improve efficiency, security, and the customer experience. Continuous assessment of information technology requisites against available resources will help ensure that OSC achieves organizational excellence despite these challenges.

While OSC's establishment as an independent government oversight agency insulates it from political influences on its work, transitions in administration and leadership throughout the federal government will necessarily impact OSC's ability to safeguard employee rights and hold the government accountable. Specifically, staffing changes at all levels in the agencies over which OSC has jurisdiction will require that OSC remain agile and focused on honoring the merit system fairly and without bias. These challenges will require that OSC continue to prioritize education and outreach, and to highlight cases with significant educational value or that promote accountability. Through these efforts, OSC can improve the culture within the federal government and remain a steady accountability and transparency presence that can withstand administration and leadership changes.

OSC's strategic plan contemplates confronting all of these challenges directly over the next few years to ensure its success. And when OSC succeeds, good government and the general public are the real winners.

Appendix II: OSC Organizational Chart



Appendix III: OSC Strategic Planning Team

Chair

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Members

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The U.S. Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency and operates as a secure channel for disclosures of whistleblower complaints and abuse of authority. Its primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially retaliation for whistleblowing. OSC also has jurisdiction over the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act.

Internet Web Site:

www.osc.gov