

U.S. Occupational Safety and Health Review Commission

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***OSHRC***

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**Performance and Accountability Report**

**FY 2018**





**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, 2018 AND 2017**

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OFFICE OF THE CHAIRMAN

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November 15, 2018

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) 2018 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, 23 cases were resolved, and three of four performance goals were met. The Review Commission operated with a full complement of Commissioners in FY 2018. New case management practices that were developed and implemented this FY have kept the Review-level on track to meet its goal of reducing the average age of pending Review-level cases to 20 months by FY 2022. In addition, 100% of the Review-level's priority cases were resolved within 6 months. However, the Review-level was unable to meet the performance goal of reducing the share of Review-level cases over two years in age to no greater than 40 percent of all cases for FY 2018 (at the close of the FY, the percentage of cases over two years in age was 51%). The primary factor that adversely impacted the Review-level ability to achieve this goal was the age of the longest pending cases. These new goals were established in our FY 2018 - 2022 Strategic Plan to measure case production and efficiency each fiscal year.

Our ALJs disposed of 2,209 cases and met the following targeted outcome performance goals: disposing of 95 percent of simplified cases within one year; 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, in order 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 two goals: dispose of 95 percent of complex cases within 20 months; and develop and implement case management practices that will minimize the average age of all pending ALJ-level cases.

The primary factor that adversely impacted the ALJs' ability to meet two of its outcome goals was the increased complexity of the cases before 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.

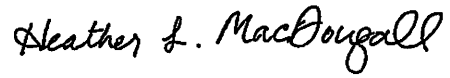
Finally, the Executive Director function met its seven performance goals. These goals include: (1) ensuring that the Review Commission's website is accessible to people with disabilities; (2) broadening the Review Commission's outreach activities to the regulated community; (3) recruiting, investing 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 "Heather L. MacDougall". The signature is written in a cursive style with a large, stylized 'H' and 'M'.

Heather L. MacDougall  
Chairman

Enclosure

# **U.S. Occupational Safety and Health Review Commission Fiscal Year (FY) 2018 Performance and Accountability Report**

## **Management's Discussion and Analysis**

### **Overview and Mission**

The U.S. Occupational Safety and Health Review Commission (OSHRC or Review Commission) is an independent adjudicatory agency created by the Occupational Safety and Health Act of 1970 (the Act). Our 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 the Department of Labor 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 our Rules of Procedure (which are similar to the Federal Rules of Civil Procedure) provide two levels of adjudication when an employer contests an OSHA citation for alleged violations of the Act. The first is a trial level, which affords an opportunity for a hearing before a Review Commission Administrative Law Judge (ALJ or judge). The judge's decision becomes final unless it is directed for review by a Commission member (Commissioner). When such review is granted, Commission Members – who are appointed by the President and subject to Senate confirmation – address the issues presented by the case and issue a decision. Final Commission decisions may be appealed to the Federal courts of appeals. At both the ALJ and Commission levels, the Review Commission is charged with providing fair and impartial adjudication of cases concerning employee workplace safety and health.

The Commission's principal (National) office is in Washington, DC. OSHRC also has two regional offices: one in Atlanta, GA, and one in Denver, CO. All three offices are staffed with ALJs who travel, as necessary, to adjudicate cases in locales near where the alleged workplace violations took place.

### **Vision Statement**

The Review Commission strives to be:

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

## ***Challenges and Opportunities***

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 programs in reducing the number of hearings needed; and (4) the number, location, length, and complexity of hearings held. Although these factors are largely outside the Review Commission's control, the Review Commission is committed to working within such constraints to improve its service to the public.

The Commission consists of three members appointed by the President with the advice and consent of the Senate. The Occupational Safety and Health 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 where 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 22 years the Commission has operated with fewer than three Commissioners over 60 percent of the time. However, the Review Commission operated with a full complement of Commissioners in FY 2018.

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 30,360 inspections in FY 2018. The number of OSHA inspections and their likely 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, which consume 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 where the parties consent, the Chief Judge may assign a Settlement Judge to a pending proceeding to aid the parties in disposing of the case. Where 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 where the total proposed penalty is not more than \$20,000, or up to \$30,000, when found eligible by the Chief Judge. The Simplified Proceedings 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 will be 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*

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 2018, the Commission had 29 cases pending on its docket at the beginning of the year. It received 16 new cases and resolved 23 cases by year-end.

The following table provides the performance goals and results for this function for fiscal years 2014 through 2018.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
Reduce the average age of open cases at the Commission-level.*	Average age of open cases.	26 months  <b>Target met</b> (27 months or less)	Replacement goal developed for FY 2015	Replacement goal developed for FY 2016	Replacement goal developed for FY 2017	Replacement goal developed for FY 2018
Resolve all priority cases at the Agency in a timely manner.	Percent of priority cases disposed of within 6 months.	100%  <b>Target met</b> (100%)	100%  <b>Target met</b> (100%)	100%  <b>Target met</b> (100%)	100%  <b>Target met</b> (100%)	100%  <b>Target met</b> (100%)

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	Case management practices developed. The average age of all pending Commission-level cases was 26 months.  <b>*Target met</b> Develop case management practices. (27 months or less)	Implemented case management practices. The estimated average age of all pending Commission-level cases was 21 months.  <b>Target met</b> (24 months or less)	Implemented case management practices. The estimated average age of all pending Commission-level cases was 24 months.  <b>Target not met</b> (23 months or less)	Implemented case management practices. The estimated average age of all pending Commission-level cases was 27months. <sup>1</sup>  <b>Target not met</b> (Continue to implement case management practices. 22 months or less)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.
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.	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.	Case management practices were developed and assessed.  <b>Target met</b> (Assess whether new case management practices should be developed and implemented)
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.	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.	Average age of all Review-level cases was reduced to 24 months.  <b>Target met</b> (Average age of all Review-level cases reduced to 26 months) <sup>2</sup>

<sup>1</sup> Revised to reflect actual average age of all pending Commission-level cases for the end of FY 2017.

<sup>2</sup> For FY 2018, the target goal now calculates the average age of a Review-level case based on: (1) cases that are docketed at the review level and decided during the time frame of October 1, 2017 through September 30, 2018; and (2) the age of all cases pending on September 30, 2018. The Review-level is on track to meet the FY 2018 – FY 2022 Strategic Plan target of 20 months for this goal.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	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.	Share of Review-level cases over two years in age was 51% of all cases.  <b>Target not met</b> (Reduce the share of Review-level cases over two years in age as follows: No greater than 40% of all cases) <sup>3</sup>
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.	Case management practices developed.  <b>Target met</b> (Develop case management practices)	Case management practices were fully implemented.  <b>Target met</b> (Implement case management practices).	Case management practices were fully implemented.  <b>Target met</b> (Implement case management practices).	Average age of the oldest 15 percent of pending Commission level cases increased by 4 percent from FY 2014 level.  <b>Target not met</b> (Reduce average age of the oldest 15 percent of pending Commission level cases by 10 percent from FY 2014 level)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

\* As of September 30, 2009, and September 30, 2010, the average (mean) period of time for a case on the Review Commission's docket was 46 months, and 32 months, respectively. The Review Commission's Strategic Plan (FY 2010- 2015) anticipated reducing this average to 24 months by the end of FY 2015. The revised Strategic Plan (FY 2014 – 2018) anticipates further reducing this average to 20 months by the end of FY 2018.

These new goals were established in our FY 2018 – 2022 Strategic Plan to measure case production and efficiency each fiscal year. The Review Commission operated with a full complement of Commissioners in FY 2018. At the Review-level, 23 cases were resolved and three of four performance goals were met. New case management practices that were developed and implemented this FY have kept the Review-level on track to meet its goal of reducing the average age of pending Review-level cases to 20 months by FY 2022. In addition, 100% of the Review-level's priority cases were resolved within 6 months.

<sup>3</sup> For FY 2018, the target goal now takes into account case production from October 1, 2017 through September 30, 2018, with the final percentage measured as of the end of the FY.

However, the Review-level was unable to meet the performance goal of reducing the share of Review-level cases over two years in age to no greater than 40 percent of all cases for FY 2018 (at the close of the FY, the percentage of cases over two years in age was 51%). The primary factor that adversely impacted the Review-level's ability to achieve this goal was the age of the longest pending cases.

The following table summarizes actual Review-level case activity for fiscal years 2014 through 2018.

**Review-Level Case Activity**

	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>
<b>New Cases:</b>					
Cases Directed for Review:	11	13	14	12	14
<b>Other New Cases:</b>					
Interlocutory					
Appeals	0	0	0	0	0
Remands	0	1	1	0	2
Other	0	0	0	1	0
Total Other New Cases:	0	1	1	1	2
<b>Total New Cases:</b>	<b>11</b>	<b>14</b>	<b>15</b>	<b>13</b>	<b>16</b>
Case Inventory from Prior Year:	36	35	33	29	29
<b>Total Caseload:</b>	<b>47</b>	<b>49</b>	<b>48</b>	<b>42</b>	<b>45</b>
Dispositions:	12	16	19	13	23
<b>Case Inventory, End of Year:</b>	<b>35</b>	<b>33</b>	<b>29</b>	<b>29<sup>4</sup></b>	<b>22</b>

As this table shows, while the total number of new cases added to the Review-level docket this FY is the largest number of new cases in the past five FYs, the Review-level also increased its disposition of cases so that the FY 2019 inventory is at the lowest level in five years. As a result, the Review-level is well-positioned for meeting its performance goals in the coming FYs.

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<sup>4</sup> Revised to reflect actual case inventory for the end of FY 2017.

### ***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 2018 with 1,129 cases in its inventory and 2,144 new cases were received during the year, for a total of 3,273 cases. A total of 2,209 cases were disposed of, leaving 1,064 cases in the inventory at the end of the fiscal year.

The following table provides the performance goals and results for this function for fiscal years 2014 through 2018.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	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.	Less than 75% of all pleadings received in our electronic filing system were initiated electronically.  <b>Target not met</b> (75% of all pleadings received in our electronic filing system would have been initiated electronically)
Ensure that a significant proportion of non-complex cases at the ALJ level are resolved in less than one year.	Percent within one year.	97%  <b>Target met (95%)</b>	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan
Ensure that a significant proportion of complex cases at the ALJ level are resolved in less than one year.	Percent within one year.	80%  <b>Target not met (89%)</b>	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan	New goal developed to support FY 2014 – 2018 Strategic Plan
Ensure that a significant proportion of both complex and non-complex cases at the ALJ level are resolved within one year to 20	Percent of simplified cases disposed of within one year at ALJ level.  Percent of conventional	New goal developed to support FY 2014 – 2018 Strategic Plan	Dispose of 95% of simplified cases within one year.  97% <b>Target met</b>	Dispose of 95% of simplified cases within one year.  93% <b>Target not met</b>	Dispose of 95% of simplified cases within one year.  95% <b>Target met</b>	Dispose of 95% of simplified cases within one year.  97% <b>Target met</b>

Outcome Goals	Performance Measures	FY 2014 Actual (Target)	FY 2015 Actual (Target)	FY 2016 Actual (Target)	FY 2017 Actual (Target)	FY 2018 Actual (Target)
months from docketing.	<p>cases disposed of within 17 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>92% <b>Target met</b></p> <p>Dispose of 98% of settlement part cases within 19 months</p> <p>95% <b>Target not met</b></p> <p>Dispose of 95% of complex cases within 20 months. (FY15 will be the baseline for this measure)</p> <p>80% <b>Target not met</b></p>	<p>Dispose of 90% of conventional cases within 17 months</p> <p>92% <b>Target met</b></p> <p>Dispose of 98% of settlement part cases within 19 months</p> <p>93% <b>Target not met</b></p> <p>Dispose of 95% of complex cases within 20 months.</p> <p>94% <b>Target not met</b></p>	<p>Dispose of 90% of conventional cases within 17 months</p> <p>88% <b>Target not met</b></p> <p>Dispose of 98% of settlement part cases within 19 months</p> <p>93% <b>Target not met</b></p> <p>Dispose of 95% of complex cases within 20 months.</p> <p>86% <b>Target not met</b></p>	<p>Dispose of 90% of conventional cases within 17 months</p> <p>95% <b>Target met</b></p> <p>Dispose of 95% of settlement part cases within 19 months</p> <p>96% <b>Target met</b></p> <p>Dispose of 95% of complex cases within 20 months.</p> <p>86% <b>Target not met</b></p>
Improve training opportunities for Administrative Law Judges.	Time and resources dedicated to judicial training with special emphasis on mediation and dispute resolution.	<p>Pro rata share of the Agency's training resources was devoted.</p> <p><b>Target met</b> (Pro rata share of the Agency's training resources)</p>	<p>Pro rata share of the Agency's training resources was devoted.</p> <p><b>Target met</b> (Pro rata share of the Agency's training resources)</p>	<p>Pro rata share of the Agency's training resources was devoted.</p> <p><b>Target met</b> (Pro rata share of the Agency's training resources)</p>	<p>Pro rata share of the Agency's training resources was devoted.</p> <p><b>Target met</b> (Continue to designate a pro rata share of the Agency's training resources)</p>	New goal developed to support FY 2018 – 2022 Strategic Plan

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	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.	Training opportunities were offered to all ALJs, attorneys and support staff.  <b>Target met</b> (Attendance and participation by ALJs and attorneys and support staff, at no less than one training opportunity annually, internally and/or externally)
Publish significant procedural decisions and non-dispositive orders separately from other decisions.	Key decisions and orders published within 4 months of the order.	11 key decisions and orders published  <b>Target not met</b> (15 key decisions and orders published)	13 key decisions and orders published  <b>Target not met</b> (20 key decisions and orders published)	13 key decisions and orders published  <b>Target not met</b> (20 key decisions and orders published)	15 key decisions and orders published  <b>Target not met</b> (20 key decisions and orders published)	New goal developed to support FY 2018 – 2022 Strategic Plan

The complexity of the cases increased the time required to resolve cases at the ALJ level. Factors leading to the increased complexity of cases include OSHA's focus on encouraging more resource and time-intensive inspections, as well as the Office of the Solicitor's decision to leverage litigation resources and focus away from high-volume and 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 judges to invest a greater amount of time in handling the matters and places an increased demand on the FTE assigned to handle the volume of cases.

The following table provides actual ALJ workloads for fiscal years 2014 through 2018.

	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>
<b>OSHA Inspections*:</b>	36,163	35,817	31,948	32,283	30,360
<b>a. Case Inventory, Start of Year</b>	909	888	1,099	1,109	1,129
<b>b. New Cases</b>	2,017	2,164	2,183	2,168	2,144
<b>c. Total Caseload</b>	<b>2,926</b>	<b>3,052</b>	<b>3,282</b>	<b>3,277</b>	<b>3,273</b>
<b>d. Disposals</b>					
<b>(1) With Hearing</b>	50	61	42	44	38
<b>(2) Mandatory Settlement Conferences</b>	66	56	86	85	45
<b>(3) Without Hearing</b>	1,922	1,836	2,045	2,019	2,126
<b>e. Total Dispositions</b>	<b>2,038</b>	<b>1,953</b>	<b>2,173</b>	<b>2,148</b>	<b>2,209</b>
<b>Total Case Inventory, End of Year</b>	<b>888</b>	<b>1,099</b>	<b>1,109</b>	<b>1,129</b>	<b>1,064</b>

\*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 IT 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 this function for fiscal years 2014 through 2018.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.  <b>Target met</b> (All material posted no later than 7 days after issuance)	All required material posted to the website in less than 7 days and usually within one day after issuance.  <b>Target met</b> (All material posted no later than 7 days after issuance)	All required material posted to the website in less than 7 days and usually within one day after issuance.  <b>Target met</b> (All material posted no later than 7 days after issuance)	All required material posted to the website in less than 7 days and usually within one day after issuance.  <b>Target met</b> (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.  <b>Target met</b> (All material posted no later than 6 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.  <b>Target met</b> (100% of all material to be submitted by required deadlines)	All material submitted by required deadlines.  <b>Target met</b> (100% of all material to be submitted by required deadlines)	All material submitted by required deadlines.  <b>Target met</b> (100% of all material to be submitted by required deadlines)	All material submitted by required deadlines.  <b>Target met</b> (100% of all material to be submitted by required deadlines)	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.	Agency focus was to revise the draft language access plan and submit to DOJ for approval.  <b>Target not met</b> (Agency to sponsor one outreach and educational activity per year)	Draft language access plan was posted on the Agency's website.  <b>Target met</b> (Fully implement a language access plan and post to the Agency's website for public access)	Draft language access plan is posted on the Agency's website.  <b>Target met</b> (Fully implement a language access plan and post to the Agency's website for public access)	Review Commission documents were reviewed, translated, and posted on the agency's website.  <b>Target met</b> (Review documents to be translated and posted on the agency's website)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	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.	<p>Alert service was implemented on the agency's website to engage the public.</p> <p><b>Target met</b> (-Increased 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>

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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-715<sup>5</sup> guidance.</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.	<p>Job postings were developed to attract qualified and diverse candidates. Agency directives pertaining to workplace flexibilities were reviewed.</p> <p><b>Target met</b> (-Attract qualified and diverse candidates, 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>

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

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	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.	<p>Annual Federal Employee Viewpoint Survey results were assessed. Routine meetings were conducted.</p> <p><b>Target met</b>  (-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>

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	System that links resources to specific activities that support measurable programmatic outcomes and objectives.	Resources were identified for various programs that support the methodology to efficiently align the budget with program goals.  <b>Target met</b> (Identify resources to support the methodology to efficiently align the budget with program goals)	Agency program goals were aligned with the budget to efficiently accomplish the mission.  <b>Target met</b> (Align budget with Agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, and space and facilities))	Agency program goals continue to be aligned with the budget to efficiently accomplish the mission.  <b>Target met</b> (Align budget with Agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, and space and facilities))	Agency program goals are aligned with the budget to efficiently accomplish the mission.  <b>Target met</b> (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure/space, and facilities))	Aligned budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure/space, and facilities).  <b>Target met</b> (Align budget with agency program goals to efficiently accomplish mission (e.g., program, human capital, procurement, IT infrastructure, space, and facilities))
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.	.55% of basic payroll was devoted to staff training and development.  <b>Target met</b> (.55% of basic payroll devoted to staff training and development)	.44% of basic payroll devoted to staff training and development.  <b>Target not met</b> (.65% of basic payroll devoted to staff training and development)	.44% of basic payroll devoted to staff training and development.  <b>Target not met</b> (.70% of basic payroll devoted to staff training and development)	.80% of basic payroll devoted to staff training and development.  <b>Target met</b> (.80% of basic payroll devoted to staff training and development)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
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.	Staff trained in learning solution designed to optimize organizational performance and identify KM gaps.  <b>Target partially met</b> (Design the KM audit to establish benchmarks to evaluate knowledge gaps in the essential Agency operations and programs).	Identified knowledge gap vulnerabilities to enhance Agency operations and programs.  <b>Target met</b> (Use findings from evaluation of KM audit to identify and address knowledge gaps).	Implemented a Phased Retirement directive, identified knowledge gap vulnerabilities, and enhanced telework opportunities to retain employees that move outside of the commuting area.  <b>Target Met</b> (Use findings from evaluation of KM audit to identify and address knowledge gaps).	Reviewed agency policies, organizational charts, and position descriptions to identify knowledge gap vulnerabilities.  <b>Target met</b> (Evaluate and address KM vulnerabilities to further enhance agency operations and programs)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.

Outcome Goals	Performance Measures	FY 2014 Actual (Target)	FY 2015 Actual (Target)	FY 2016 Actual (Target)	FY 2017 Actual (Target)	FY 2018 Actual (Target)
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>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>Evaluated expanding the existing IT infrastructure and began procuring equipment and services necessary to support the e-filing initiative.</p> <p><b>Target met</b> (Evaluate expanding the existing IT infrastructure to support e-filing initiative)</p>	<p>Upgraded data circuits, implemented a new data analysis platform that scans internet traffic, trained staff on usage policies, and procured and installed Host servers.</p> <p><b>Target met</b> (Implement recommended IT infrastructure upgrades identified in evaluation)</p>	<p>Upgraded Citrix to permit additional security measures; upgraded servers to Virtual machines; implemented a cloud-based case management system and provided training to users; upgraded desktops; and procured new servers.</p> <p><b>Target met</b> (Implement recommended IT infrastructure upgrades identified in evaluation)</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><b>Target met</b> (Continue monitoring technology infrastructure to determine if additional resources are required)</p>	<p><b>Target met</b> (Continuous monitoring of the agency's technology infrastructure was done to determine if new or additional resources were necessary)</p> <p><b>Target met</b> (-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>

Outcome Goals	Performance Measures	FY 2014 Actual (Target)	FY 2015 Actual (Target)	FY 2016 Actual (Target)	FY 2017 Actual (Target)	FY 2018 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>Use of virtual machines and all equipment purchases meet EPA Energy Efficiency standards.</p> <p><b>Target met</b> (Establish goal of acquiring a percentage of supplies and equipment from eco-friendly sources)</p> <p>Disposed of equipment through certified recyclers.</p> <p><b>Target met</b> (Dispose of equipment in an environmentally friendly manner)</p>	<p>Use of virtual machines and all equipment purchases meet EPA Energy Efficiency standards.</p> <p>Moved to a shared printing environment by using installed copiers as default printers moving away from desktop printers. Expanded Citrix to accommodate additional telework staff.</p> <p><b>Target met</b> (Increase the percentage of supplies and equipment procured from eco-friendly sources)</p>	<p>Use of virtual machines and all equipment purchases meet EPA Energy Efficiency standards.</p> <p>Expanded Citrix to accommodate additional telework staff.</p> <p><b>Target met</b> (Increase the percentage of supplies and equipment procured from eco-friendly sources)</p>	<p>-Expanded the use of Virtual Machines.</p> <p>-Moved infrastructures to FedRAMP providers.</p> <p><b>Target met</b> (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.

<b>Outcome Goals</b>	<b>Performance Measures</b>	<b>FY 2014 Actual (Target)</b>	<b>FY 2015 Actual (Target)</b>	<b>FY 2016 Actual (Target)</b>	<b>FY 2017 Actual (Target)</b>	<b>FY 2018 Actual (Target)</b>
Enhance the agency's FOIA processing system by developing internet-based capabilities.	Development of an electronic form and/or request tracking capability.	Developed an electronic request form used for processing and expediting FOIA requests.  <b>Target met</b> (Assessment of tools and resources necessary for processing and expediting FOIA requests electronically)	Successful implementation of FOIA online form and use of dedicated FOIA email address to expedite receipt, tracking, and processing of requests.  <b>Target met</b> (Develop tools to be used for processing and expediting FOIA requests electronically)	Increased efficiency of FOIA online form and use of dedicated FOIA email address to expedite receipt, tracking, and processing of requests.  <b>Target met</b> (Develop tools to be used for processing and expediting FOIA requests electronically)	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.  <b>Target met</b> (Explore advanced options for online tracking capability)	New goal developed to support the FY 2018 – FY 2022 Strategic Plan.
Conduct all internal and external agency business in an ethical and timely manner.	Promote an ethical culture within the Review Commission through leadership, awareness, resources, and oversight.	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.	Expanded outreach primarily to new employees, in particular political appointees, which generated increased opportunities to provide ethics advice.  <b>Target met</b> (-Provide in-person ethics training to all agency filers.  -Increase opportunities for outreach to all agency employees on ethics issues)

## **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 2018 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 2018 financial statements, which include comparative data for FY 2017. 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 2018 totaled \$4,200,659 as of September 30, 2018. This represents a decrease of \$23,171. The Fund Balance with Treasury of \$4,200,554 represents OSHRC’s largest asset as of September 30, 2018. It decreased 21 percent from FY 2017 and represents over 99 percent of the agency’s total assets for FY 2018. General Property, Plant, and Equipment were fully depreciated as of September 30, 2018.

OSHRC’s liabilities in FY 2018 totaled \$989,614 as of September 30, 2018. This is a decrease of \$115,780. The accounts payable balance at September 30, 2018 was \$175,964, a decrease of \$118,616. Unfunded annual leave totaled \$459,765 and is approximately 46 percent of total agency liabilities.

Net Position is the difference between total assets and total liabilities. The total net position for FY 2018 increased by \$92,609 from FY 2017.

### ***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 two major programs, Administrative Law Judge and Commission. The Total net cost of operations in 2018 was \$13,598,019, an increase of \$841,981 over the FY 2017 net cost of operations of \$12,756,038.

### ***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 increased \$92,609 in 2018 from 2017, a change of approximately 3 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 2018, OSHRC had total budgetary resources of \$14,639,656, which is \$408,277 more than in FY 2017.

## **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 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 2018, two program reviews took place: an audit of the FY 2018 financial statements and an audit of 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 2018.

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 2018 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 2018. The agency continued the practice of reviewing the General Services Administration (GSA) 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 2018 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 2018.

### ***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 2018. 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 of 2014 (FISMA 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 2018 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 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. This complies with OMB Memorandum 15-13.

The Review Commission continues to document and test its implemented 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 DHS, 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 Officer 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). Under the Senior Agency Official for Privacy (SAOP), the agency has updated, or is in the process of updating, the notices (SORNs) for each of its eight system of records. Also, privacy threshold analyses (PTAs) and privacy impact assessments (PIAs) have been completed for two of the Review Commission's four information systems, with plans to review existing PTAs and PIAs for the other two information systems. To provide as much transparency as possible, these SORNs and PIAs upon completion are being posted on the agency's privacy web page: <https://www.oshrc.gov/privacy/>.

The SAOP has completed a review of the agency's collection and use of social security numbers. As required by the Review Commission's Privacy Act Directive (which was revised in FY 2017), the agency's collection and use of SSNs—listed in an inventory that the agency maintains—will be reviewed annually by our privacy office. The Review Commission also, for the first time, has a social media presence. To address privacy concerns that could arise through the use of social media, the Review Commission has developed, documented, and implemented a social media use policy that covers all agency personnel, including contractors, and governs both official and personal social media use. Additionally, the Review Commission has formalized its policy for redacting PII from documents that are posted on its website to ensure that such information is protected to the greatest extent possible. Finally, as was noted last year, the Review Commission implemented its Breach Response Plan as required by OMB Memorandum 17-12. The SAOP has continued to comply with policy and OMB's guidance by conducting a tabletop exercise and staying abreast of information security throughout the agency. 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.

The Review Commission's information security and privacy programs will, at a minimum, continue to implement appropriate recommendations made by an independent evaluator; incorporate performance measures to ensure that the security and privacy plan is practiced throughout the life cycle of the agency's system; establish additional personnel controls for sensitive information; monitor procedures for program effectiveness and compliance with security requirements; assure that systems and applications operate effectively and provide appropriate confidentiality, integrity and availability; and protect information commensurate with the level of risk and magnitude of harm resulting from loss, misuse, unauthorized access, or modification.

### **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 2018, each of the 2,144 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, employee performance files, and personnel files. Management reviews this information for accuracy.

### **Limitations of the Financial Statements**

The principal financial statements are prepared to report the financial position 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, 2018 AND 2017**



**Prepared By  
Brown & Company CPAs and Management Consultants, PLLC  
November 9, 2018**



## BROWN & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS, PLLC

### INDEPENDENT AUDITOR'S REPORT

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

In our audits of the fiscal years 2018 and 2017 financial statements 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, 2018, and 2017, 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 2018 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, 2018, and 2017; 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. We believe that the audit evidence we obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### Management's Responsibility

OSHR's 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, 2018, and 2017, 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 OSHRC's financial statements, we considered OSHRC's internal control over financial reporting, consistent with our auditor's responsibility discussed below. We performed our procedures related to OSHRC's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

### Management's Responsibility

OSHRC's 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, 2018, 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 OSHRC's internal control over financial reporting. Accordingly, we do not express an opinion on 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.

### 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 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 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's management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to 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 2018 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.

  
Largo, Maryland  
November 9, 2018

**FINANCIAL STATEMENTS AND NOTES**

**OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION**  
**BALANCE SHEET**  
**AS OF SEPTEMBER 30, 2018 AND 2017**  
(In Dollars)

	2018	2017
<b>Assets:</b>		
Intragovernmental		
Fund Balance With Treasury (Note 2)	\$ 4,200,554	\$ 4,223,314
Total Intragovernmental	4,200,554	4,223,314
Accounts Receivable, Net (Note 3)	105	52
Other (Note 4)	-	464
<b>Total Assets</b>	<b>\$ 4,200,659</b>	<b>\$ 4,223,830</b>
<b>Liabilities:</b>		
Intragovernmental		
Accounts Payable	\$ 10,000	\$ 16,000
Other (Note 6)	71,243	70,100
Total Intragovernmental	81,243	86,100
Accounts Payable	175,964	294,580
Other (Note 6)	732,407	724,714
<b>Total Liabilities (Note 5)</b>	<b>\$ 989,614</b>	<b>\$ 1,105,394</b>
<b>Net Position:</b>		
Unexpended Appropriations - Other Funds	\$ 3,670,707	\$ 3,586,828
Cumulative Results of Operations - Other Funds	(459,662)	(468,392)
<b>Total Net Position</b>	<b>\$ 3,211,045</b>	<b>\$ 3,118,436</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 4,200,659</b>	<b>\$ 4,223,830</b>

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

OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION  
STATEMENT OF NET COST  
FOR THE YEARS ENDED SEPTEMBER 30, 2018 AND 2017  
(In Dollars)

	2018	2017
<b>Program Costs:</b>		
Administrative Law Judge	\$ 6,580,081	\$ 6,281,073
Commission	7,017,938	6,474,965
<b>Net Cost of Operations</b>	<b>\$ 13,598,019</b>	<b>\$ 12,756,038</b>

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

**OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION**  
**STATEMENT OF CHANGES IN NET POSITION**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2018 AND 2017**  
(In Dollars)

	2018	2017
<b>Unexpended Appropriations:</b>		
Beginning Balances	\$ 3,586,828	\$ 3,002,549
<b>Budgetary Financing Sources:</b>		
Appropriations Received	13,225,000	13,225,000
Other Adjustments	(200,084)	(306,065)
Appropriations Used	(12,941,037)	(12,334,656)
Total Budgetary Financing Sources	83,879	584,279
Total Unexpended Appropriations	\$ 3,670,707	\$ 3,586,828
<b>Cumulative Results of Operations:</b>		
Beginning Balances	\$ (468,392)	\$ (466,603)
<b>Budgetary Financing Sources:</b>		
Appropriations Used	12,941,037	12,334,656
<b>Other Financing Sources (Non-Exchange):</b>		
Imputed Financing Sources (Note 9)	665,712	419,593
Total Financing Sources	13,606,749	12,754,249
Net Cost of Operations	(13,598,019)	(12,756,038)
Net Change	8,730	(1,789)
Cumulative Results of Operations	\$ (459,662)	\$ (468,392)
Net Position	\$ 3,211,045	\$ 3,118,436

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

OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION  
STATEMENT OF BUDGETARY RESOURCES  
FOR THE YEARS ENDED SEPTEMBER 30, 2018 AND 2017  
(In Dollars)

	2018	2017
<b>Budgetary Resources:</b>		
Unobligated balance from prior year budget authority, net	\$ 1,414,656	\$ 1,006,379
Appropriations	13,225,000	13,225,000
<b>Total Budgetary Resources</b>	<b>\$ 14,639,656</b>	<b>\$ 14,231,379</b>
<b>Memorandum (non-add) Entries:</b>		
Net adjustments to unobligated balance brought forward, Oct. 1	\$ (2,835,239)	\$ (2,015,120)
<b>Status of Budgetary Resources:</b>		
New obligations and upward adjustments (total) (Note 10)	\$ 13,251,117	\$ 12,765,197
Unobligated balance, end of year:		
Apportioned, unexpired account (Note 2)	228,799	536,003
Expired unobligated balance, end of year (Note 2)	1,159,740	930,179
Unobligated balance, end of year (total)	1,388,539	1,466,182
<b>Total Budgetary Resources</b>	<b>\$ 14,639,656</b>	<b>\$ 14,231,379</b>
<b>Outlays, net:</b>		
Outlays, net, (total)	\$ 13,047,676	\$ 12,176,923
Distributed Offsetting Receipts	-	(614)
<b>Agency outlays, net</b>	<b>\$ 13,047,676</b>	<b>\$ 12,176,309</b>

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 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 treated consistent with due process should a dispute arise.

The Review Commission reporting entity 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 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 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 and the Government Management Reform Act of 1994. 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 the aggregate amount of the Review Commission's funds with Treasury in expenditure and receipt funds 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. Treasury disburses funds for the agency on demand.

### **E. Accounts Receivable**

Accounts receivable may consist 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 and equipment 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 unemployment insurance.

#### **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. Non-vested 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 employees effective at 100%.

#### **J. Accrued and Actuarial Workers' Compensation**

The Federal Employees' Compensation Act (FECA) administered by the DOL addresses all claims brought by the Review Commission 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. The liability consists of (1) the net present value of estimated future payments calculated by the DOL and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

#### **K. Retirement Plans**

The Review Commission employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of the Review Commission 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 employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGSIP) 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. Imputed Costs/Financing Sources**

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

#### **O. Reclassification**

Certain fiscal year 2017 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

## NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2018 and 2017 were as follows:

	2018	2017
<b>Status of Fund Balance with Treasury:</b>		
<b>Unobligated Balance</b>		
Available	\$ 228,799	\$ 536,003
Unavailable	1,159,740	930,179
<b>Obligated Balance Not Yet Disbursed</b>	2,812,015	2,757,132
<b>Total</b>	<b>\$ 4,200,554</b>	<b>\$ 4,223,314</b>

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 Note 11).

## NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2018 and 2017 were as follows:

	2018	2017
<b>With the Public</b>		
Accounts Receivable	\$ 105	\$ 52
<b>Total Accounts Receivable</b>	<b>\$ 105</b>	<b>\$ 52</b>

The accounts receivable is primarily made up of employee receivables. Historical experience has indicated that the majority are collectible. There are no material uncollectible accounts as of September 30, 2018 or 2017.

#### NOTE 4. OTHER ASSETS

Other assets balances as of September 30, 2018, and 2017, were as follows:

	2018	2017
<b>With the Public</b>		
Travel Advances	\$ -	\$ 464
<b>Total Other Assets</b>	<b>\$ -</b>	<b>\$ 464</b>

#### NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the Review Commission as of September 30, 2018 and 2017 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.

	2018	2017
Unfunded Leave	\$ 459,765	\$ 468,443
<b>Total Liabilities Not Covered by Budgetary Resources</b>	<b>\$ 459,765</b>	<b>\$ 468,443</b>
<b>Total Liabilities Covered by Budgetary Resources</b>	<b>529,849</b>	<b>636,951</b>
<b>Total Liabilities</b>	<b>\$ 989,614</b>	<b>\$ 1,105,394</b>

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 6. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2018 were as follows:

	Current	Total
<b>Intragovernmental</b>		
Payroll Taxes Payable	\$ 71,243	\$ 71,243
<b>Total Intragovernmental Other Liabilities</b>	<b>\$ 71,243</b>	<b>\$ 71,243</b>
<b>With the Public</b>		
Payroll Taxes Payable	\$ 13,934	\$ 13,934
Accrued Funded Payroll and Leave	258,708	258,708
Unfunded Leave	459,765	459,765
<b>Total Public Other Liabilities</b>	<b>\$ 732,407</b>	<b>\$ 732,407</b>

Other liabilities account balances as of September 30, 2017 were as follows:

	Current	Total
<b>Intragovernmental</b>		
Payroll Taxes Payable	\$ 70,100	\$ 70,100
<b>Total Intragovernmental Other Liabilities</b>	<b>\$ 70,100</b>	<b>\$ 70,100</b>
<b>With the Public</b>		
Payroll Taxes Payable	\$ 10,614	\$ 10,614
Accrued Funded Payroll and Leave	245,657	245,657
Unfunded Leave	468,443	468,443
<b>Total Public Other Liabilities</b>	<b>\$ 724,714</b>	<b>\$ 724,714</b>

#### NOTE 7. 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	116 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
2019	\$ 1,557,614
2020	1,556,898
2021	1,573,719
2022	1,591,033
2023	1,003,872
There after	521,515
<b>Total Future Payments</b>	<b>\$ 7,804,651</b>

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

## NOTE 8. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include fiscal year 2018 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2019 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb/>. The 2019 Budget of the United States Government, with the "Actual" column completed for 2017, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

FY2017	Budgetary Resources	Obligations Incurred	Distributed Offsetting Receipts	Net Outlays
Statement of Budgetary Resources	\$ 14	\$ 13	\$ -	\$ 12
Unobligated Balance Not Available	(1)			
Budget of the U.S. Government	\$ 13	\$ 13	\$ -	\$ 12

## NOTE 9. IMPUTED FINANCING SOURCES

The Review Commission recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the years ended September 30, 2018 and 2017, respectively, imputed financing was as follows:

	2018	2017
Office of Personnel Management	\$ 665,712	\$ 419,593
Total Imputed Financing Sources	\$ 665,712	\$ 419,593

## NOTE 10. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources in 2018 and 2017 consisted of the following:

	2018	2017
Direct Obligations, Category A	\$ 13,251,117	\$ 12,765,197
Total Obligations Incurred	\$ 13,251,117	\$ 12,765,197

Category A apportionments distribute budgetary resources by fiscal quarters.

## NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2018, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 497,281	\$ 1,784,885	\$ 2,282,166
Total Undelivered Orders	\$ 497,281	\$ 1,784,885	\$ 2,282,166

As of September 30, 2017, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Paid Undelivered Orders	\$ -	\$ 464	\$ 464
Unpaid Undelivered Orders	482,702	1,637,480	2,120,182
<b>Total Undelivered Orders</b>	<b>\$ 482,702</b>	<b>\$ 1,637,944</b>	<b>\$ 2,120,646</b>

#### NOTE 12. CUSTODIAL ACTIVITY

The Review Commission is an administrative agency collecting for another entity or the General Fund. As a collecting entity, the Review Commission measures and reports cash collections and refunds. The type of cash collected primarily consists of Freedom of Information Act fees. 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 \$57 for the years ending September 30, 2018 and 2017, respectively.

#### NOTE 13. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

The Review Commission has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2018	2017
<b>Resources Used to Finance Activities</b>		
Budgetary Resources Obligated		
Obligations Incurred	\$ 13,251,117	\$ 12,765,197
Spending Authority from Offsetting Collections and Recoveries	(148,557)	(319,737)
Offsetting Receipts	-	(614)
Obligations Net of Offsetting Collections and Recoveries	13,102,560	12,444,846
Other Resources		
Imputed Financing from Costs Absorbed by Others	665,712	419,594
Total Resources Used to Finance Activities	13,768,272	12,864,440
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	(170,200)	(110,190)
Total Resources Used to Finance the Net Cost of Operations	13,598,072	12,754,250
Total Components of Net Cost of Operations That will not Require or Generate Resources in the Current Period	(53)	1,788
<b>Net Cost of Operations</b>	<b>\$ 13,598,019</b>	<b>\$ 12,756,038</b>