

DRAFT—Deliberative



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

STRATEGIC PLAN

FY 2026-2030

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TABLE OF CONTENTS

I.	Agency and Mission Information	1
	A. Overview and Mission	1
	B. Vision.....	1
	C. Values	2
II.	Strategic Goals	2
	Strategic Goal #1 – Respect for the Rule of Law	3
	Strategic Goal #2 – Expanding Transparency and Accessibility.....	4
	Strategic Goal #3 – Promoting Organizational Excellence	4
	Strategic Goal #4 – Managing Agency Resources in a Manner that Instills Public Trust.....	5
III.	Strategic Objectives	5
	A. Commission Review-Level.....	5
	B. ALJ Level.....	6
	C. Executive Director Level	7
IV.	Performance Measures and Targets	8
V.	External Factors	13
	A. OSHA Enforcement	14
	B. Review Commission Membership.....	14
	C. Nature of Cases at the Commission Review-Level	15
	D. Nature of Cases at the ALJ Level	15
	E. Legislative and Regulatory Changes	15
	F. Budget.....	15
	G. Additional Factors.....	16
VI.	Consultation Planning Process.....	16
VII.	Program Evaluation	16

I. Agency and Mission Information

A. 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 due process and all other applicable law.

The Act and the Review Commission's Rules of Procedure provide two levels of adjudication when an employer timely contests an OSHA citation: (1) a hearing before a Review Commission Administrative Law Judge (ALJ) for an employer and/or affected employee who files a timely notice of contest; and (2) review of the ALJ's decision by a three-member panel of Commissioners appointed by the President and subject to Senate confirmation.¹ The ALJ's decision becomes a final order under the Act unless a Commissioner exercises his/her discretion to direct the case for review.

The principal (National) office of the Review Commission is located in Washington, DC. There is also a regional office in Denver, where additional Review Commission ALJs and staff are assigned. Through the two levels of adjudication (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.

B. Vision

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 clarifies the rights and responsibilities of employers and employees under the Act.
3. A model federal agency with highly effective processes, a highly motivated and qualified 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.

¹ Commissioners are appointed to serve six-year terms.

C. Values

The Review Commission serves as an administrative court at the hearing and appellate levels, and its core principles include:

1. Respect for the rule of law, including due process and fidelity to the agency's mission.
2. Issuance of quality decisions at both levels of Review Commission adjudication.
3. Professionalism, collegiality, and mutual respect among Commissioners, ALJs, and staff.
4. Adherence to the highest ethical standards and integrity in all the agency does.
5. Action through teamwork and collaboration, as befits the efficiencies fostered by a collegiality in an adjudicatory body.
6. Consistency and harmony among requirements for due process, openness, transparency, and stakeholder engagement.
7. Responsible stewardship of federal resources entrusted to the agency.
8. Investment in and valuing of the agency's human capital.

II. Strategic Goals

The Review Commission's Strategic Plan focuses on four goals:

1. Resolving pending cases fairly and promptly.
2. Enhancing the transparency of its operations, consistent with the public's interest in efficiency, the agency's statutory authority and responsibilities, and due process requirements.
3. Promoting organizational excellence, including a culture of professionalism, mutual respect, 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.

The Review Commission has set measurable, outcome-oriented objectives that advance the agency's ability to meet its strategic goals. The agency's strategic objectives, measures, and targets will be included in its annual performance plans and budget requests. The Review Commission has established strategic objectives to assist in achieving its strategic goals as summarized below:

Strategic Goal #1 – Respect for the Rule of Law	Strategic Objectives²
Resolving pending cases fairly and promptly.	<ol style="list-style-type: none"> 1. Resolve all priority cases at the agency in a timely manner.³ 2. Develop and implement case management practices that will minimize the average age of all pending Commission review-level cases. 3. Develop and implement case management practices that will minimize the average age of all pending ALJ-level cases. 4. Ensure that a significant proportion of both complex and non-complex cases at the ALJ level are resolved within one year to 20 months from docketing.⁴ 5. Ensure that the average age of all Commission review-level cases is no greater than 18 months from direction for review.⁵ 6. Ensure that no more than 20 percent of Commission review-level cases are older than two years and ensure that no cases are older than three years from direction for review.

² These objectives will not apply to cases that are stayed at the agency because criminal law investigations or prosecutions are being pursued.

³ Priority cases include Federal Rule of Civil Procedure (FRCP) 60(b) cases, Commission Rule (CR) 101(a) defaults, court remands, and interlocutory reviews. However, some FRCP 60(b) and CR 101(a) cases – those with significant threshold issues, for instance – are not treated as priority cases because of their complexity. Also, where the parties have indicated intent to settle a priority case, the time frame will be tolled.

⁴ Complex cases have one or more of the following characteristics: intricacies of legal questions; more than two parties; violations characterized as willful and/or repeat; high volume of documents, including transcripts; large number of witnesses (including expert witnesses in such fields as engineering, architecture, construction, soil, physics, epidemiology, pathology, neurology, and infectious diseases); multiple days of hearing; high number of alleged violations, citation items (including distinct and separate items), and affirmative defenses; technical, difficult or new standards raised; novel issues or issues of first impression; or extensive pre-trial discovery. Complex cases typically require more extensive discovery followed by longer and more costly hearings.

⁵ External factors, such as lack of a quorum or recusal of a Commissioner, may adversely affect the Review Commission’s ability to meet these goals. See additional “External Factors” on page 12.

<p>Strategic Goal #2 – Expanding Transparency and Accessibility</p> <p>Enhancing the transparency of its operations, consistent with the public’s interest in efficiency, the agency’s statutory authority and responsibilities, and due process requirements.</p>	<p style="text-align: center;">Strategic Objectives</p> <ol style="list-style-type: none"> 1. Ensure that the agency’s website provides access to all users and serves as a useful repository for information about the agency and its adjudicatory activities. 2. Broaden the agency’s outreach activities to the public. 3. Ensure that the agency’s electronic filing (e-filing) system provides access to all users.
<p>Strategic Goal #3 – Promoting Organizational Excellence</p> <p>Promoting organizational excellence, including a culture of professionalism, mutual respect, organizational pride, and ensuring that staff members are adequately trained and developed.</p>	<p style="text-align: center;">Strategic Objectives</p> <ol style="list-style-type: none"> 1. Recruit, invest in, and value all employees through professional development, workplace flexibilities, fair treatment, and recognition. 2. Ensure that all agency personnel are aware of the agency’s mission and how they contribute to its accomplishments. 3. Provide training opportunities to all agency personnel, including ALJs and Commission members, on interacting with and serving the public. In addition, provide training to all attorneys and support staff in order to enhance their capabilities on technical and legal issues, legal writing, ethics, and technology and case management. 4. Integrate knowledge management processes into a plan to capture, share, and generate knowledge that establishes a unified network of personnel, processes, and technology to enhance all aspects of essential agency operations.

Strategic Goal #4 – Managing Agency Resources in a Manner that Instills Public Trust	Strategic Objectives
<p>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.</p>	<ol style="list-style-type: none"> 1. Develop and present an annual budget and performance plan that clearly establishes how the agency will accomplish government-wide management priorities, agency-wide goals, and organizational goals. 2. Improve technology infrastructure through efficiencies and investments (e.g., training, equipment, services) to support the effective use of broadband, cybersecurity, and energy efficiency. 3. Maintain and enhance secure electronic information systems for case management, legal research, public access to data through the internet, and continuity of the agency’s operations at all times. 4. Conduct all internal and external agency business in an ethical and timely manner.

III. Strategic Objectives

The Review Commission’s strategies for achieving its public service goals are outlined below:

A. Commission Review-Level

1. Focus on reducing the average age of the oldest pending cases and of all pending cases, with the immediate aim of developing and implementing improvements in case management.
2. Expedite the disposition of priority cases that are designated as requiring rapid action (e.g., court remands, interlocutory reviews, and certain FRCP 60(b) cases), such that they are disposed of within six months of designation.
3. Expand knowledge management and research tools to accelerate the preparation of cases and issuance of decisions.
4. Identify and provide training opportunities to all agency attorneys and support staff that will enhance their capabilities, such as training on technical and legal issues, legal writing, ethics, technology and case management, and interacting with and serving the public.
5. Use individual performance standards that support priorities in the Review Commission’s strategic and annual performance plans.

6. Implement appropriate changes to the agency's procedures to expedite case processing.

B. ALJ Level

1. Expedite the assignment of cases to ALJs through early review and screening.
2. Use objective criteria to designate complex cases and track the processing of these cases.
3. Closely monitor the management of cases and improve case management information systems and reports.
4. Provide training to all staff to aid them in achieving OCALJ goals and fulfilling the agency's mission.
5. Assign complex cases to ALJs on a rotational basis and provide additional resources, when necessary, to ensure timely disposition of these cases.

At the ALJ level, this Strategic Plan includes separate, updated targets based on the complexity and type of the case (e.g., simplified, complex, settlement part, or conventional) that reflect the Review Commission's experience over recent years. Outcomes at the ALJ level have been impacted over time by an increase in the number of citations being contested and the resulting number of contests being docketed. While data over the past several years shows that the number of cases may be stabilizing, until recently the agency's inventory had been growing as it received more complex cases which required significantly more of the ALJs' time.

Until FY 2020, the agency received a relatively steady number of contested cases. OSHA's administrative policy implemented in FY 2011 and the increase in OSHA penalties required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 led to an increase in the average proposed penalty for violations, as well as the contest rate.⁶ Consequently, in FY 2017, the Review Commission docketed 2,168 contested cases; 2,144 in FY 2018; and 2,017 in FY 2019. The number of contested cases for FY 2020 through FY 2021 was anomalous due to restrictions imposed by a national emergency,⁷ with 1,845 contested cases docketed in FY 2020; and 1,365 in FY 2021. The number of contested cases docketed increased afterwards with 1,510 contested cases docketed in FY 2022; 1,881 in FY 2023; 1,819 in FY 2024; and 1,615 in FY 2025.

Between FY 2022 and FY 2025, OSHA issued a number of National Emphasis Program (NEP) directives that, along with other factors, may impact the number of contested citations: (1) Fall hazards NEP directive issued on May 1, 2023; (2) Heat NEP directive issued on

⁶ Pursuant to the Federal Civil Penalties Adjustment Act Improvements Act of 2015, civil money penalties assessed under the OSH Act are adjusted/increased annually.

⁷ The Review Commission attributes the decrease in the number of docketed cases for FY 2020 and FY 2021 to the circumstances created by the national emergency declared on March 13, 2020. This emergency affected the Review Commission's workload.

April 8, 2022; (3) Combustible dust NEP directive issued on January 30, 2023; and (4) Hazardous machinery NEP directive issued on June 26, 2025.

The number of contested cases for FY 2026 is estimated to be impacted by a government-wide shutdown as well as changes in staffing levels at DOL. Other factors that may affect the number of contested cases in FY 2026 and going forward include but are not limited to: (1) shifting enforcement priorities attendant to the change of DOL leadership; (2) staffing levels at DOL (Solicitor's Office and OSHA); (3) increase in civil penalty amounts no later than January 15th annually; and (4) OSHA's projected decrease in the number of inspections.

C. Executive Director Level

1. Develop and present an annual budget and performance plan that clearly presents how the agency will accomplish government-wide management priorities, agency-wide goals, and organizational goals.
2. Provide greater public access to Review Commission activities, information, and decisions, including education and outreach for Limited English Proficiency (LEP) individuals and posting procedural decisions and non-dispositive orders on the agency's website.
3. Formulate workplace policies and programs that enable employees to excel.
4. Develop and implement an annual staffing plan to ensure a highly qualified workforce.
5. Enhance employee development and learning opportunities by devoting available budgetary resources to staff training including courses on interacting with and serving the public.
6. Streamline information technology (IT) operations, simplify day-to-day management and maintenance, and create a more stable operating environment by eliminating duplication, investing in standardized platforms, realizing cloud first opportunities, reducing locally housed servers, and minimizing storage and application sprawl.
7. Improve network/communications performance to ensure all personnel have seamless access to systems necessary to perform their work in a timely fashion.
8. Maintain an information security and privacy management program through the acceptance and deployment of appropriate federally mandated guidelines and enforcing active policies. Ensure that Federal Information Security Modernization Act (FISMA) audits are performed annually.
9. Implement knowledge management practices to ensure that knowledge affecting essential agency programs and operations is generated, captured, and shared on a continuous basis.

IV. Performance Measures and Targets

The Review Commission will formulate performance measures for its strategic objectives. The performance measures will be identified in the annual performance budget. They will be used to determine the achievement of strategic goals and objectives. These measures will be assessed using concrete and clearly observable outcomes based on the Review Commission’s annual performance plan.

The table below illustrates relationships between the plan’s strategic objectives and the potential performance measures currently being considered for inclusion in the Review Commission’s performance plan.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
Strategic Goal # 1 – Resolving Pending Cases Fairly and Promptly		
1. Resolve all priority cases at the agency in a timely manner.	Percent of priority cases disposed of at the Commission review level within 6 months.	Dispose of 100 percent of all priority cases at the Commission review level within 6 months of designation.
2. Develop and implement case management practices that will minimize the average age of all pending Commission review-level cases.	Whether new case management practices have been developed and implemented.	Full implementation of new case management practices.
3. Develop and implement case management practices that will minimize the average age of all pending ALJ-level cases.	Whether best-case management practices have been developed and implemented.	Full implementation of best-case management practices.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
4. Ensure that a significant proportion of both complex and non-complex cases at the ALJ level are resolved within one year to 20 months from docketing. ⁸	<ul style="list-style-type: none"> -Percent of simplified cases disposed of within one year at the ALJ level. -Percent of non-complex conventional cases disposed of within 17 months at the ALJ level. -Percent of settlement part cases disposed of within 20 months. -Percent of complex cases disposed of within 20 months at the ALJ level. 	<ul style="list-style-type: none"> -Dispose of 95 percent of simplified cases within one year. -Dispose of 95 percent of conventional cases within 17 months. -Dispose of 90 percent of settlement part cases within 19 months. -Dispose of 95 percent of complex cases within 20 months.
5. Ensure that the average age of all Commission review-level cases is no greater than 18 months from direction for review.	Average age of all pending Commission review-level cases.	Average age of all pending Commission review-level cases is no greater than 18 months. ⁹
6. Ensure that no more than 20 percent of Commission review-level cases are older than two years and ensure that no cases are older than three years from direction for review.	Percentage of Commission review-level cases that are older than two years and percentage of cases older than three years.	Ensure that no greater than 20 percent of Commission review-level cases are older than two years and that there are no cases older than three years. ¹⁰

⁸ Except for simplified and 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.

⁹ For instance, for FY 2026, the target goal calculates the average age of a Commission review-level case based on: (1) cases that are docketed at the review level and decided during the time frame of October 1, 2025, through September 30, 2026; and (2) the age of all cases pending on September 30, 2026.

¹⁰ For instance, for FY 2026, the target goal takes into account case production from October 1, 2025, through September 30, 2026, with the final percentage measured as of the end of the FY.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
Strategic Goal # 2 – Enhancing Transparency and Openness		
<p>1. Ensure that the agency’s website provides access to all users and serves as a useful repository for information about the agency and its adjudicatory activities.</p>	<ul style="list-style-type: none"> -Timeliness of postings to agency website. -Perform annual vendor-initiated review of the agency’s webpage for compliance with Section 508 of the Americans with Disabilities Act. -Arrange for host server security scanning to detect weaknesses and vulnerabilities. 	<ul style="list-style-type: none"> -All material to be posted no later than 2 business days after issuance. -Conduct an annual audit of website’s compliance with section 508 of the Americans with Disabilities Act. Maintain a Web Content Accessibility Guidelines Level A scoring of 92 percent or higher. -Using results from our security scans, address critical and high vulnerability findings within 45 days.
<p>2. Broaden the agency’s outreach activities to the regulated community.</p>	<ul style="list-style-type: none"> -Participation in professional conferences and meetings and strategic engagement with the regulated community. -Expand electronic notification services information for internal and external users. 	<ul style="list-style-type: none"> -Increased participation in at least two activities or meetings that promote strategic engagement to disseminate information including trends and services provided by the agency. -Use additional social media outlets to notify and engage with internal and external users.
<p>3. Ensure that the agency’s electronic filing (e-filing) system provides access to all users.</p>	<ul style="list-style-type: none"> -Monitor monthly maintenance activities performed by application host. -Annual review of e-filing instructions for all users. 	<ul style="list-style-type: none"> -Conduct annual audit of the e-filing system’s compliance with Section 508 of the Americans with Disabilities Act.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
Strategic Goal # 3 – Promoting Organizational Excellence		
<p>1. Recruit, invest in, and value all employees through professional development, workplace flexibilities, fair treatment, and recognition.</p>	<p>-Recruit, develop, and retain a highly motivated and talented workforce to accomplish the agency’s mission pursuant to the agency’s staffing plan.</p> <p>-Identify areas in which the agency can enhance talent through annual analysis of the MD-715¹¹ guidance.</p>	<p>-Ensure that the agency’s performance management system(s) are aligned with its goals and objectives. 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).</p> <p>-Attract qualified candidates, including veterans and people with disabilities, by engaging with equal employment advocacy organizations.</p>
<p>2. Ensure that all agency personnel are aware of the agency’s mission and how they contribute to its accomplishments.</p>	<p>Communicate significant organizational accomplishments with staff.</p>	<p>-Enhance the agency’s orientation program for new employees.</p> <p>-Ensure that each employee is provided with an annual performance plan that outlines management’s goals and expectations.</p>

¹¹ Equal Employment Opportunity (EEO) Management Directive 715 – Reporting Requirement for Federal Agencies.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
<p>3. Provide training opportunities to all agency personnel, including ALJs and Commission members, on interacting with and serving the public. In addition, provide training to all attorneys and support staff in order to enhance their capabilities on technical and legal issues, legal writing, ethics, and technology and case management.</p>	<p>Increased opportunities for attendance and participation in training, internal and/or external, for all staff.</p>	<p>Attendance and participation by staff at no less than one training opportunity annually, internal and/or external, depending on budget constraints.</p>
<p>4. Integrate knowledge management processes into a plan to capture, share, and generate knowledge that establishes a unified network of personnel, processes, and technology to enhance all aspects of essential agency operations.</p>	<ul style="list-style-type: none"> -Conduct periodic knowledge management audits to identify sources of knowledge and “at risk” knowledge gaps.¹² -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. 	<ul style="list-style-type: none"> -Knowledge gaps in essential agency programs are identified and addressed through an ongoing annual evaluation. -Annual audit to ensure that technology is aligned with the needs of the agency’s personnel and processes. -Use of the performance planning process to reflect the value of rewarding employees for creating, using, and sharing knowledge.
<p>Strategic Goal #4 – Managing Agency Resources in a Manner that Instills Public Trust</p>		
<p>1. Develop and present an annual budget and performance plan that clearly establishes 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>Implementation of a measurement system to assess and report on progress of financial management improvements and budget integration management reforms.</p>

¹² Areas identified as potential “at risk” knowledge gaps include programs and functions where a subject matter expert is eligible to leave the Agency (through retirement or career transition) in one to three years, and no backup expert has been identified to assume the duties and responsibilities vacated.

STRATEGIC OBJECTIVES	PERFORMANCE MEASURES	FY 2030 TARGETS
<p>2. Improve technology infrastructure through efficiencies and investments (e.g., training, equipment, services) to support the effective use of broadband, cybersecurity, and energy efficiency.</p>	<p>-Streamline operations and infrastructure to eliminate duplication; minimize servers, storage, and application sprawl.</p> <p>-Consolidation of technological services and move from an “on premise” infrastructure to a modern “cloud” based system to promote efficiencies in systems management, remote accessibility, continuity of operations, and budget savings.</p> <p>-Maintain standardized platforms, including hardware and software.</p> <p>-Partner with Federal agencies that monitor network traffic and isolate potential risks.</p>	<p>-Reduce physical servers through virtualization.</p> <p>-Reduce the number of operating systems in use by consolidation and translocation of physical servers.</p> <p>-Review and evaluate bandwidth utilization to accommodate an expected need for additional resources as a result of cloud computing.</p> <p>-Report annual compliance with applicable executive orders and/or binding operational directives.</p>
<p>3. Maintain and enhance secure electronic information systems for case management, legal research, public access to data through the internet, and continuity of the agency’s operations at all times.</p>	<p>Conduct periodic audits of information systems to verify systems availability is at acceptable levels.</p>	<p>-Improve network communications to ensure stakeholders can access necessary information without delay.</p> <p>-Maintain hardware platforms at supportable levels.</p>
<p>4. Conduct all internal and external agency business in an ethical and timely manner.</p>	<p>Promote an ethical culture within the agency through leadership, awareness, resources, and oversight.</p>	<p>Increase employee awareness of ethics responsibilities by conducting virtual or in-person agency-wide training. Respond to 90 percent of ethics inquiries within two weeks of receipt.</p>

V. External Factors

Various factors can affect each strategic goal, objective, and performance measure contained in the Review Commission’s Strategic Plan. These factors include OSHA enforcement, Review Commission membership, the nature of cases at the Commission and ALJ levels, increases in the number of citations being contested and the resulting number of contests being docketed at the

ALJ level, the potential effect of legislative and regulatory changes, budget, and the availability of court space.¹³

A. OSHA Enforcement

The factors which 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, all of which have historically been associated with increases in the contest rate and total number of contested citations. The data reveals that there is a strong, though not exact, linear relationship between the number of OSHA inspections and the number of new contested cases year-to-year.

From FY 2022 through FY 2024, there was an increase in the number of contested cases. However, the number of contested cases decreased in FY 2025. Similarly, the number of complex cases also decreased in FY 2025.¹⁴ The decrease in the number of contested and complex cases for FY 2025 is fairly consistent with the decrease in the number of OSHA inspections for the same period.¹⁵ Notwithstanding the decrease in the number of complex cases in FY 2025, those cases have accounted for one-third to one-half of the number of contested cases from FY 2022 through FY 2025.

For the sake of illustration, the chart below shows the number of OSHA inspections, new contested cases, complex cases, and the percentage of complex cases relative to the contested cases for FY 2022 through FY 2025:

	FY 2022	FY 2023	FY 2024	FY 2025
# OSHA Inspections	31,400	34,249	34,696	30,283
# New Contested Cases	1,510	1,881	1,819	1,615
# New Complex Cases	784	768	778	557
% of Complex to Contested Cases	52	41	43	34

B. Review Commission Membership

Achieving the Strategic Plan’s goals depends on the number of sitting Commissioners, as Review Commission member vacancies directly affect the agency’s performance at the Commission review-level. The Act requires the affirmative votes of two Commissioners to decide a pending case. When the Review Commission lacks the statutory quorum of two Commissioners, no cases can be decided, although one Commissioner can direct a case for review.

¹³ Review Commission ALJs travel throughout the U.S and its territories to hold hearings in locations for the convenience of the parties. Accordingly, court space availability is subject to partnerships with federal and state court administrators and their willingness to grant Review Commission ALJs use of local facilities.

¹⁴ Complex cases usually take longer and are more costly. See fn. 4, pg. 3.

¹⁵ It is also important to note that the number of Commission ALJs to handle these cases went from 12 to 11 in FY 2025.

During the five-year period, FY 2021 through FY 2025, the Review Commission operated without a third Commissioner approximately 90 percent of the time.¹⁶ When the Commission has only two sitting Commissioners, it can be more difficult to reach an agreement sufficient to dispose of a pending case as both must agree on all of the issues in the matter. With fewer than three members, deadlocks on votes may result (i.e., impasses), action on important issues may be postponed, and action on pending cases may be delayed. In addition, a large and/or complex case has a greater likelihood of impasse with only two Commissioners. Furthermore, an individual Commissioner may be recused from a specific case, with the result that action on such a case is impossible with only two sitting Commissioners.

This Strategic Plan assumes that all three Commissioner positions will be filled. With a full complement of Commissioners on board, the Review Commission is optimistic that it can meet its Strategic Plan goals set forth for decision-making at the review-level. To the extent that the agency operates with less than a full complement of Commissioners, achieving those goals will be more difficult.

C. Nature of Cases at the Commission Review-Level

The Review Commission's goal is to manage its docket so as to minimize the average age of all pending cases as well as the average age of the oldest cases. However, the increasing complexity of the cases at the ALJ level may result in a higher percentage of cases being petitioned for review.

D. Nature of Cases at the ALJ Level

There are also a variety of factors that could affect the Review Commission's ability to meet its goals at the ALJ level. These include: (1) the number and nature of cases received, (2) the success of Simplified and Settlement Proceedings in reducing the length, complexity, or number of hearings needed, (3) the number, length, and complexity of hearings held, and (4) the ability to secure court space for hearings and settlement conferences.

E. Legislative and Regulatory Changes

Regulatory changes by OSHA or statutory changes in the Act could potentially affect the Review Commission's ability to meet the goals of this plan.

F. Budget

The agency's goals and measures assume full funding of the Review Commission's budget as submitted by the President to Congress. As a labor-intensive agency, 88 percent of the agency's budget is dedicated to fixed costs, including about 75 percent for salaries and benefits. If less than the full funding requested is authorized, the agency's ability to produce the results and benefits set forth in this plan will be limited.

¹⁶ The Commission operated without any Commissioners during the period of April 28, 2025, through November 2, 2025, which is 188 days.

G. Additional Factors

Additional factors may affect the Review Commission's ability to meet its Strategic Plan goals, such as the ability to recruit and retain qualified personnel for this specialized area of occupational safety and health law.

VI. Consultation Planning Process

In developing this plan, the agency relied on an analysis of case processing procedures, case processing statistics from its case tracking system, the FY 2022 through FY 2025 performance report, and the agency's internal progress reports for the FY 2024 and FY 2025 performance plan. The agency also reviewed plans of other federal adjudicative agencies during the drafting stage.

The Review Commission will submit copies of the updated plan to Congressional committees, post the plan on its website, and distribute the plan to the trade press, trade associations, labor unions, the OSHA Bar, and the DOL.

VII. Program Evaluation

Over the next several years, the Review Commission will continue conducting evaluations to provide the agency with information to improve its operations, processes, and procedures. The program evaluations required under GPRA will be included in each of the annual performance budgets. The agency's evaluation schedule is noted below:

- Evaluate and monitor the electronic filing of legal documents.
- Evaluate the security of IT systems and security management measures through the annual FISMA audit.
- Review data circuit performance and provide remediation in response to expected increase in usage of cloud-based technologies.
- Review the agency's financial performance to help obtain an unmodified audit opinion annually.
- Evaluate agency procedures governing budget and finance, procurement, human resources, and time and attendance as part of the administrative oversight audit.
- Coordinate and schedule audit of the agency's EEO program (e.g., reporting, complaint processing, and education and outreach).