

U.S. Occupational Safety and Health Review Commission

OSHRC

Performance and Accountability Report

FY 2021





U.S. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

**PERFORMANCE AND ACCOUNTABILITY REPORT,
INDEPENDENT AUDITOR'S REPORT
AND
FINANCIAL STATEMENTS**

FOR THE YEAR ENDED SEPTEMBER 30, 2021 AND 2020

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November 15, 2021

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I am pleased to transmit the Occupational Safety and Health Review Commission's (OSHRC or Review Commission) Fiscal Year (FY) 2021 Performance and Accountability Report (PAR). The PAR includes performance information, as required by the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and audited financial statements and related documentation, as required by the Accountability of Tax Dollars Act of 2002.

The mission of the Occupational Safety and Health Review Commission is to provide fair and timely adjudication of workplace safety and health disputes between the Department of Labor, employers, and employees and/or their representatives under the Occupational Safety and Health Act of 1970. OSHRC continues to set high standards of performance. During this past fiscal year, we demonstrated measurable success in meeting our stated goals.

The Review Commission provides two levels of adjudication when an employer timely contests a citation issued by the Occupational Safety and Health Administration (OSHA): Administrative Law Judge (ALJ)-level and Review-level. At the Review-level, 15 cases were resolved. The agency operated without a full complement of Commissioners for six months in FY 2021. With having only two Commissioners, it may be difficult to reach agreement sufficient to dispose of some cases. However, despite this challenge, the Review-level was able to meet its four targeted outcome performance goals. These goals include (1) resolving all priority cases in a timely manner; (2) developing and implementing case management practices that will minimize the average age of all pending Review-level cases; (3) reducing the average age of all pending Review-level cases to 15 months from direction for review; and (4) reducing the number of Review-level cases over two years in age.

Our ALJs disposed of 1,423 cases in FY 2021 and met the following targeted outcome performance goals: disposing of 90 percent of conventional cases within 17 months; disposing of 95 percent of settlement part cases within 19 months; and providing training opportunities to (1) ALJs and (2) all attorneys and support staff to enhance their capabilities on technical and legal issues, legal writing, ethics, and technology case management. However, the ALJ-level was unable to achieve the following goals: 100 percent of all pleadings received in our electronic filing system initiated electronically (at the close of the FY, the percent of all pleadings received

in our electronic filing system that were initiated electronically was 98 percent); dispose of 95 percent of complex cases within 20 months (at the close of the FY, the percentage of complex cases disposed of was 89 percent); and dispose of 95 percent of simplified cases within one year (at the close of the FY, the percentage of simplified cases disposed of was 94 percent).

The primary factor that adversely impacted the ALJs' ability to meet the goal of disposing of 95 percent of complex cases within 20 months was the increased complexity of the cases before the ALJs. This increased complexity of cases was likely due to OSHA's focus on encouraging more resource and time-intensive inspections, as well as the Department of Labor, Office of the Solicitor's decision to leverage litigation resources and shift focus away from high-volume, in favor of high-impact strategic cases. The increase in complexity of cases is a challenge for the Review Commission because processing such cases requires the ALJs to invest a greater amount of time in handling the matters, and it places an increased demand on the full-time equivalent positions assigned to handle the volume of cases. Nevertheless, our ALJs have continued to perform outstanding work and achieved significant progress in reducing the case inventory on hand. The primary factor that prevented the ALJ-level from meeting the goal of having 100 percent of all pleadings received in our electronic filing system from being electronically initiated was the inability of some individuals to file in this manner (e.g., many pro se claimants are not capable of filing documents electronically).

The Review Commission attributes the decrease in the number of docketed cases for FY 2021 to the circumstances created by the national emergency declared on March 13, 2020, due to the Coronavirus Disease 2019 (COVID-19) pandemic. OSHA's response to this emergency is likely to affect the Review Commission's workload in the future. First, on March 12, 2021, OSHA issued a National Emphasis Program (NEP) to ensure that "employees in high-hazard industries are protected from the hazard of contracting [COVID-19]." The NEP directs OSHA to target worksites that have workers with increased potential exposure to this health hazard. This increased enforcement effort requires that 5 percent of each OSHA region's total inspections relate to COVID-19 (OSHA-wide this is approximately 1,600 total inspections). This rise in inspections is expected to boost the number of contested cases docketed with the Review Commission and result in an increased workload. Second, on June 17, 2021, OSHA issued a COVID-19 emergency temporary standard (ETS) for the healthcare industry, requiring that employers in that industry provide certain protections for its employees. Finally, on November 5, 2021, OSHA issued an ETS mandating COVID-19 vaccinations or at least weekly testing for employees at companies with 100 or more employees. It is likely that these two ETSs will also increase contested cases docketed and result in increased workload.

Finally, the Executive Director function met its seven performance goals. These goals include (1) ensuring that the Review Commission's website is accessible to people with disabilities; (2) broadening the Review Commission's outreach activities to the regulated community; (3) recruiting, investing in, and valuing all employees through professional development, workplace flexibilities, fair treatment, and recognition; (4) ensuring that employees are aware of the agency's missions and how they contribute to its accomplishments; (5) developing and presenting an annual budget and performance plan that clearly represents how the organization will accomplish government-wide management priorities, agency-wide goals, and organizational goals; (6) improving technology infrastructure through efficiencies and investments (e.g.,

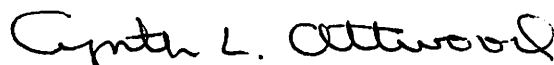
training, equipment, and services) to support the effective use of broadband, cyber security, and energy efficiency; and (7) conducting all internal and external agency business in an ethical and timely manner.

As Chairman, I remain committed to providing the best performance possible, consistent with our resources, during the current fiscal year. We will continue to explore new ways to increase our efficiency and effectiveness and to provide superior quality adjudication of safety and health cases that come before the Review Commission.

I am also pleased to report that the Review Commission received an unmodified opinion from an independent audit of its financial statements. The audit report identified no material weaknesses or other significant deficiencies. In addition, the Review Commission can provide reasonable assurance that the agency is in substantial compliance with the Federal Managers Financial Integrity Act of 1982 and the Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control. Further, the Review Commission is confident that the internal controls, designed to monitor financial reporting, are operating effectively to produce reliable financial reports.

If you have any questions regarding this report, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Cynthia L. Attwood". The signature is written in a cursive style with a large initial "C".

Cynthia L. Attwood
Chairman

Enclosure

U.S. Occupational Safety and Health Review Commission Fiscal Year (FY) 2021 Performance and Accountability Report

Management's Discussion and Analysis

Overview and Mission

The U.S. Occupational Safety and Health Review Commission (Review Commission) is an independent adjudicatory agency created by the Occupational Safety and Health Act of 1970 (the Act). Its sole statutory mandate is to serve as an administrative court providing fair and expeditious resolution of disputes involving the Occupational Safety and Health Administration (OSHA), employers charged with violations of Federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of OSHA and the Department of Labor (DOL) to ensure that OSHA's enforcement actions are carried out in accordance with the law and that parties are accorded due process.

Our Function and Procedures

The Act and the Review Commission's Rules of Procedure provide two levels of adjudication when an employer timely contests an OSHA citation. The first level affords an employer and/or affected employee who files a timely notice of contest with an opportunity for a hearing before a Review Commission Administrative Law Judge (ALJ). The ALJ's decision becomes a final order under the Act unless a member of the Review Commission exercises their discretion to direct the case for review. The second level, the Review-level, involves the Review Commission's review of an ALJ decision. The Review Commission has three members, appointed by the President and subject to Senate confirmation, who serve six-year terms.

The principal (National) office of the Review Commission is located in Washington, DC. There are also regional offices in Atlanta and Denver, where additional Review Commission ALJs and staff are assigned. Both before its ALJs and the Review Commission members, the agency seeks to provide fair, impartial, and timely adjudication of cases concerning the safety and health of employees' working conditions in the United States.

Vision Statement

The Review Commission strives to be:

1. An adjudicative body that is—and is recognized for being—objective, fair, prompt, professional, and respected.
2. An agency that creates a body of law through its decisions that defines and clarifies the rights and responsibilities of employers and employees under the Act.
3. A model federal agency with highly effective processes, a highly motivated, qualified, and diverse workforce, and modern information management, communications, and administrative systems.
4. An agency that values teamwork, develops its employees, and strives to improve its performance, service, and value to the American people.

Challenges, Opportunities, and Forward-Looking Information

The Review Commission's ability to meet its case disposition goals depends on a variety of factors. These include: (1) continued presence of a quorum at the Commission level; (2) the magnitude and nature of the cases received; (3) the success of the parties' settlement negotiations and the Agency's Simplified Proceedings and Mandatory Settlement Part programs in reducing the number of hearings needed; and (4) the number, location, length, and complexity of hearings held. Looking forward, the Review Commission is committed to working within such constraints to improve its service to the public although these factors are largely outside the Review Commission's control.

The Review-level consists of three members appointed by the President with the advice and consent of the Senate. The Act prescribes that a quorum consists of a minimum of two Commissioners. By statute, decisions can only be decided on the affirmative vote of a quorum. During periods when the Commission lacks a quorum, no cases can be decided. In addition, with only two Commissioners, it may be more difficult to reach agreement sufficient to dispose of some cases. In cases in which such agreement cannot be reached, deadlocks result. Consequently, action on important issues may be postponed and issuance of some pending cases will be delayed. Over the past 5 years the Commission has operated with fewer than three Commissioners over 30 percent of the time. The Commission operated with a full complement of Commissioners for six months in FY 2021.

The factors that most influence the agency's workload, and hence its strategies, are: the number of safety and health inspections carried out by OSHA each year, the nature of those inspections, and the number and characterization of violations and total penalties proposed by OSHA in each citation. OSHA conducted a projected 31,013 inspections in FY 2021. The number of OSHA inspections and their focus on the highest hazard workplaces affects the Review Commission's ALJ caseload. These inspections have tended to result in more complex and contentious cases, consuming extensive judicial time. For such cases, the discovery process is lengthy and time consuming, motion practice is expanded, legal research and decision-writing time is protracted, and of necessity, the trial process is elongated and complicated. In addition to its regular procedures, the Review Commission utilizes two alternative procedures to facilitate case adjudication before the ALJs in appropriate circumstances – Settlement Part, for relatively complex cases, and Simplified Proceedings, for relatively simple cases.

Under Commission Rule 120, 29 Code of Federal Regulations (CFR) § 2200.120, and when the parties consent, the Chief Judge may assign a Settlement Judge to a pending proceeding to aid the parties in disposing of the case. When the aggregate amount of the penalty sought by the Secretary of Labor is \$100,000 or greater, the Mandatory Settlement procedure goes into effect. The Settlement Judge appointed by the Chief ALJ has full control of the proceeding and may require that the parties' representatives be accompanied at the settlement conference by officials having full settlement authority. This procedure has aided the Commission in disposing of some extremely complex cases, with the approval of all parties (if settlement efforts are not successful, the case may be assigned to a different judge for trial).

The Simplified Proceedings process includes cases in which the total proposed penalty is not more than \$20,000, or up to \$30,000 when found eligible by the Chief ALJ. The process allows parties with relatively simple cases to have their "day in court" unencumbered by formal procedural and evidentiary rules, while ensuring that due process requirements are maintained. Under this process, a business, with or without counsel, can present its case before an ALJ and receive a prompt decision. Most paperwork, including legal filings, is eliminated so that justice can be rendered swiftly and inexpensively. The process reduces the time and legal expenses to employers contesting relatively small penalty cases.

Performance Goals and Results

In accordance with Public Law 111-352, the Government Performance and Results Modernization Act of 2010 (GPRA Modernization Act of 2010) and Public Law 103-62, the Government Performance and Results Act (GPRA) of 1993, the Review Commission revised its strategic plan for the period FY 2018 through FY 2022. The plan focuses on four overarching strategic goals:

1. Promptly and fairly resolving the cases before it, including reducing the average age of Review-level cases;
2. To the extent consistent with the agency’s statutory authority and responsibilities, seeking to enhance the transparency of its operations;
3. Promoting organizational excellence, including a culture of professionalism, mutual respect, and organizational pride, and ensuring that staff members are adequately trained and developed; and
4. Managing agency resources in a manner that instills public trust, including using information and technology to monitor, evaluate, and improve programs and processes in order to better accomplish the agency’s mission.

Review Level Function

The function of the Commissioners is to review and decide cases contested under the Act, following an initial decision by an ALJ. This higher level of review must be prompt, fair, and protective of the parties’ rights, consistent with our overall strategic goals.

In FY 2021 the Commission had 23 cases pending on its docket at the beginning of the year. It received 8 new cases and resolved 15 cases by year-end.

The following table provides the performance goals and results for this function for fiscal years 2017 through 2021.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Resolve all priority cases at the Agency in a timely manner.	Percent of priority cases disposed of within 6 months.	100% Target met (100%)	100% Target met (100%)	100% Target met (100%)	100% Target met (100%)	100% Target met (100%)
Develop and implement case management practices that will minimize the average age of all pending Commission-level cases.	Average age of all pending Commission-level cases.	Implemented case management practices. The estimated average age of all pending Commission-level cases was 27 months. Target not met (Continue to implement case	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
		management practices. 22 months or less.)				
Develop and implement case management practices that will minimize the average age of all pending Review-level cases.	Whether case management practices have been developed and implemented.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	Case management practices were developed and assessed. Target met (Assess whether new case management practices should be developed and implemented.)	Case management practices were developed and assessed. Target met (Develop new case management practices.)	New case management practices were implemented. Target met (Implement new case management practices.)	Implementation of case management practices were evaluated. Target met (Evaluate implementation of case management practices.)
Reduce the average age of all pending Review-level cases to 20 months from direction for review.	Average age of all pending Review-level cases.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	Average age of all Review-level cases was reduced to 24 months. Target met (Average age of all Review-level cases reduced to 26 months,) ¹	Average age of all Review-level cases reduced to 26 months. Target not met (Average age of all Review-level cases reduced to 24 months.)	Average age of all Review-level cases reduced to 14 months. Target met (Average age of all Review-level cases reduced to 22 months.)	Average age of all Review-level cases reduced to 15 months. Target met (Average age of all Review-level cases reduced to 20 months.)
Reduce the number of Review-level cases over two years in age.	Percent reduction in the number of Review-level cases over two years in age.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	Share of Review-level cases over two years in age was 51% of all cases. Target not met (Reduce the share of Review-level cases over two years in	Share of Review-level cases over two years in age was 53% of all cases. Target not met (Reduce the share of Review-level cases over two	Share of Review-level cases over two years in age was 25% of all cases. Target met (Reduce the share of Review-level cases over two years in age as follows: No	Share of Review-level cases over two years in age was 19% of all cases. Target met (Reduce the share of Review-level cases over two years in age as follows: No

¹ Beginning with FY 2018, the target goal calculated the average age of a Review-level case based on: (1) cases that were docketed at the Review-level and decided during the timeframe of October 1 through September 30; and (2) the age of all cases that were pending on September 30th.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
			age as follows: No greater than 40% of all cases.) ²	years in age as follows: No greater than 33% of all cases.)	greater than 25% of all cases.)	greater than 20% of all cases.)
Further reduce the average age of the oldest pending Commission-level cases.	Using experience gained from the recent disposition of the legacy cases, as well as recommendations derived from Commission's public meeting on legacy cases, to develop and implement case management practices that minimize the average age of the oldest fifteen percent (15%) of pending cases.	Average age of the oldest 15 percent of pending Commission level cases increased by 4 percent from FY 2014 level. Target not met (Reduce average age of the oldest 15% of pending Commission level cases by 10% from FY 2014 level.)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

These goals were established in our FY 2018 – FY 2022 Strategic Plan to measure case production and efficiency each fiscal year. At the Review-level, 15 cases were resolved, and all four performance goals were met. In addition, 100% of the Review-level's priority cases were resolved within 6 months. These accomplishments were achieved even though the Review Commission operated with a full complement of Commissioners for only six months of FY 2021.

² Beginning with FY 2018, the target goal took into account case production from October 1 through September 30, with the final percentage measured as of the end of the FY.

Review-Level Case Activity

The following table summarizes actual Review-level case activity for fiscal years 2017 through 2021.

	FY 2017 <u>Actual</u>	FY 2018 <u>Actual</u>	FY 2019 <u>Actual</u>	FY 2020 <u>Actual</u>	FY 2021 <u>Actual</u>
New Cases:					
Cases Directed for Review:	12	14	8	22	8
Other New Cases:					
Interlocutory Appeals	0	0	0	2	0
Remands	0	2	2	5	0
Other	1	0	0	0	0
Total Other New Cases:	1	2	2	7	0
Total New Cases:	13	16	10	29	8
Case Inventory from Prior Year:	29	29	22	19	23
Total Caseload:	42	45	32	48	31
Dispositions:	13	23	13	25	15
Case Inventory, End of Year:	29	22	19	23	16

Administrative Law Judge Function

The function of the Review Commission’s ALJs is to conduct formal hearings and related proceedings in a fair, just, and expeditious manner, consistent with OSHRC’s overall strategic goals.

The Administrative Law Judge function began FY 2021 with 1,259 cases in its inventory and 1,365 new cases were received during the year, for a total of 2,624 cases. A total of 1,423 cases were disposed of, leaving 1,201 cases in the inventory at the end of the fiscal year. The Review Commission attributes the decrease in the number of docketed cases for FY 2021 to the circumstances created by the national emergency declared on March 13, 2020, due to the Coronavirus Disease 2019 (COVID-19) pandemic. OSHA’s response to this emergency is likely to affect the Review Commission’s workload in the future. First, March 12, 2021, OSHA issued a National Emphasis Program (NEP) to ensure that “employees in high-hazard industries are protected from the hazard of contracting [COVID-19].” The NEP directs OSHA to target worksites that have workers with increased potential exposure to this health hazard. This increased enforcement effort requires that 5% of each OSHA region’s total inspections relate to COVID-19 (OSHA-wide this is approximately 1,600 total inspections). This rise in inspections is expected to boost the number of contested cases docketed with the Review Commission and result in an increased workload. Second, effective June 21, 2021, OSHA issued an emergency temporary standard (ETS) to address healthcare workers’ exposure to COVID-19. Finally, on November 5, 2021, OSHA’s enforcement activity will likely increase due to these ETSs, which will lead to more contested cases docketed with the Review Commission. If OSHA promulgates a permanent standard for the healthcare industry, or any other industry, the associated increase in enforcement activity will continue for a longer duration.

The number of OSHA inspections and their focus also affects the Review Commission’s caseload. In particular, high hazard workplace inspections – especially those with high injury and illness rates, fatalities, repeat offenders, and egregious violations – tend to result in more complex and contentious cases, consuming extensive time. The discovery process is lengthy and time-consuming, motion practice is expanded, legal research and decision-writing time is protracted, and, of necessity, the trial process is elongated and complicated. Additionally, these cases tend to result in larger contestable proposed penalties,

leading to more cases being contested. Moreover, as mentioned earlier, OSHA’s emphasis on COVID-19 related inspections will likely lead to additional cases raising complex and novel issues.

Case complexity increases the time required to resolve cases at the ALJ level. Factors leading to increased case complexity include OSHA’s focus on encouraging more resource and time-intensive high-impact inspections, as well as the Office of the Solicitor’s decision to leverage litigation resources and focus away from high-volume cases in favor of high-impact strategic cases. The increase in case complexity is a challenge for the Review Commission because processing such cases requires the ALJs to invest a greater amount of time in handling the matters and places an increased demand on the full-time equivalent positions assigned to handle the volume of cases.

The following table provides the performance goals and results for the ALJ function for fiscal years 2017 through 2021.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Develop and implement case management practices that will minimize the average age of all pending ALJ-level cases.	Whether new case management practices have been developed and implemented.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	Less than 75% of all pleadings received in our electronic filing system were initiated electronically. Target not met (75% of all pleadings received in our electronic filing system would have been initiated electronically.)	95% of all pleadings received in our electronic filing system were initiated electronically. Target not met (100% of all pleadings received in our electronic filing system would have been initiated electronically.)	98% of cases received in our e-file system as a result of scheduling orders directing e-filing and the implementation of mandatory e-filing in June 2019. Target not met (100% of all pleadings received in our electronic filing system would have been initiated electronically.)	98% of cases received in our e-file system as a result of scheduling orders directing e-filing and the implementation of mandatory e-filing in June 2019. Target not met (100% of all pleadings received in our electronic filing system would have been initiated electronically.)
Ensure that a significant proportion of both complex and non-complex cases at the ALJ level are resolved within one year to 20 months ³ from docketing.	-Percent of simplified cases disposed of within one year at ALJ level. -Percent of conventional cases disposed of within 17	-Dispose of 95% of simplified cases within one year. 95% Target met	-Dispose of 95% of simplified cases within one year. 97% Target met	-Dispose of 95% of simplified cases within one year. 96% Target met	-Dispose of 95% of simplified cases within one year. 97% Target met	-Dispose of 95% of simplified cases within one year. 94% Target not met

³Except for mandatory settlement cases, which are assigned by the Chief Judge upon receipt from the Office of the Executive Secretary, Judges are not assigned cases until initial pleadings have been filed. This assignment generally occurs approximately 60 days after the case has been docketed due to the parties’ frequent requests for extensions of time for filing initial pleadings.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
	<p>months.</p> <p>-Percent of settlement part cases disposed of within 19 months.</p> <p>-Percent of complex cases disposed of within 20 months at ALJ level.</p>	<p>-Dispose of 90% of conventional cases within 17 months.</p> <p>88% Target not met</p> <p>-Dispose of 98% of settlement part cases within 19 months.</p> <p>93% Target not met</p> <p>-Dispose of 95% of complex cases within 20 months.</p> <p>86% Target not met</p>	<p>-Dispose of 90% of conventional cases within 17 months.</p> <p>95% Target met</p> <p>-Dispose of 95% of settlement part cases within 19 months.</p> <p>96% Target met</p> <p>-Dispose of 95% of complex cases within 20 months.</p> <p>86% Target not met</p>	<p>-Dispose of 90% of conventional cases within 17 months.</p> <p>95% Target met</p> <p>-Dispose of 95% of settlement part cases within 19 months.</p> <p>93% Target met</p> <p>-Dispose of 95% of complex cases within 20 months.</p> <p>85% Target not met</p>	<p>-Dispose of 90% of conventional cases within 17 months.</p> <p>96% Target met</p> <p>-Dispose of 95% of settlement part cases within 19 months.</p> <p>96% Target met</p> <p>-Dispose of 95% of complex cases within 20 months.</p> <p>94% Target not met</p>	<p>-Dispose of 90% of conventional cases within 17 months.</p> <p>93% Target met</p> <p>-Dispose of 95% of settlement part cases within 19 months.</p> <p>95% Target met</p> <p>-Dispose of 95% of complex cases within 20 months.</p> <p>89% Target not met</p>
Improve training opportunities for Administrative Law Judges.	Time and resources dedicated to judicial training with special emphasis on mediation and dispute resolution.	Pro rata share of the Agency's training resources was devoted. Target met (Continue to designate a pro rata share of the Agency's training resources.)	New goal developed to support FY 2018 – FY 2022 Strategic Plan.	New goal developed to support FY 2018 – FY 2022 Strategic Plan.	New goal developed to support FY 2018 – FY 2022 Strategic Plan.	New goal developed to support FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Provide training opportunities to (1) ALJs and (2) all attorneys and support staff, in order to enhance their capabilities on technical and legal issues, legal writing, ethics, and technology and case management.	Increased attendance and participation in training opportunities, internal and/or external, for ALJs and all attorneys and support staff.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	Training opportunities were offered to all ALJs, attorneys, and support staff. Target met (Attendance and participation by ALJs and attorneys and support staff, at no less than one training opportunity annually, internally and/or externally.)	Training opportunities were provided to all ALJs, attorneys, and support staff. Attorneys attended live hearings for professional growth. Target met (Attendance and participation in at least one training opportunity devoted to management of electronic documents prior to and during hearings (i.e., e-filing, electronic discovery, or electronic exhibits.))	Training opportunities were provided to all ALJs, attorneys, and support staff. Target met (Attendance and participation in at least one training opportunity devoted to management of electronic documents prior to and during hearings (i.e., e-filing, electronic discovery, or electronic exhibits.))	Training opportunities were provided to all ALJs, attorneys, and support staff. Target met (Attendance and participation in at least one training opportunity devoted to management of electronic documents prior to and during hearings (i.e., e-filing, electronic discovery, or electronic exhibits.))
Publish significant procedural decisions and non-dispositive orders separately from other decisions.	Key decisions and orders published within 4 months of the order.	15 key decisions and orders published Target not met (20 key decisions and orders published.)	This goal was deleted when the FY 2018 – 2022 Strategic Plan was developed.	This goal was deleted when the FY 2018 – 2022 Strategic Plan was developed.	This goal was deleted when the FY 2018 – 2022 Strategic Plan was developed.	This goal was deleted when the FY 2018 – 2022 Strategic Plan was developed.

Administrative Law Judge Case Activity

The following table provides actual ALJ workloads for fiscal years 2017 through 2021.

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
	<u>Actual</u>	<u>Actual</u>	<u>Actual</u>	<u>Actual</u>	<u>Actual</u>
OSHA Inspections*:	32,283	32,020	33,401	21,589	31,013
a. Case Inventory, Start of Year	1,109	1,129	1,064	1,248	1,259
b. New Cases	2,168	2,144	2,017	1,845	1,365
c. Total Caseload	3,277	3,273	3,081	3,093	2,624
d. Disposals					
(1) With Hearing	44	38	35	44	14
(2) Mandatory Settlement Conferences	85	45	35	28	59
(3) Without Hearing	2,019	2,126	1,763	1,762	1,350
e. Total Dispositions	2,148	2,209	1,833	1,834	1,423
Total Case Inventory, End of Year	1,129	1,064	1,248	1,259	1,201

*Provided by OSHA.

Executive Director Function

The Office of the Executive Director (OEXD) provides administrative services to support the Review Commission in fulfilling its mission.

The Executive Director function provides operational management for the agency, including procurement, information technology management, human resources management, budget and financial management, and administrative services. The day-to-day tasks of this office are led by the Executive Director and include:

- Supporting the development and implementation of the agency's strategic goals;
- Maintaining and enhancing a website to provide the public with greater access to Review Commission information;
- Providing agency-wide support in the areas of finance, budget, procurement and contracting, human resources, equal opportunity, and general administrative services;
- Providing personnel, payroll, benefits, reproduction, mail services, and travel assistance to agency employees;
- Procuring goods and services, maintenance and needed repairs of equipment, training, reference materials, supplies, and office space;
- Implementing case management and administrative systems through information technology hardware and software;
- Developing and maintaining computer systems and information security enhancements; and
- Enhancing telecommunications and improving technology efficiency and effectiveness.

The following table provides the performance goals and results of the OEXD function for fiscal years 2017 through 2021.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Ensure that the Review Commission's website is accessible to people with disabilities and serves as a useful repository for information about the agency and its adjudicatory activities.	Timeliness of postings to agency web site.	All required material posted to the website in less than 7 days and usually within one day after issuance. Target met (All material posted no later than 7 days after issuance.)	Internal process was implemented to allow staff to post materials directly to the agency's website. All materials were posted within one day after issuance. Target met (All material posted no later than 6 days after issuance.)	Materials were posted to the agency's website within one day after issuance. Target met (All material posted no later than 5 days after issuance.)	Materials were posted to the agency's website within one day after issuance. Target met (All material posted no later than 4 days after issuance.)	Materials were posted to the agency's website within one day after issuance. Target met (All material posted no later than 4 days after issuance.)
Produce timely and accurate reports on the Review Commission's activities, including all reports required by law.	Timeliness of submissions of required reports, e.g., financial statements, OMB, OPM, and EEO reports, etc.	All material submitted by required deadlines. Target met (100% of all material to be submitted by required deadlines.)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.
Broaden the Review Commission's outreach activities with other Federal agencies and the affected public, including targeted education and outreach for individuals with limited English proficiency.	Participation in professional conferences and meetings and strategic engagement with stakeholders.	Review Commission documents were reviewed, translated, and posted on the agency's website. Target met (Review documents to be translated and posted on the agency's website.)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Broaden the Review Commission's outreach activities to the regulated community.	<p>-Participation in professional conferences and meetings and strategic engagement with the regulated community.</p> <p>-Creation of electronic subscription service.</p>	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	<p>Alert service was implemented on the agency's website to engage the public.</p> <p>Target met (-Increase participation in at least two activities or meetings that promote strategic engagement to disseminate information including trends and services (e.g., LEP) provided by the agency.</p> <p>-Use of alert service to engage the public.)</p>	<p>Alert service on the agency's website was utilized and monitored for purposes of engaging the public.</p> <p>Target met (-Increase participation in at least two activities or meetings that promote strategic engagement to disseminate information including trends and services (e.g., LEP) provided by the agency.</p> <p>-Monitor the use of alert service used to engage the public.)</p>	<p>Continued to utilize and monitor the alert service on the agency's website to engage the public.</p> <p>Target met (-Increase participation in at least two activities or meetings that promote strategic engagement to disseminate information including trends and services (e.g., LEP) provided by the agency.</p> <p>-Monitor the use of alert service used to engage the public.)</p>	<p>Utilized and monitored the alert service on the agency's website to engage with the public.</p> <p>Target met (-Increase participation in at least two activities or meetings that promote strategic engagement to disseminate information including trends and services (e.g., LEP) provided by the agency.</p> <p>-Monitor the use of alert service used to engage the public.)</p>
Recruit, invest in, and value all employees through professional development, workplace flexibilities, fair treatment, and recognition.	<p>-Recruit, develop, and retain a highly motivated, talented, and diverse workforce to accomplish its mission.</p> <p>-Identify areas in which the agency can enhance diversity and talent through annual analysis of the MD-715⁴ guidance.</p>	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	<p>Job postings were developed to attract qualified and diverse candidates. Agency directives pertaining to workplace flexibilities were reviewed.</p> <p>Target met (-Attract qualified and diverse candidates,</p>	<p>-Agency directives pertaining to workplace flexibilities were updated.</p> <p>-Reviewed performance management directives and established new critical element for supervisors.</p> <p>-Devoted budgetary resources to training.</p>	<p>-Agency directives pertaining to workplace flexibilities were updated.</p> <p>-Devoted budgetary resources to training.</p> <p>-Reviewed performance management directives.</p> <p>Target met (-Ensure that</p>	<p>-Agency directives pertaining to workplace flexibilities were updated.</p> <p>-Devoted budgetary resources to training.</p> <p>-Reviewed performance management directives.</p> <p>Target met (-Ensure that</p>

⁴ Equal Employment Opportunity (EEO) Management Directive 715 – Reporting Requirement for Federal Agencies

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
			<p>including veterans and persons with disabilities.</p> <p>-Annually review and/or update agency directives pertaining to workplace flexibilities (e.g., hours of work, telework.)</p>	<p>Target met (-Ensure that the agency's performance management system(s) are aligned with its goals and objectives.</p> <p>-Enhance employee development and learning opportunities by making budgetary resources available for staff training.</p> <p>-Annually review and/or update agency directives pertaining to workplace flexibilities (e.g., hours of work, telework.)</p>	<p>the agency's performance management system(s) are aligned with its goals and objectives.</p> <p>-Enhance employee development and learning opportunities by making budgetary resources available for staff training.</p> <p>-Annually review and/or update agency directives pertaining to workplace flexibilities (e.g., hours of work, telework.)</p>	<p>the agency's performance management system(s) are aligned with its goals and objectives.</p> <p>-Enhance employee development and learning opportunities by making budgetary resources available for staff training.</p> <p>-Annually review and/or update agency directives pertaining to workplace flexibilities (e.g., hours of work, telework.)</p>

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Ensure that employees are aware of the agency's mission and how they contribute to its accomplishments.	Communicate significant organizational accomplishments with staff.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	<p>Annual Federal Employee Viewpoint Survey results were assessed. Routine meetings were conducted.</p> <p>Target met (-Communicate significant organizational accomplishments with staff during all-hands staff meetings and during supervisory/employee meetings.</p> <p>-Use results of the annual Federal Employee Viewpoint Survey to assess employees' knowledge of how their work relates to the agency's goals and priorities.)</p>	<p>-Routine staff meetings were conducted.</p> <p>-Annual Federal Employee Viewpoint Survey results were analyzed.</p> <p>Target met (-Communicate significant organizational accomplishments with staff during all-hands staff meetings and during supervisory/employee meetings.</p> <p>-Use results of the annual Federal Employee Viewpoint Survey to assess managers and supervisor's communication with employees about the agency's goals and priorities.)</p>	<p>-Routine staff meetings were conducted.</p> <p>-Annual Federal Employee Viewpoint Survey results were analyzed.</p> <p>Target met (-Communicate significant organizational accomplishments with staff during all-hands staff meetings and during supervisory/employee meetings.</p> <p>-Use results of the annual Federal Employee Viewpoint Survey to assess managers and supervisor's communication with employees about the agency's goals and priorities.)</p>	<p>-Routine staff meetings were conducted.</p> <p>-Annual Federal Employee Viewpoint Survey results were analyzed.</p> <p>Target met (-Communicate significant organizational accomplishments with staff during all-hands staff meetings and during supervisory/employee meetings.</p> <p>-Use results of the annual Federal Employee Viewpoint Survey to assess managers and supervisor's communication with employees about the agency's goals and priorities.)</p>

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
<p>Develop and present an annual budget and performance plan that clearly represents how the organization will accomplish government-wide management priorities, agency-wide goals, and organizational goals.</p>	<p>System that links resources to specific activities that support measurable programmatic outcomes and objectives.</p>	<p>Agency program goals are aligned with the budget to efficiently accomplish the mission.</p> <p>Target met (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).)</p>	<p>Aligned budget with agency program goals to efficiently accomplish the mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).</p> <p>Target met (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).)</p>	<p>Aligned budget with agency program goals to efficiently accomplish the mission.</p> <p>Target met (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).)</p>	<p>Aligned budget with agency program goals to efficiently accomplish the mission.</p> <p>Target met (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).)</p>	<p>Aligned budget with agency program goals to efficiently accomplish the mission.</p> <p>Target met (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities).)</p>

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Implement a comprehensive human capital plan designed to recruit, retain, and develop staff; support succession planning by strategically aligning present and future human capital needs and workforce planning; and evaluate the performance management system based on individual and organizational effectiveness.	Increase personnel capabilities and development by improving training opportunities.	.80% of basic payroll devoted to staff training and development. Target met (.80% of basic payroll devoted to staff training and development.)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.
Integrate knowledge management (KM) processes into a plan to capture, share and generate knowledge and establish a unified knowledge network of people, processes, and technology to enhance operations and efficiencies in all aspects of essential agency operations.	Conduct periodic knowledge audits to identify sources of knowledge and “at risk” knowledge gaps. Tailor IT infrastructure to support the effortless sharing and transfer of knowledge. Degree to which best practices and lessons learned are integrated into the performance management system.	Reviewed agency policies, organizational charts, and position descriptions to identify knowledge gap vulnerabilities. Target met (Evaluate and address KM vulnerabilities to further enhance agency operations and programs.)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
<p>Improve technology infrastructure through efficiencies and investments (e.g., training, equipment, and services) to support the effective use of broadband, cyber security, and energy efficiency.</p>	<p>Streamline operations and infrastructure to eliminate duplication; minimize servers, storage, and application sprawl.</p> <p>Maintain standardized platforms including hardware and software.</p> <p>Improve network/communications to ensure customers can access necessary information without delay.</p>	<p>-Migration of Mail (exchange) to FedRAMP certified Office 365.</p> <p>-Moved locally administered share point (intranet) to Office 365.</p> <p>-Instituted changes to e-filing system to accommodate the user community.</p> <p>-Encrypted and upgraded software on agency laptops.</p> <p>-Started deployment of two-factor authentication using personal identity verification.</p> <p>Target met (Continue monitoring technology infrastructure to determine if additional resources are required.)</p>	<p>Monitored the Agency's technology infrastructure to determine if new or additional resources were necessary.</p> <p>Target met (-Reduce physical servers through virtualization.</p> <p>-Reduce the number of operating systems in use.</p> <p>-Evaluate and address enhancements to our e-filing system.</p> <p>-Increase bandwidth for migration to cloud initiatives (i.e., electronic mail services to the cloud and expand cloud storage space.))</p>	<p>-Enhanced the Office 365 licensing model.</p> <p>-Upgraded the remote access application (Citrix environment).</p> <p>-Upgraded the speed of the agency's Wide Area Network circuits.</p> <p>-Introduced Adobe Acrobat Pro 2017.</p> <p>Target met (-Reduce physical servers through virtualization.</p> <p>-Reduce the number of operating systems in use.</p> <p>-Increase bandwidth for migration to cloud efficiencies.)</p>	<p>-Updated existing server infrastructure.</p> <p>-Began moving server systems to the cloud and expanding existing data circuits to accommodate increased bandwidth usage.</p> <p>Target met (-Reduce physical servers through virtualization.</p> <p>-Reduce the number of operating systems in use.</p> <p>-Increase bandwidth for migration to cloud efficiencies.)</p>	<p>-Reduced the number of physical servers and operating systems in use by agency personnel.</p> <p>-Explored and implemented measures to expand bandwidth for the agency.</p> <p>Target met (-Reduce physical servers through virtualization.</p> <p>-Reduce the number of operating systems in use.</p> <p>-Increase bandwidth for migration to cloud efficiencies.)</p>

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
Use existing real property more effectively by implementing energy efficiency practices, space alignment efforts (e.g., sustainability) and expanding telework.	Implement measures to reduce operating expenses when negotiating lease and develop a system to evaluate areas of consumption that impact sustainability.	<p>-Expanded the use of Virtual Machines.</p> <p>-Moved infrastructures to FedRAMP providers.</p> <p>Target met (Continue monitoring to ensure supplies and equipment are procured from eco-friendly sources.)</p>	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.
Enhance the agency’s FOIA processing system by developing internet-based capabilities.	Development of an electronic form and/or request tracking capability.	<p>Increased use of FOIA online form and dedicated FOIA email address; expanded tracking capability and improved communication with requesters; eliminated need to implement online tracking system.</p> <p>Target met (Explore advanced options for online tracking capability.)</p>	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2017 Actual (Target)	FY 2018 Actual (Target)	FY 2019 Actual (Target)	FY 2020 Actual (Target)	FY 2021 Actual (Target)
<p>Conduct all internal and external agency business in an ethical and timely manner.</p>	<p>Promote an ethical culture within the Review Commission through leadership, awareness, resources, and oversight.</p>	<p>New goal developed to support the FY 2018 – FY 2022 Strategic Plan.</p>	<p>Expanded outreach primarily to new employees, in particular political appointees, which generated increased opportunities to provide ethics advice.</p> <p>Target met (-Provide in-person ethics training to all agency filers.)</p> <p>-Increase opportunities for outreach to all agency employees on ethics issues.)</p>	<p>-Provided ethics training to agency filers.</p> <p>-Developed procedures to (1) conduct internal discussions of ethics inquiries as they arise; (2) promptly gather information needed from inquirer to respond; and (3) timely consult OGE regulations and guidance, past advice, and additional resources.</p> <p>Target met (-Provide in-person ethics training to all agency filers.)</p> <p>-Develop a plan to decrease response time to ethics inquiries.)</p>	<p>-Provided live virtual ethics training to agency filers in accordance with training flexibilities allowed by OGE due to the coronavirus pandemic. (1) Promptly conducted internal discussions of ethics inquiries as they arise; (2) gathered information needed from inquirer to respond as soon as need for additional information arose; and (3) timely consulted OGE regulations and guidance, past advice, and additional resources.</p> <p>Target met (-Provide in-person ethics training to all agency filers.)</p> <p>-Implement a plan to decrease response time to ethics inquiries.)</p>	<p>-Provided live virtual training to all agency personnel and contractors.</p> <p>-Continued to decrease response time to ethics inquiries by accomplishing the following: (1) promptly conducted internal discussions of ethics inquiries as they arose; (2) gathered information needed from inquirer to respond as soon as the need for additional information arose; and (3) timely consulted OGE regulations and guidance, past advice, and additional resources.</p> <p>Target met (-Provide annual and more frequent ethics training to all agency filers.)</p> <p>-Implement a plan to decrease response time to ethics inquiries.)</p>

Analysis of Financial Statements

The Review Commission had biennial audits of its financial statements from 1996 through 2002. Consistent with the Accountability of Tax Dollars Act of 2002, OSHRC began annual audits in FY 2003. The Review Commission received an unqualified opinion for each financial audit conducted from FY 1996 through FY 2013, and an unmodified opinion for the FY 2014 through FY 2020 audits. The terms “unqualified” and “unmodified” refer to clean opinions.

Since 2002, the Review Commission has contracted with the Administrative Resources Center (ARC), Bureau of the Fiscal Service (formerly Bureau of the Public Debt – BPD), for accounting services. The ARC prepared the Review Commission’s FY 2021 financial statements, which include comparative data for FY 2020. The principal financial statements include the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources.

The changes described in the analyses below generally indicate that the budget execution process remains effective, given higher payroll costs and higher costs for goods and services to maintain operations and fulfill our mission.

Analysis of the Balance Sheet

OSHRC’s assets in FY 2021 totaled \$4,410,452 as of September 30, 2021. This represents a decrease of \$387,393. The Fund Balance with Treasury of \$4,405,334 represents OSHRC’s largest asset as of September 30, 2021. It decreased 8 percent from FY 2020 and represents 99.88 percent of the agency’s total assets for FY 2021. General Property, Plant, and Equipment were fully depreciated as of September 30, 2021.

OSHRC’s liabilities in FY 2021 totaled \$1,398,337 as of September 30, 2021. This is an increase of \$106,244. The accounts payable balance as of September 30, 2021 was \$176,231, an increase of \$30,112. Unfunded annual leave totaled \$721,248 and is approximately 52 percent of total agency liabilities.

Net Position is the difference between total assets and total liabilities. The total net position for FY 2021 decreased by \$493,637 from FY 2020.

Analysis of Statement of Net Cost

The Statement of Net Cost shows the net cost of operations for the agency and is broken out between OSHRC’s programs, Administrative Law Judge, Commission, and Executive Director. The Total net cost of operations in 2021 was \$13,972,155, an increase of \$452,829 from the FY 2020 net cost of operations of \$13,519,326.

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position reports the change in the agency’s net position during the reporting period. The net position consists of two components, the unexpended appropriations, and the cumulative results of operations. The Net Position decreased \$493,637 in 2021 from 2020, a change of approximately 14 percent.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources presents how the budgetary resources were made available and the status of the budgetary resources at the end of the reporting period. The total budgetary resources must always equal the total status of budgetary resources. For FY 2021, OSHRC had total budgetary resources of \$15,077,063, which is \$157,689 more than in FY 2020.

Coronavirus (COVID-19) Pandemic

The Review Commission did not receive any additional budgetary resources in FY 2021 to respond to the COVID-19 pandemic. The amount of FY 2021 budget resources used to prepare and respond to COVID-19 were not significant and did not have a material impact on the Review Commission's assets, liabilities, net position, or other results.

Management Assurances

Systems, Controls, and Legal Compliance

The Review Commission is in compliance with the Federal Managers Financial Integrity Act and the Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control. The system of internal controls for this agency is functioning well. It provides reasonable assurance as to the efficiency and effectiveness of programs and operations, reliability of financial and performance information, and compliance with laws and regulations. These controls satisfy the requirements of the Federal Managers' Financial Integrity Act. In addition, the appropriate policies and controls are in place to mitigate the risk of fraud and inappropriate charge card practices.

The Review Commission is a small, independent Federal agency and does not have a separate Inspector General Office. Therefore, the Review Commission's management team assumes the responsibility for assessing the agency's internal operations and determining if there are any weaknesses that need correction. For fiscal year 2021, two program reviews took place. These include an audit of the FY 2021 financial statements and an audit of the agency's computer and information security.

Financial Audit

The Review Commission has had annual audits of its financial statements since FY 2003, including reviews of the adequacy of the Review Commission's internal control systems. The Review Commission received an unqualified opinion for each financial audit conducted from FY 2003 through FY 2013, and an unmodified opinion for the audits conducted in FY 2014 through FY 2020. The agency also expects to receive an unmodified opinion for FY 2021.

Regarding financial management, the National Finance Center (NFC) provided payroll services, and the Bureau of the Fiscal Service (BFS) provided accounting, disbursement, and financial statement preparation services for the agency. Accordingly, certain aspects of the Review Commission's financial management system are largely influenced by the practices and procedures of the NFC and the BFS.

In addition to the practices and procedures of the NFC and BFS, the Review Commission has established certain internal controls and procedures that safeguard assets and ensure that obligations and disbursements are made consistent with management's direction. For example, BFS reports are reviewed and reconciled to assure that the agency's obligation and disbursement actions are properly recorded and that the year-end financial statements are correctly stated. The agency's Budget and Finance Office also prospectively certifies funds availability for all obligations. In addition, the OEXD conducts periodic reviews of internal systems including travel, payroll, and procurement.

The FY 2021 financial audit is expected to result in an "unmodified" opinion with no reported material weaknesses or other significant deficiencies. Generally, the system of internal controls for this agency is functioning well. It provides reasonable assurance as to the efficiency and effectiveness of programs and operations, reliability of financial and performance information, and compliance with laws and regulations. These controls satisfy the requirements of the Federal Managers' Financial Integrity Act. As previously mentioned, the Review Commission has had annual audits of its financial statements since FY 2003, including reviews of the adequacy of the Review Commission's internal control systems.

The Review Commission contracts with the Treasury Franchise Fund, Administrative Resource Center, Bureau of the Fiscal Service, for accounting, disbursement, and travel services, and with the NFC for payroll and personnel services. In addition to the agency's internal controls and procedures that safeguard assets and ensure that obligations and disbursements are made consistent with management's direction, the BFS and the NFC have established practices and procedures that assure appropriate internal controls. The two agencies' internal control systems are evaluated independently.

Improper Payments

The Review Commission did not make any improper payments in FY 2021. The agency continued the practice of reviewing the General Services Administration Excluded Parties List (EPLS) and the System for Awards Management (formerly Central Contractor Registry) prior to awarding contracts and purchase orders. All payments made in FY 2021 were verified using the method above, except for payments to Federal vendors, payroll, and credit card payments.

The agency continues to attribute progress made in eliminating improper payments to the implementation of the program integrity activities outlined in our "Do Not Pay Implementation Plan." The plan, which was implemented in FY 2013, requires agency staff responsible for processing invoices to focus on prevention, detection, and recovery. Prevention activities, which are executed prior to the payment of an invoice, include pre-payment audits, risk prioritization, and predictive modeling. Transactions that are identified as being "high risk" are subject to a second level of review prior to being forwarded to the Certifying Official for approval for payment. Detection activities, which are performed subsequent to payment, are based largely on reports generated by the entity within the agency that is responsible for analyzing invoice processing activities. For example, the Review Commission analyzes a monthly report detailing the cumulative total and number of invoices processed during the previous 30-day reporting period. The Review Commission continued to review its prevention and detection process in FY 2021.

Fraud Reduction

The Review Commission has identified its Charge Card Program, which includes purchase and travel cards, as a high-risk area for fraud. As a result, the agency utilizes various methods to eliminate fraud and misuse. For the purchase card program, cardholders must receive approval from the Executive Director prior to making purchases with a government purchase card. In addition, purchase cardholders are required to submit receipts with their monthly statements so that each charge can be reviewed and verified by budget staff prior to approval and payment. For the travel card program, a monthly detailed account cycle report from the charge card vendor is reviewed in conjunction with travel vouchers to detect card misuse.

The Review Commission continues to evaluate fraud risks within the agency. In addition, an audit of the financial statements and an audit of the agency's information technology systems were conducted for FY 2021. The results of the evaluation and the audits will be used to improve fraud prevention within the agency.

Computer and Information Security Program

Since FY 2003, the Review Commission has and continues to conduct annual independent evaluations with the assistance of private contractors. The Review Commission contracts for annual independent evaluations of its computer and information security programs consistent with the Federal Information Security Management Act (FISMA) of 2014. These evaluations are conducted under the requirements of the Government Information Security Reform Act (the predecessor to FISMA), as well as the Office of Management and Budget's implementing guidelines, and National Institute of Standards and Technology (NIST) guidance. Although the Review Commission does not have an Inspector General, we have requested that function be performed by an independent contractor.

The FY 2021 independent audit demonstrates the Review Commission's commitment to keeping up with additions and changes to FISMA law. Some specific examples in recent years include the incorporation of NIST Special Publication 800-53 Revision 4, NIST Special Publication 800-18, Federal Information Processing Standards (FIPS) 199, FIPS 200, and FIPS 201, each of which place additional requirements on the agency. The Review Commission's security program continues to be incorporated into its annual performance and security plans in accordance with the law and provides reasonable assurances and safeguards to maintain integrity and competence. Furthermore, the Review Commission practices delegation of authority as a structured organization with defined separation of duties and supervision.

The Review Commission, in accordance with the Cybersecurity and Infrastructure Security Agency (CISA) at the U.S. Department of Homeland Security's (DHS) Binding Operational Directive 18-01, "*Enhance Email and Web Security*," has activated all components defined to ensure the integrity and confidentiality of internet-delivered data, minimize spam, and better protect users who might otherwise fall victim to a phishing email that appears to come from a Government-owned system. All Review Commission systems use the HyperText Transfer Protocol (HTTP) Strict Transport Security, a web policy mechanism that helps protect our website against protocol attacks. Additionally, the Review Commission has complied and implemented necessary changes in accordance with Binding Operational Directives such as the Vulnerability Remediation Requirements for Internet-Accessible Systems.

The Review Commission continues to test its virus detection program along with automatic updates and scanning using a myriad of tools including third party scanning through a Managed Trusted Internet Protocol Service utilizing our internet service provider's Intrusion Prevention Security Service. The Review Commission also provides a second level of virus protection at the server and workstation level, which has significantly reduced the number of spam and other unwanted electronic mail messages. Additional controls in place to protect data from accidental or malicious alteration or destruction include the DHS's Trusted Internet Connection, Einstein3a accelerated (U.S. Computer Emergency Readiness Team Program or U.S.-CERT) and annual security refresher training for federal employees and contractors. These provide continuous monitoring of the network, intrusion detection and prevention, system and email scans, separation of duties based on access need and clearance, internal intrusion detection, monitoring and incident reporting and investigation.

In addition to security controls provided by CISA, OSHRC utilizes its deployed firewall and Intrusion Detection System to provide network perimeter security. Formal procedures for reviewing logs are in place and the information technology staff identifies incidents when a security violation occurs.

Along with the Review Commission's efforts to enhance its information security program, the agency has directed considerable resources to protecting personally identifiable information (PII). In FY 2021, the agency revised both its Privacy Act regulations and its Privacy Act Directive. During the fiscal year, the Senior Agency Official for Privacy (SAOP) and the privacy office have either confirmed the accuracy of, or updated, the notices (SORNs) for each of its eight system of records. Also, privacy impact assessments (PIAs) have been updated for each of the four components of the Review Commission's information system. To provide as much transparency as possible, SORNs and PIAs are posted on the agency's privacy web page: <https://www.oshrc.gov/privacy/>. The agency has also reviewed its website and, where appropriate, added Privacy Act Statements to inform the public of any potential collections of PII.

As required by its Privacy Act Directive, the Commission provides general Privacy Act training to its employees and contractors and provides additional role-based training to its privacy personnel, including its Privacy Act system managers. In addition, as required by the directive, the SAOP annually reviews the agency's collection and use of social security numbers (SSNs) and maintains an inventory of systems that include SSNs. In accordance with the directive, the SAOP also reviews the agency's contracts and recommends, where appropriate, inclusion of clauses concerning privacy matters.

The Review Commission has a limited social media presence. To address privacy concerns that could arise through the use of social media, the agency has a social media use policy in place that covers all agency

personnel, including contractors, and governs both official and personal social media use. Further, the agency has a formalized policy in place for redacting PII from documents that are posted on its website to ensure that such information is protected to the greatest extent possible. The agency also has a Breach Response Plan in place as required by OMB Memorandum 17-12. The SAOP has continued to comply with policy and OMB's guidance by conducting tabletop exercises annually and staying abreast of information security throughout the agency.

Finally, the agency has implemented a privacy continuous monitoring program and strategy to ensure that the agency's privacy controls, including the ones discussed above, are reviewed at regular intervals. As with its information security program, the Review Commission has maximized its limited financial and human resources to establish a comprehensive privacy program that effectively protects data maintained by the agency.

Performance Data Verification

For each strategic goal and its related objectives, the Review Commission formulated performance measures and numerical annual targets, whenever possible. A few measures are necessarily qualitative in nature. Case processing and adjudication measurements are used for several objectives contained in our Public Service Goal. Most of the data related to the Public Service Goal resides in the Review Commission's e-filing system that was successfully implemented in FY 2016. The e-filing system directly supports our annual performance plan's goals and targets, promotes transparency, supports technology improvements, and integrates business process automation to improve accuracy and efficiency in case management practices. In FY 2021, each of the 1,365 new cases docketed at the ALJ level were entered into the e-filing system and progress on all cases was tracked. To assure the quality of the data, management periodically reviews the information in the case management/tracking system. The agency conducts test runs of the data to ensure that information is entered and updated on a timely basis. The reports are used to assess workload and make workload adjustments, when necessary. At the end of the year, this data is used by the offices to measure performance related to the goals and to improve management.

Human resource measurements are used for the goals in the OEXD function. The data related to these goals is maintained and tracked in the Human Resource system, which includes spreadsheets to track training costs and hours, and employee personnel and performance files. Management reviews this information for accuracy.

Limitations of the Financial Statements

The principal financial statements are prepared to report the financial position, financial condition, and results of operations of the Review Commission, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from the books and records of the Review Commission in accordance with Federal Generally Accepted Accounting Principles (GAAP) and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same books and records. The financial statements should be read with the realization that they are for a component of the United States Government.

**U.S. OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION**

**INDEPENDENT AUDITOR'S REPORT
AND
FINANCIAL STATEMENTS**

**FOR THE YEARS ENDED
SEPTEMBER 30, 2021 AND 2020**



**Prepared By
Brown & Company CPAs and Management Consultants, PLLC
November 12, 2021**



INDEPENDENT AUDITOR'S REPORT

U.S. Occupational Safety and Health Review Commission
Washington, D.C.

In our audits of the fiscal years 2021 and 2020 financial statement of the U.S. Occupational Safety and Health Review Commission (OSHRC), we found

- OSHRC's financial statements as of and for the fiscal years ended September 30, 2021, and 2020, are presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles;
- no material weaknesses in internal control over financial reporting based on the limited procedures we performed; and
- no reportable noncompliance for fiscal year 2021 with provisions of applicable laws, regulations, contracts, and grant agreements we tested.

The following sections discuss in more detail (1) our report on the financial statements, which includes required supplementary information (RSI) and other information included with the financial statements; (2) our report on internal control over financial reporting; and (3) our report on compliance with laws, regulations, contracts, and grant agreements.

Report on the Financial Statements

In accordance with the provisions of Accountability of Tax Dollars Act of 2002 (ATDA) (Pub. L. No. 107-289), we have audited OSHRC's financial statements. OSHRC's financial statements comprise the balance sheets as of September 30, 2021, and 2020; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements.

We conducted our audits in accordance with U.S. generally accepted government auditing standards and the provisions of OMB Bulletin No. 21-04, *Audit Requirements for Federal Financial Statements*. We believe that the audit evidence we obtained is sufficient and appropriate to provide a basis for our audit opinions.

Management's Responsibility

OSHRC management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the RSI in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in documents containing the audited financial statements and auditor's report, and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) maintaining effective internal control over financial reporting, including 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.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. U.S. generally accepted government auditing standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. We are also responsible for applying certain limited procedures to RSI and other information included with the financial statements.

An audit of financial statements involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the auditor's assessment of the risks 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 of financial statements also involves evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audits also included performing such other procedures as we considered necessary in the circumstances.

Opinion on Financial Statements

In our opinion, OSHRC's financial statements present fairly, in all material respects, OSHRC's financial position as of September 30, 2021, and 2020, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Other Matters

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Although the RSI is not a part of the financial statements, FASAB considers this information to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

OSHRC's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. We read the other information included with the financial statements in order to identify material inconsistencies, if any, with the audited financial statements. Our audit was conducted for the purpose of forming an opinion on OSHRC's financial statements. We did not audit and do not express an opinion or provide any assurance on the other information.

Report on Internal Control over Financial Reporting

In connection with our audits of the OSHRC's financial statements, we considered the OSHRC's internal control over financial reporting, consistent with our auditor's responsibility discussed below. We performed our procedures related to the OSHRC's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

Management's Responsibility

OSHRC management is responsible for maintaining effective internal control over financial reporting, including 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.

Auditor's Responsibility

In planning and performing our audit of OSHRC's financial statements as of and for the year ended September 30, 2021, in accordance with U.S. generally accepted government auditing standards, we considered the OSHRC'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 the OSHRC's internal control over financial reporting. Accordingly, we do not express an opinion on the OSHRC's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the 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 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. 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 attention by those charged with governance.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the

preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described above, and was not designed to identify all deficiencies in internal control that might be material weaknesses and significant deficiencies or to express an opinion on the effectiveness of the OSHRC's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of the OSHRC's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of the OSHRC's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

In connection with our audits of OSHRC's financial statements, we tested compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements consistent with our auditor's responsibility discussed below. We caution that noncompliance may occur and not be detected by these tests. We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

Management's Responsibility

OSHRC management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to the OSHRC.

Auditor's Responsibility


Our responsibility is to test compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements applicable to OSHRC that have a direct effect on the determination of material amounts and disclosures in OSHRC's financial statements, and perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, contracts, and grant agreements applicable to OSHRC.

Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2021 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to OSHRC. Accordingly, we do not express such an opinion.

Intended Purpose of Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, contracts, and grant agreements is not suitable for any other purpose.


Greenbelt, Maryland
November 12, 2021

FINANCIAL STATEMENTS AND NOTES

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2021 AND 2020
(In Dollars)

	2021	2020
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 4,405,334	\$ 4,797,845
Total Intragovernmental	4,405,334	4,797,845
With the Public:		
Accounts Receivable, Net (Note 3)	5,118	-
Total With the Public	5,118	-
Total Assets	\$ 4,410,452	\$ 4,797,845
Liabilities (Note 4):		
Intragovernmental:		
Other Liabilities (Note 5)	\$ 118,123	\$ 112,423
Other Liabilities (Without Reciprocals) (Note 5)	35,233	31,835
Benefit Program Contributions Payable	82,890	80,588
Total Intragovernmental	118,123	112,423
With the Public:		
Accounts Payable	176,231	146,119
Federal Employee Benefits Payable	737,005	680,436
Other Liabilities (Note 5)	366,978	353,115
Total With the Public	1,280,214	1,179,670
Total Liabilities	\$ 1,398,337	\$ 1,292,093
Net Position:		
Unexpended Appropriations - Funds from Other than Dedicated Collections	\$ 3,727,762	\$ 4,177,533
Cumulative Results of Operations - Funds from Other than Dedicated Collections	(715,647)	(671,781)
Total Net Position	\$ 3,012,115	\$ 3,505,752
Total Liabilities and Net Position	\$ 4,410,452	\$ 4,797,845

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

	2021	2020
Gross Program Costs:		
Administrative Law Judge	\$ 6,608,829	\$ 5,540,303
Less: Earned Revenue	-	(84)
Net Program Costs	\$ 6,608,829	\$ 5,540,219
Commission	\$ 5,588,862	\$ 6,205,463
Less: Earned Revenue	-	(92)
Net Program Costs	\$ 5,588,862	\$ 6,205,371
Executive Director	\$ 1,774,464	\$ 1,773,762
Less: Earned Revenue	-	(26)
Net Program Costs	\$ 1,774,464	\$ 1,773,736
Net Cost of Operations	\$ 13,972,155	\$ 13,519,326

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

	2021	2020
Unexpended Appropriations:		
Beginning Balances	\$ 4,177,533	\$ 4,062,225
Appropriations Received	13,225,000	13,225,000
Other Adjustments	(315,013)	(276,108)
Appropriations Used	(13,359,758)	(12,833,584)
Net Change in Unexpended Appropriations	(449,771)	115,308
Total Unexpended Appropriations - Ending	\$ 3,727,762	\$ 4,177,533
Cumulative Results of Operations:		
Beginning Balances	\$ (671,781)	\$ (451,928)
Appropriations Used	13,359,758	12,833,584
Transfers In/Out Without Reimbursement	2,393	-
Imputed Financing (Note 8)	566,138	466,091
Other	-	(202)
Net Cost of Operations	(13,972,155)	(13,519,326)
Net Change in Cumulative Results of Operations	(43,866)	(219,853)
Cumulative Results of Operations - Ending	\$ (715,647)	\$ (671,781)
Net Position	\$ 3,012,115	\$ 3,505,752

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

	2021	2020
Budgetary Resources:		
Unobligated balance from prior year budget authority, net	\$ 1,849,670	\$ 1,694,374
Appropriations	13,225,000	13,225,000
Spending authority from offsetting collections	2,393	-
Total Budgetary Resources	\$ 15,077,063	\$ 14,919,374
Status of Budgetary Resources:		
New obligations and upward adjustments (total) (Note 9)	\$ 13,287,863	\$ 13,131,459
Unobligated balance, end of year:		
Apportioned, unexpired accounts	172,624	267,456
Expired unobligated balance, end of year	1,616,576	1,520,459
Unobligated balance, end of year (total)	1,789,200	1,787,915
Total Budgetary Resources	\$ 15,077,063	\$ 14,919,374
Outlays, Net and Disbursements, Net:		
Outlays, net (total)	\$ 13,302,498	\$ 12,805,602
Distributed Offsetting Receipts	-	(202)
Agency outlays, net	\$ 13,302,498	\$ 12,805,400

The accompanying notes are an integral part of these financial statements.



U.S. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Occupational Safety and Health Review Commission (The Review Commission) is an independent, adjudicatory agency created by the Occupational Safety and Health Act (OSHA) of 1970. Its sole statutory mandate is to serve as an administrative court providing just and expeditious resolution of disputes involving OSHA, employers charged with violations of Federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of OSHA and the U.S. Department of Labor (DOL) to ensure that OSHA's enforcement actions are carried out in accordance with the law and that all parties are accorded due process.

The Review Commission is comprised of General Funds and General Miscellaneous Receipts. General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues. General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The Review Commission receives custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year-end.

The Review Commission has rights and ownership of all assets reported in these financial statements. The reporting entity is a component of the U.S. Government. For this reason, some of the assets and liabilities reported by the entity may be eliminated for Government-wide reporting because they are offset by assets and liabilities of another U.S. Government entity. These financial statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. The Review Commission does not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of the Review Commission. The Balance Sheet presents the financial position of the agency. The Statement of Net Cost presents the agency's operating results; the Statement of Changes in Net Position displays the changes in the agency's equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the agency's resources and follows the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994 and the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of the Review Commission in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards issued by the Federal Accounting Standards Advisory Board (FASAB), Office

of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, as amended, and the Review Commission's 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 the Review Commission's use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

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. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

Fund Balance with Treasury is an asset of a reporting entity and a liability of the General Fund. It is the aggregate amount of the Review Commission's funds with Treasury in expenditure and receipt accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The Review Commission does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. When the reporting entity seeks to use FBWT or investments in Government securities to liquidate budgetary obligations, Treasury will finance the disbursements in the same way it finances all other disbursements, which is to borrow from the public if there is a budget deficit (and to use current receipts if there is a budget surplus). Funds are disbursed for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to the Review Commission by other federal agencies and the general 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, 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.

F. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. The Review Commission's capitalization threshold is \$50,000 for individual purchases and \$500,000 for bulk purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software.

The useful life classifications for capitalized assets are as follows:

<u>Description</u>	<u>Useful Life (years)</u>
Office Furniture	7
Office Equipment	5

G. 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.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the Review Commission as a result of transactions or events that have already occurred.

The Review Commission reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities with the Public represent funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave and FOIA request fees.

I. 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. 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. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (OPM) upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employee.

J. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by the Review Commission's employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the Review Commission terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL.

K. Retirement Plans

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

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to one percent of pay and the Review Commission matches any employee contribution up to an additional four percent of pay. For FERS participants, the Review Commission 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, the Review Commission remits the employer's share of the required contribution.

The Review Commission recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. 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 the Review Commission for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. The Review Commission recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

The Review Commission 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, as the administrator.

L. Other Post-Employment Benefits

The Review Commission's employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGGLIP) may continue to participate in these programs after their retirement. The OPM has provided the Review Commission with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The Review Commission recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM and offset by the Review Commission through the recognition of an imputed financing source.

M. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. Reclassification

Certain fiscal year 2020 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

O. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2021 and 2020 were as follows:

	2021	2020
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	\$ 172,624	\$ 267,456
Unavailable	1,616,576	1,520,459
Obligated Balance Not Yet Disbursed	2,616,134	3,009,930
Total	\$ 4,405,334	\$ 4,797,845

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent 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 for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the fund balance on hand (see also Note 10).

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2021 and 2020 were as follows:

	2021	2020
With the Public		
Accounts Receivable	\$ 5,118	\$ -
Total Accounts Receivable	\$ 5,118	\$ -

The accounts receivable is primarily made up of employee receivables.

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2021 and 2020.

NOTE 4. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the Review Commission as of September 30, 2021 and 2020, include liabilities not covered by budgetary resources. 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.

	2021	2020
Intragovernmental – Unemployment Insurance	\$ 1,908	\$ 6,886
Unfunded Leave	721,248	664,893
Total Liabilities Not Covered by Budgetary Resources	\$ 723,156	\$ 671,779
Total Liabilities Covered by Budgetary Resources	675,181	620,314
Total Liabilities	\$ 1,398,337	\$ 1,292,093

Unemployment Insurance liability represents the unfunded liability for actual unemployment benefits paid on the Review Commission’s behalf and payable to the DOL.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual 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.

NOTE 5. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2021 were as follows:

	Current	Non Current	Total
Intragovernmental			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 35,233	\$ -	\$ 35,233
Employer Contributions and Payroll Taxes Payable	80,982	-	80,982
Other Unfunded Employment Related Liability	1,908	-	1,908
Total Intragovernmental Other Liabilities	\$ 118,123	\$ -	\$ 118,123
With the Public			
Accrued Funded Payroll and Leave	\$ 366,978	\$ -	\$ 366,978
Total Public Other Liabilities	\$ 366,978	\$ -	\$ 366,978
Total Other Liabilities	\$ 485,101	\$ -	\$ 485,101

Other liabilities account balances as of September 30, 2020 were as follows:

	Current	Non Current	Total
Intragovernmental			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 31,835	\$ -	\$ 31,835
Employer Contributions and Payroll Taxes Payable	73,702	-	73,702
Other Unfunded Employment Related Liability	6,886	-	6,886
Total Intragovernmental Other Liabilities	\$ 112,423	\$ -	\$ 112,423
With the Public			
Accrued Funded Payroll and Leave	\$ 353,115	\$ -	\$ 353,115
Total Public Other Liabilities	\$ 353,115	\$ -	\$ 353,115
Total Other Liabilities	\$ 465,538	\$ -	\$ 465,538

NOTE 6. LEASES

Operating Leases

The Review Commission occupies office space under lease agreements that are accounted for as operating leases. Annual rent for each location is charged by the General Services Administration (GSA), which acts as the leasing agent for the Review Commission. The lease locations and terms are listed below.

Location	Term	Lease Expiration Date
Atlanta, GA	55 months	9/30/2023
Denver, CO	120 months	9/30/2028
Washington, DC	60 months	4/23/2023

Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Below is a schedule of future payments for the term of the lease.

Fiscal Year	Building
2022	\$ 1,583,526
2023	995,847
2024	102,473
2025	103,369
2026	104,284
Thereafter	211,390
Total Future Lease Payments	\$ 3,100,889

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 7. COMMITMENTS AND CONTINGENCIES

The Review Commission did not have any material contingent liabilities that met disclosure requirements as of September 30, 2021 and 2020.

NOTE 8. INTER-ENTITY COSTS

The Review Commission recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost and are offset by imputed revenue. Such imputed costs and revenues relate to employee benefits and claims to be settled by the Treasury Judgement Fund. The Review Commission recognizes as inter-entity costs 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, OPM. For the periods ended September 30, 2021 and 2020, respectively, inter-entity costs were as follows:

	2021	2020
Office of Personnel Management	\$ 566,138	\$ 466,091
Total Imputed Financing Sources	\$ 566,138	\$ 466,091

NOTE 9. APPORTIONMENT CATEGORIES OF NEW OBLIGATIONS AND UPWARD ADJUSTMENTS

New obligations and upward adjustments incurred and reported in the Statement of Budgetary Resources in 2021 and 2020 consisted of the following:

	2021	2020
Direct Obligations, Category A	\$ 13,287,863	\$ 13,131,459
Total New Obligations and Upward Adjustments	\$ 13,287,863	\$ 13,131,459

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 10. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2021, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 481,450	\$ 1,459,504	\$ 1,940,954
Total Undelivered Orders	\$ 481,450	\$ 1,459,504	\$ 1,940,954

As of September 30, 2020, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 691,081	\$ 1,698,536	\$ 2,389,617
Total Undelivered Orders	\$ 691,081	\$ 1,698,536	\$ 2,389,617

NOTE 11. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President’s Budget that will include fiscal year 2021 actual budgetary execution information has not yet been published. The President’s Budget is scheduled for publication in February 2022 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb/>. The 2022 Budget of the United States Government, with the “Actual” column completed for 2020, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments (Total)	Net Outlays
Combined Statement of Budgetary Resources	\$ 15	\$ 13	\$ 13
Unobligated Balance Not Available	(2)	-	-
Budget of the U.S. Government	\$ 13	\$ 13	\$ 13

NOTE 12. CUSTODIAL ACTIVITY

The Review Commission’s custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are neither primary to the mission of the Review Commission nor material to the overall financial statements. The Review Commission’s total custodial collections are \$0 and \$202 for the years ended September 30, 2021, and 2020, respectively.

NOTE 13. RECONCILIATION OF NET COST TO NET OUTLAYS

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

Reconciliation of Net Cost to Net Outlays as of September 30, 2021:

**RECONCILIATION OF NET COST TO NET OUTLAYS
BUDGET AND ACCRUAL RECONCILIATION
FOR THE YEARS ENDED SEPTEMBER 30, 2021
(In Dollars)**

	Intragovernmental	With the Public	Total
Net Operating Cost (SNC)	\$ 4,915,850	\$ 9,056,305	\$ 13,972,155
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	5,118	5,118
Accounts Payable	-	(30,112)	(30,112)
Federal Employee and Veteran Benefits Payable	-	(56,569)	(56,569)
Other Liabilities	(5,700)	(13,863)	(19,563)
Financing Sources:			
Imputed Cost	(566,138)	-	(566,138)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (571,838)	\$ (95,426)	\$ (667,264)
Financing Sources:			
Transfers Out (In) Without Reimbursements	(2,393)	-	(2,393)
Total Components of the Budget Outlays That Are Not Part of Net Operating Cost	\$ (2,393)	\$ -	\$ (2,393)
Total Net Outlays (Calculated Total)	\$ 4,341,619	\$ 8,960,879	\$ 13,302,498
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			\$ 13,302,498

Reconciliation of Net Cost to Net Outlays as of September 30, 2020:

**RECONCILIATION OF NET COST TO NET OUTLAYS
BUDGET AND ACCRUAL RECONCILIATION
FOR THE YEARS ENDED SEPTEMBER 30, 2020
(In Dollars)**

	Intragovernmental	With the Public	Total
Net Operating Cost (SNC)	\$ 4,528,805	\$ 8,990,521	\$ 13,519,326
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	(2)	(2)
(Increase)/Decrease in Liabilities:			
Accounts Payable	-	115,300	115,300
Federal Employee and Veteran Benefits Payable	-	(217,995)	(217,995)
Other Liabilities	(41,840)	(103,298)	(145,138)
Financing Sources:			
Imputed Cost	(466,091)	-	(466,091)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (507,931)	\$ (205,995)	\$ (713,926)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	-	(202)
Non-Entity Activity	202	-	202
Total Other Reconciling Items	\$ 202	\$ -	\$ -
Total Net Outlays (Calculated Total)	\$ 4,021,076	\$ 8,784,526	\$ 12,805,400
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			\$ 12,805,400