

The Occupational Safety and Health Review Commission Strategic Plan (Revised) (2000-2005)

October 2000

Introduction

The Review Commission is committed to providing superior service to the public, and its employees. Consistent with the behavior of highly effective organizations, we are reassessing the environment within which we operate. This revised Strategic Plan is submitted consistent with the Government Performance and Results Act (GPRA) requirement that agencies review and update their strategic plans every three years. In developing our FY 2000-2005 revised Strategic Plan, we held "talking and listening" meetings with management attorneys, employers, Department of Labor attorneys, representatives of trade associations, and representatives of labor unions, and other internal and external stakeholders. These meetings were invaluable to us, and the candid discussions provided useful insights. Many of the revisions in our plan came directly from those meetings.

The Review Commission strives to ensure that all parties who come before it--employers, employees and employee representatives, U.S. Department of Labor and other Federal agencies, where applicable--receive fair and timely resolution of safety and health disputes in American work places. We continue to seek ways to improve our service to the public by reducing the cycle time for decisions, improving quality, and enhancing our communication with, and understanding of, the public we serve. This revised plan modifies some of the goals stated in our 1997-2002 Strategic Plan, and also sets new objectives and strategies for fiscal years 2000 through 2005. Specifically, it modifies the public service and external communications goals, and consolidates the three prior operating goals into one organizational goal. The outcome objectives supporting the general goals have also been modified to better support our mission and vision statements, build upon the accomplishments we have already obtained, and allow for outcome measurements that support percentage increases in decisions issued or settlements approved.

Background on the Review Commission

The Review Commission is an independent, adjudicatory agency created by the Occupational Safety and Health Act of 1970. Its sole statutory mandate is to serve as an administrative court providing just 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 all parties are treated consistent with due process should a dispute arise.

The Occupational Safety and Health Act and the Review Commission's Rules of Procedure provide two levels of adjudication when an employer timely contests an OSHA citation for alleged violations of the Act or failure to abate such alleged violations. The first is a trial level before an Administrative Law Judge (ALJ). This level affords an opportunity for a hearing before a Review Commission ALJ for employers who have filed a timely notice of contest cited by the United States Department of Labor. The judge's decision becomes final unless the Commission reviews the decision. The second level is a discretionary appellate review of the judge's decision by the Commission's members. Both before its judges and the Commissioners, the Review Commission seeks to provide fair, impartial, and timely adjudication of cases concerning the safety and health of employees' working conditions in the United States.

The principal (national) office of the Review Commission is located in Washington, D.C. There are also regional offices in Atlanta and Denver where some of the Review Commission's Administrative Law Judges and staff are assigned.

External Factors

The major factors which influence the Agency's workload, and hence its strategies, are the number of safety and health inspections carried out by the Occupational Safety and Health Administration (OSHA) each year, the nature of those inspections, and the rate at which employers choose to contest the citations issued and penalties proposed by OSHA as a result of its enforcement activity. Achievement of the goals in our strategic plan also depends on a number of other external factors over which the Review Commission does not have control--presence of Commissioners, the maintenance of a quorum of two Commissioners, and a full three-member Commission.

In recent years, OSHA has been focusing both its enforcement and litigation strategies on more serious violations and hazards which have higher proposed penalties. Thus, while the overall number of inspections has varied, the number of high penalty or complex cases has been growing. For the Review Commission, this means that it must prepare to receive more large and/or complex cases, consistent with OSHA's emphasis on allegedly willful and egregious violators. In fact, the Review Commission realized a 23 percent increase in large or complex cases between FY 1998 and 1999.

There are a variety of factors that could affect our ability to meet our goal at the trial level. These include: (1) the magnitude and nature of the cases received, (2) the success of E-Z Trial and Settlement Part Pilot in reducing the length, complexity or number of hearings needed, and (3) the number, length, and complexity of trials held.

In addition to the complexity of cases, Commission vacancies also affect the Review Commission's performance at the appellate level. The Commission consists of three members appointed by the President and confirmed by the Senate. The Occupational Safety and Health Act requires a quorum of two Commissioners and the affirmative vote of two Commissioners to decide a case. During periods when the Commission has no quorum, no cases can be decided. Moreover, with only two Commissioners, it is more difficult to reach agreement sufficient to dispose of cases. With fewer than three members, deadlocks on votes may result ("impasses"), action on important issues may be postponed, and action on pending cases may be delayed. Larger and more complex cases have a greater likelihood of an impasse with only two members.

Additional factors affecting our ability to meet our strategic plan goals include adequate funding and the ability to attract and recruit candidates for this specialized area of Federal safety and health law.

Perspective and Outlook

The Commission was without a quorum for most of fiscal years 1998 and 1999 and was without a third Commissioner from April 1997--December 1999. As a result of a recess appointment in December 1999, the Commission will have a full three-member Commission for the remainder of FY 2000. The absence of a quorum and any vacant Commissioner position in the fiscal years covered by this plan, however, would lessen our ability to meet performance objectives.

The lack of a quorum during fiscal year 1998 and the lack of a third member for a majority of the time in fiscal year 1999 resulted in an increase in the number of cases, including complex cases, pending before the Commission at the review level. The rising backlogs created by the lack of a quorum or of a third member had a direct and adverse impact on our ability to carry out our mission. The Review Commission's pending inventory continues to grow. At the beginning of fiscal year 1998, there were 38 cases pending before the Commission. In fiscal year 1999, there were 72 cases pending at the beginning of the year. We began fiscal year 2000 with 65 cases pending.

In addition, as of June 30, 2000, the Commission's inventory of pending cases consisted of 52 cases that were one year to four years old. Eighteen cases had been pending for 1-2 years, 11 cases had been pending for 2-3 years, 12 cases had been pending for 3-4 years, and 11 cases had been pending for more than four years.

The stability of the Review Commission membership will continue to affect our strategic plan commitments. During the years covered by this plan, the term appointments of several Commissioners' will expire. Any vacancies must be filled as expeditiously as possible to maintain a quorum and/or full Commission membership. The possibility of changing membership may also require a period of transition, to enable any new Commissioner(s) to become knowledgeable about the Review Commission's mission, legal precedents, and processes.

Our workload will also change based on the regulations and standards the Department of Labor promulgates. In the April 2000 Unified Agenda of Federal Regulatory and Deregulatory Actions, the Department of Labor indicated that several proposed regulatory standards were in the final rule stage. These matters include: Steel Erection (Part 1926) (Safety Protection for Ironworkers), Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirement), Ergonomics Programs: Preventing Musculoskeletal Disorders, and Occupational Exposure to Tuberculosis. Any and all of these standards or regulatory actions would impact on the Review Commission if they go into effect and as disputes arise concerning the new standards. The resulting caseload increases will be evident at both the Review Commission's trial and appellate levels.

Finally, the assumption of OSHA jurisdiction over United States Postal Service cases which Congress mandated in 1998 will continue to impact our workload. We have already received some of these cases, with the impact of future cases uncertain at this time.

Mission Statement

The mission of the Occupational Safety and Health Review Commission is to provide an impartial forum for the just and prompt adjudication of workplace safety and health disputes involving the Department of Labor, employers, and employees, and/or their representatives under the Occupational Safety and Health Act of 1970.

Vision Statement

The Review Commission continues to strive to:

- be a judicial body that is -- and is recognized for being -- objective, fair, prompt, and professional;
- be an agency that creates a body of law through its decisions that defines and explains the rights and responsibilities of employers and employees under the Occupational Safety and Health Act of 1970;
- be a model Federal agency with highly effective processes, a highly motivated, qualified and diverse workforce, and modern information management, communications, and administrative systems; and
- be an agency that values team work, develops its employees, and strives to improve its performance, service, and value to the American people.

Strategic Goals

The Review Commission has constructed its strategic plan around performance objectives and strategies for achieving our mission in three strategic areas. These include two broad external goals--Public Service and External Communications--that are designed to improve the Agency's service to, and its communication with, the public. We have also established one organizational goal deemed critical to the overall mission performance of the Agency. In addition to these goals, we have set measurable, outcome-oriented objectives which advance the Agency toward its goals. We will include these strategic goals and performance objectives and their associated measures in the annual performance plans.

<p>GOAL # 1 Public Service Goal</p> <p><i>To assure fair, just, and expeditious adjudication of disputes brought before the Commission and its judges, and achieve a high level of quality in all legal decisions</i></p>
<p>GOAL # 2 External Communications Goal</p> <p><i>To enhance the efficiency and effectiveness of communications between the Commission and the public it serves</i></p>
<p>GOAL #3 Organizational Goal</p> <p><i>To further develop and invest in a highly effective, motivated, and diverse workforce equipped with modern information, technology, and communications systems to facilitate the accomplishment of its goals, meet program needs and increase organizational effectiveness and efficiency</i></p>

Public Service Goal

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PERFORMANCE OBJECTIVES	
1.1	Increase the percent of non-complex cases heard by Administrative Law Judges that take less than a year to resolve
1.2	Increase the percent of complex cases heard by Administrative Law Judges within 18 months
1.3	Increase the percent of cases settled within six months
1.4	Increase the percent of cases that take less than a year to settle to 99 percent
1.5	Increase the percent of Commission-level review decisions issued within a year
1.6	Reduce the percent of Commission-level cases pending more than two years
1.7	Establish and comply with quality standards
1.8	Explore ways to adapt alternative means of dispute resolution to case processing

Strategy for Improving Public Service

Our strategy for achieving this goal is to continue to pursue the expeditious disposition of cases while delivering quality service to the public through a variety of means.

- Use an internal team to develop baselines for case processing and decision quality
- Benchmark alternative means of dispute resolution used in similar adjudicative processes and adapted appropriate measures to reduce the costs of dispute resolution
- ALJ HEARING LEVEL
- Expedite the assignment of cases to judges
- Use objective criteria to determine complex cases, and track the processing of these cases
- Monitor closely case performance, and improve case management information systems and reports
- Conduct early review and screening of the potentially difficult cases
- Provide training to all judges on a variety of subjects, including technical and legal issues, legal writing, case management and alternative means of dispute resolution to help them develop the most skillful services and processes equal to the very best in judicial arenas
- Continue to use a team of judges to handle, on a rotational basis, extremely complex cases and assign appropriate staff to timely process and monitor such cases, including settlement discussions
- COMMISSION REVIEW LEVEL
- Continue the Commission's effort to focus on the disposition of a balance of older and newer cases, giving priority to the more significant and more complex cases
- Concentrate efforts on issuing the maximum number of decisions possible, while at the same time, reducing the number of older cases pending and ultimately the age of the pending inventory
- Implement internal markers to assist in the preparation of cases and issuance of Commission decisions
- Accelerate processing of cases through a variety of efforts, including early intervention of the chief counsels, briefing new attorneys and new Commissioners on Review Commission procedures and legal precedent, developing a Review Commission procedures manual, and creating ways to resolve cases when there are only two Commission members
- Continue to use teams and staff meetings in the Office of the General Counsel
- Develop creative methods to shorten case preparation of documents and develop alternatives to current formats of decisions

External Communications Goal

<p>GOAL # 2 External Communications Goal</p> <p><i>To enhance the efficiency and effectiveness of communications between the Commission and the public it serves</i></p>

PERFORMANCE OBJECTIVES	
2.1	Improve the effectiveness of the Review Commission’s website to ensure that communications remains open, research-friendly, and current
2.2	Provide decisions and other agency publications to the public and litigants through the website
2.3	Increase the frequency of publication of CD-ROMs for use by litigants, libraries, and other interested parties
2.4	Improve and strengthen mechanisms for communications between the Review Commission and entities that have an interest in its activities
2.5	Produce reports on the Review Commission’s activities
2.6	Promote the use of electronic transmission of documents to the Review Commission
2.7	Improve the timeliness of responses to questions received from the public

Strategy for Enhancing External Communications

The thrust of our strategy here will be to build on the improvement in the quality of our procedural guides and the professionalization of our other paper publications by making all of our decisions and publications available in electronic format, as we work toward paperwork reduction and elimination. Our emphasis will be on timely dissemination of information in a format that is research-friendly.

- Provide greater public access to Review Commission activities and decisions by its Administrative Law Judges, the Commissioners and, where applicable, subsequent published decisions by an appellate court through the use of the Internet

- Use modern automated technology and techniques, both inside and outside the Review Commission, to provide faster and better public access to and dissemination of Review Commission information and decisions
- Convert older Review Commission decisions into research-friendly electronic form for inclusion on the Review Commission's web site
- Continue to provide links to appropriate state websites on the Review Commission's website to assist the public in gaining easy access to information from each of the states that operates its own Federally approved job safety and health enforcement and adjudication system
- Use the Review Commission's website to provide information released under the Freedom of Information Act (FOIA) and certain other information not currently available to the public without the need to make a FOIA request first or without the need for significant search time
- Develop methods to routinely get feedback from the Commission's external stakeholders
- Explore and develop technology which will enable electronic transmission of information required by the Review Commission, and improve the quality and efficiency of filing documents with the Review Commission
- Promote the use of electronic communications when dealing with litigants and other external resources (e.g., government agencies, vendor solicitations, FOIA requests)
- Develop and strengthen mechanisms to disseminate significant Review Commission information on a timely basis to inform the public of critical safety and health issues decided by the Review Commission
- Expand the use of web-enabled and other information technologies that increase the effectiveness and efficiency of Review Commission operations
- Improve the Review Commission's capability to obtain paperless interfaces and online access with government and non government systems

Organizational Goal

GOAL #3 Organizational Goal

To further develop and invest in a highly effective, motivated, and diverse workforce equipped with modern information, technology, and communications systems to facilitate the accomplishment of its goals, meet program needs and increase organizational effectiveness and efficiency

PERFORMANCE OBJECTIVES

3.1	Recruit and maintain a diverse, and highly motivated staff with the skills necessary to support the mission of the Agency
3.2	Increase staff development and training opportunities that optimize our employees' capabilities, potential, and level of technical competence through a variety of methods
3.3	Improve internal communications and create a culture that promotes teamwork
3.4	Implement management and administrative tools to support the organizational and program needs
3.5	Fully use the awards system to motivate high-level performance and innovation, and to encourage achievement of the Agency's strategic goals
3.6	Improve the performance management program (e.g., position descriptions, performance plans, award systems) to enhance individual and organizational effectiveness
3.7	Invest in an effective information technology infrastructure that meets user needs, protects privacy, and secures against unauthorized access or disruption
3.8	Increase employee productivity and improve the quality of work products by ensuring that employees have the automation and research tools necessary to perform their job
3.9	Increase electronic communications to improve quality, availability, and speed of information and efficiency of operations
3.10	Enhance case management/tracking abilities to provide additional management and performance evaluation information
3.11	Improve the quality of work life

Strategy for Investment in Human Resources and Management

In the human resource area, our strategy has three significant elements to create and maintain a high performing workforce -- recruitment, employee development, and management and administrative support tools.

- Develop and implement succession and workforce transition plans to minimize the impact of attrition because of the expected retirement wave, and recruit for positions from a cross section of sources, including colleges, universities, law schools
- Create a culture that incorporates core values and provide a work environment with workplace policies and programs that enable employees to excel, including telecommuting initiatives, family-friendly initiatives, and enhanced transit subsidies
- Rewrite position descriptions, develop core competencies for positions, and link appropriate employees' performance plans to accomplishment of the Agency's strategic and performance goals
- Integrate the redesigned performance and Chairman team awards and suggestions programs with our performance management systems to encourage innovation, quality improvements, team work, and goal achievement, as well as high level individual performance
- Assess periodically the training needs of employees to target and prioritize training for basic, developmental and leadership courses and deliver training by using the most efficient and effective means, including use of Internet, on-line training, video training, and CD ROMs to achieve Agency goals, and high quality performance
- Develop documentation and data collection instruments to assess the quality of training provided and to determine the extent to which training expenditures enhance employees' ability to better perform their jobs
- The General Counsel will conduct on-the-job training on various subjects, including significant legal or procedural developments, and effective and efficient case handling. The Executive Director will conduct training on Agency goals, objectives, and strategies and measurements
- Develop knowledge management strategies, supported by appropriate software, to maintain a highly effective workforce technically proficient in the rapid changes in computer technology, worker safety and health standards, procurement, leadership and management initiatives, and financial and personnel management
- Assess the effectiveness of internal communications, develop and disseminate revised Agency policy directives, prepare a list of specific changes that can be made to improve the effectiveness of communications among Review Commission employees, and between employees and managers, and implement necessary changes
- Guard the integrity and efficiency of the financial management and human resource programs to support program and organizational needs
- Continue to provide state-of-the art research tools, including on-line capabilities and improved Review Commission library services

Strategy for Using Technology

Our strategy is to capitalize on the advances we have made and continue to increase proficiency and efficiency in our use of new technology to effectively accomplish program objectives and meet customer expectations.

- Improve telecommunications, availability, and speed of information accessed by employees, Federal agencies, and the public
- Maintain an infrastructure of modern servers, personal computers, networks, operating systems, databases, telecommunications and other technology
- Develop an overall information technology (IT) security program plan, and provide IT security awareness training
- Improve technology to support our knowledge management strategies
- Develop Intranet to assist in operating more efficiently and increase employees' effectiveness in servicing internal and external customers

- Develop useful management and financial information systems that facilitate aggregate reporting and oversight procedures and secure the information we possess
- Enhance case management/case tracking by developing systems that will support additional reporting and data communications capabilities, including tracking large or complex cases
- Equip appropriate employees with portable computers to function as both desktop and portable systems ("docking stations")
- Provide the most efficient and effective means of delivering training, including use of the Internet, on-line training, and video training

Consultation Planning Process

In developing this plan, we met with a variety of parties, customers, and stakeholders. We held a series of talking and listening meetings with attorneys, employers, representatives from unions, representatives from trade associations, and Department of Labor litigators. We initiated consultations with Congress in the summer of 2000 to share information obtained from these meetings and obtain their input on the revised strategic plan. In July 2000, Agency representatives met with staff members of the Committee on Education and the Workforce. We also met with staff members of the Appropriations Committees in August 2000.

Internally, we surveyed all Review Commission employees to obtain feedback on the current strategic plan and performance objectives. We conducted follow-up internal focus groups of the Review Commission employees. We also discussed the revised strategic plan with the Review Commission employees after obtaining input from our external stakeholders. These personal meetings provided valuable insight into the needs and concerns of the public and our employees, and helped us to revise our goals and strategies.

We also relied on extensive analysis of case processing statistics from our case tracking system, the fiscal year 1999 performance report, and progress reports against our fiscal year 2000 performance plan. We also reviewed plans of, and when appropriate consulted with, other Federal adjudicative agencies during the drafting stage of our plan.

Program Evaluation

Over the next several years we plan to conduct evaluations which will provide information which we can use to improve our Agency's operations, processes, and procedures. The program evaluations required under GPRA to be conducted for specific programs designed to achieve the goals and objectives of this strategic plan will be included in each of our annual performance plans. However, our program and process evaluation approaches include the following components:

- Evaluate the Settlement Part Pilot program in FY 2000
- Evaluate the E-Z Trial program in FY 2001
- Meet quarterly with the internal strategic leadership team to monitor outcomes and quantitative data, perform semiannual reviews of progress against performance measures with the manager of each functional area, and report the results in the annual program performance reports
- Hold meetings with stakeholders' groups on key business processes
- Carry out annual surveys of internal customer satisfaction
- Evaluate the case management/tracking system
- Evaluate pilot programs such as our electronic filing of legal documents and the individual learning accounts for training
- Evaluate the impact of security management systems and measures for addressing security issues
- Conduct, if money is available, an independent external review by knowledgeable academics in the field of administrative law and judicial management, of the above Agency reports and Agency performance measures prior to updating our strategic plan in fiscal year 2003

Although the planning cycle was institutionalized under GPRA, we believe that it is critical to focus attention on this process and set planning and evaluation milestones which are clearly communicated to the entire organization. Our strategy is to integrate the plan, its development process and progress evaluation into the normal operating procedures of the organization. We plan to do this by: (1) making stakeholder input a continuing function, (2) making performance measurement and tracking routine, with data on performance and internal indicators readily available to the entire organization, and (3) requiring periodic evaluations of progress against the plan by the Agency's leadership.

In addition to the performance measures envisioned in GPRA, we will also create sub-level indicators for each functional unit. These internal indicators are operational tools to buttress efforts to achieve our external goals. For example, we will set interim milestones and track incremental processing steps or developments on Commission-level cases, which, if achieved, should assist in achieving the goals for Commission review.

Relationship Between Strategic Plan and Annual Performance Measures

This strategic plan establishes goals, the attainment of which can be explicitly measured or observed. The performance goals and measures that will be used to determine the achievement of the general goals and objectives will be identified in the annual performance plans. These measures can be assessed using information in the Review Commission's case management/tracking system, or have concrete and clearly observable outcomes. The achievement of a few objectives will depend not only upon the progress made against quantitative measures, but also upon the reaction of stakeholders and the public to the Review Commission's performance and its initiatives. These include several of the external communications objectives and organizational objectives. Reaching conclusions on these qualitative objectives will be somewhat more difficult, but we plan to use program evaluations, meetings, and focus groups to help reach judgments on the level of success in achieving our goals.

We will formulate performance measures for each strategic goal and its related objectives. The Table below illustrates the relationships between the outcome objectives in the strategic plan and the potential performance measures that could be stated in our performance plan. Although these measures are not final, they are potential measures for inclusion in our performance plans. We will establish annual numerical targets for these measures whenever possible.

STRATEGIC PLAN OBJECTIVES AND POTENTIAL PERFORMANCE PLAN MEASURES

PERFORMANCE OBJECTIVES		POTENTIAL PERFORMANCE MEASURES
1.1	Increase the percent of non-complex cases heard by Administrative Law Judges that take less than a year to resolve	Percent of non-complex cases decided in less than a year
1.2	Increase the percent of complex cases heard by Administrative Law Judges within 18 months	Percent of complex cases decided in 18 months
1.3	Increase the percent of cases settled within six months	Percent of cases settled in six months
1.4	Increase the percent of cases that take less than a year to settle to 99 percent	Percent of cases settled in less than one year
1.5	Increase the percent of Commission-level review decisions issued within a year.	Percent of cases reviewed by the Commissioners each year
1.6	Reduce the percent of Commission-level cases pending more than two years	Percent of cases pending more than two years
1.7	Establish and comply with quality standards	Use baseline standards to measure the quality review process for case processing and decisions
2.2	Provide decisions and other Agency publications to the public and litigants through the website	Hits on the Review Commission's web pages (average hits per month)
2.3	Increase the frequency of publication of CD-ROMs for use by litigants, libraries and other interested parties	Number of CD-ROMs published
3.2	Provide training and increase staff development opportunities that optimize our employees' capabilities, potential, and level of technical competence through a variety of methods	Number of hours and type of training provided
3.5	Fully utilize the awards system to motivate high-level performance and innovation, and to encourage achievement of the Agency's strategic goals	Number and types of awards
3.10	Enhance case management/tracking abilities to provide additional management and performance evaluation information	Accuracy level, number of enhancements, and reports
3.11	Improve quality of work life	Internal surveys and evaluations of employees and managers