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Report to the Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate

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MERIT SYSTEMS PROTECTION BOARD

Mission Performance, Employee Protections, and Working Environment

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The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

Dear Senator Glenn:

This report responds to your request that we examine certain aspects of the Merit Systems Protection Board's (MSPB) performance, management, and operations in light of the critical role it plays as a protector of the federal merit employment system. Specifically, you asked us to:

- assess whether MSPB, through its appeals process, is accomplishing its statutory mission to protect federal employees against prohibited personnel practices and abusive personnel decisions and whether MSPB is abiding by its own guidelines in determining these cases in a fair and timely manner;
- determine what accountability mechanisms MSPB has in place to provide its employees the merit system protections that MSPB was created to uphold; and
- identify what actions MSPB has taken, and the extent to which it has been successful, in fostering "an environment of trust, respect, and fairness," as called for in its 1992 vision statement pledge to "promote and protect, by deed and example," federal merit employment principles.

Your request noted that effective oversight of MSPB is particularly important and that confirmation of MSPB's current chairman (sworn in on July 2, 1993) made it a good time for our examination of MSPB to take place. However, because the current chairman had only recently taken office when our work began in November 1993, the data we collected necessarily covered both the early part of his tenure and the latter part of his predecessor's.

Background

MSPB is an independent, quasijudicial executive agency created by the Civil Service Reform Act of 1978. Its mission is to ensure that (1) federal employees are protected against abuses by their agencies' management, (2) executive branch agencies make employment decisions in accordance with merit system principles, and (3) federal merit systems are kept free of prohibited personnel practices.

In large part, MSPB is to pursue its mission by hearing and deciding appeals by federal employees of actions taken against them by their agencies. Initially, an employee files his or her appeal at one of MSPB's regional or field offices. The appeal is then to be heard and decided by an administrative judge. The decision becomes final in 35 days unless one of the parties to the appeal files a petition for review to the board members or MSPB reopens the appeal on its own motion. In such cases, the petition for review is to be processed at MSPB headquarters. The board members' decision constitutes the final administrative action unless the appeal involves allegations of discrimination, in which case the Equal Employment Opportunity Commission may become involved. An employee who is dissatisfied with the board members' final decision may appeal it to the U.S. Court of Appeals for the Federal Circuit or, if allegations of discrimination are involved, bring the case before a U.S. district court.

MSPB's three-member bipartisan Board consists of a chairman, a vice chairman, and a member, all of whom are appointed by the president with the advice and consent of the Senate to serve overlapping, nonrenewable 7-year terms.

MSPB's fiscal year 1994 appropriation was $24.7 million. As of the end of fiscal year 1994, it had 289 employees. Under Public Law 103-424, signed by the president on October 29, 1994, MSPB was reauthorized for a period of 3 years.

Results in Brief

Based on practitioners' views of the appeals process and on the high rate at which the U.S. Court of Appeals for the Federal Circuit has affirmed MSPB's final decisions, MSPB is generally accomplishing its statutory mission. In three of the five practitioner groups we surveyed—agency general counsels, agency attorneys and representatives, and agency employee and labor-management relations representatives—from 83 to 89 percent of the respondents expressed opinions that MSPB has been very or generally successful in accomplishing its mission, while from 0 to 2 percent indicated that it has been very or generally unsuccessful. In the remaining two practitioner groups, 46 percent of the private attorneys and 45 percent of the union officials expressed opinions that MSPB has been very or generally successful; 25 percent of the attorneys and 23 percent of the union officials indicated that it has been very or generally unsuccessful.

The responses from the practitioner groups reflect a general view that MSPB has been fair in processing employee appeals of agency personnel actions. MSPB's fairness in processing employee appeals was further indicated by the fact that over the 4-year period ending September 1994, 91 percent of the final MSPB decisions appealed to the U.S. Court of Appeals for the Federal Circuit were upheld; the remainder were either reversed or returned to MSPB for further action.

Regarding the timely processing of appeals, over the 4-year period ending September 1994, the regional offices almost always met MSPB's self-imposed 120-day case processing guideline (96 percent in fiscal year 1994). Headquarters met management's 110-day guideline less often (61 percent in fiscal year 1994), but its performance in this regard had improved from fiscal years 1991 to 1993. To explain the fact that headquarters met its case processing guideline less often than the regional offices, an MSPB official cited the complexity of cases reaching the petition-for-review stage and the fact that individual cases may have been kept pending for various reasons. Moreover, according to MSPB's chairman, management imposed the 110-day guideline at headquarters as a goal to strive toward rather than as a hard and fast requirement for headquarters staff.

MSPB has established accountability mechanisms in the form of policies, procedures, and processes to protect its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices.[1] To protect its employees against workplace discrimination, MSPB has established an equal employment opportunity (EEO) policy and has taken various actions to implement it, such as providing EEO training opportunities to its supervisors, managers, and EEO staff and recently instituting an individual performance evaluation element for diversity. Further, MSPB has established procedures for handling EEO complaints and has made employees aware of their rights under these procedures.

In February 1994, MSPB abolished its nonstatutory Office of the Inspector General (OIG) because of management's concerns about its effectiveness and efficiency. To provide MSPB employees with an avenue for reporting their concerns should they become aware of mismanagement, abuse, or improper personnel practices, MSPB arranged for hotline and investigative services through the U.S. Department of Agriculture's (USDA) Inspector General. MSPB also has transferred its OIG internal oversight functions to its

[1]In addition, MSPB employees' appeals of personnel actions taken against them, such as removals or reductions in grade, are heard internally by MSPB's own administrative law judge.

Office of the General Counsel (OGC). MSPB's arrangements for carrying out these activities are comparable to those of the 10 other federal entities we studied;[2] if these arrangements are implemented as planned, MSPB should be able to comply with federal audit and investigative requirements. However, because these arrangements have not been operational very long, it is too early to tell how effective they will be.

Despite MSPB's provisions for the protection of its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices, about two-fifths of the employees responding to our survey indicated they would be reluctant to become involved in the process for handling EEO complaints. Slightly over one-half of the respondents indicated they would be reluctant to report allegations of wrongdoing. Also, while almost two-thirds of the respondents described the work environment at MSPB as impartial, nearly one-fourth of the respondents—mostly women and minorities—described it as discriminatory. Although these responses represent perceptions rather than proof of discrimination or indicators of wrongdoing going unreported, we believe the perceptions are held by a large enough portion of MSPB's workforce to be of concern to MSPB, especially in light of its role as protector of the merit system and the standard it set for itself in its 1992 vision statement, "To promote and protect, by deed and example, the Federal merit principles in an environment of trust, respect and fairness."

MSPB officials said that since the agency announced its vision statement in November 1992, it has taken a variety of actions to foster an environment of trust, respect, and fairness. But while 29 percent of survey respondents felt MSPB has been successful in fostering such an environment, 39 percent felt it has been unsuccessful. MSPB officials believe these responses may have been affected by the uncertainties associated with the arrival of a new chairman and management's ensuing efforts to reorganize and reengineer agency operations.

MSPB employees' views of their work environment are somewhat similar to those of federal employees in general. The Office of Personnel Management's (OPM) 1992 survey of nearly 57,000 federal employees showed that while 44 percent expressed confidence and trust in their organizations, 26 percent did not; and while 30 percent believed their

[2]The 10 federal entities were the Federal Retirement Thrift Investment Board, Inter-American Foundation, Institute of Museum Services, Federal Mediation and Conciliation Service, National Transportation Safety Board, National Gallery of Art, Occupational Safety and Health Review Commission, American Battle Monuments Commission, State Justice Institute, and U.S. Institute of Peace.

organizations treated all employees equally, regardless of position or rank, 47 percent did not.

Scope and Methodology

To assess whether MSPB is accomplishing its statutory mission through the appeals process in a fair and timely manner, we developed a mail questionnaire to obtain the views of practitioners who had represented federal employees or agencies before MSPB during the 2-year period ending September 1993 (see app. I). The results of our survey can be projected to the populations from which the survey respondents were selected. We analyzed MSPB's case processing performance reports to determine whether MSPB met its case processing guidelines at the regional and headquarters levels in fiscal years 1991 through 1994. Additionally, we analyzed data on the extent to which MSPB's final decisions were appealed to the U.S. Court of Appeals for the Federal Circuit and the court's disposition of these appeals.

To determine what accountability mechanisms MSPB had in place to provide its employees the merit system protections that MSPB was created to uphold, we reviewed the agency's EEO and internal oversight activities designed to protect its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices. In doing so, we reviewed MSPB's EEO policy, procedures, and processes and compared its provisions for internal oversight to those of 10 other federal entities that are roughly comparable to MSPB in budget and staff size. Further, we developed and mailed a questionnaire to all MSPB employees as of May 12, 1994, asking for their views on selected aspects of the agency's EEO operations and internal oversight activities (see app. II).

To determine what actions MSPB had taken to foster a work environment that is based on trust, respect, and fairness, we interviewed MSPB's Chief Operating Officer, EEO director, and members of a task force charged with proposing actions for implementing MSPB's 1992 vision statement. Further, our MSPB employee questionnaire asked employees for their views on how successful their agencies had been in fostering such an environment (see app. II). We compared MSPB employees' views of their work environment to those reported by federal employees in a 1992 OPM governmentwide survey.

More information on our scope and methodology is presented in appendix III.

MSPB's chairman provided us written comments on a draft of this report by letter dated July 14, 1995. A summary of his comments is presented on page 19, and they are reprinted in their entirety in appendix VI.

We did our review between November 1993 and January 1995. It was done in the Washington, D.C., area in accordance with generally accepted government auditing standards.

MSPB Is Generally Accomplishing Its Statutory Mission

In each of the practitioner groups we surveyed, the percentage of respondents who expressed the opinion that MSPB has been successful in accomplishing its mission was higher than the percentage who indicated that it has not been successful. As shown in table 1, the percentages varied among the practitioner groups. For example, the responses from agency general counsels were the most favorable: 89 percent of the general counsels responding to our survey believed MSPB has been very or generally successful in accomplishing its mission; none of these respondents believed MSPB has been very or generally unsuccessful. By comparison, the responses from union officials were the least favorable: 45 percent of the union officials expressing an opinion indicated that MSPB has been very or generally successful in accomplishing its mission, while 23 percent indicated that it has been very or generally unsuccessful.

Table 1: Participants' Opinions on How Successful MSPB Has Been in Accomplishing Its Mission Through the Appeals Process

	Percentage of respondents[a]			
Participant group	Very or generally successful	As successful as unsuccessful	Very or generally unsuccessful	Number expressing an opinion
Agency general counsels	89	11	0	35
Agency attorneys and representatives	86	12	2	344
Agency employee and labor-management relations representatives	83	17	0	30
Private attorneys	46	28	25	102
Union officials	45	32	23	66

[a]The percentages do not always total 100 due to rounding.

Source: GAO's Survey on MSPB's Appellate Process.

The responses from the practitioner groups reflect a general view that MSPB has been fair in processing federal employee appeals at the regional and headquarters levels. As shown in table 2, the percentage of respondents who indicated that MSPB's appellate process at the regional level was almost always or generally fair ranged from a high of 93 percent among agency general counsels to a low of 59 percent among union officials. The percentage of respondents who viewed the process at the regional level as very or generally unfair ranged from a low of 0 percent among agency general counsels and employee and labor-management relations representatives to a high of 26 percent among union officials.

Table 2: Participants' Opinions on the Fairness of the Appeals Process at the Regional Office Level

	Percentage of respondents[a]			
Participant group	Almost always or generally fair	Fair as often as unfair	Very or generally unfair	Number expressing an opinion
Agency general counsels	93	8	0	40
Agency attorneys and representatives	91	8	1	359
Agency employee and labor-management relations representatives	85	15	0	27
Private attorneys	63	17	20	127
Union officials	59	15	26	74

[a]The percentages do not always total 100 due to rounding.

Source: GAO's Survey on MSPB's Appellate Process.

As for the fairness of MSPB's appellate process at the headquarters level, table 3 shows that the percentage of respondents indicating that the process was almost always or generally fair ranged from a high of 95 percent among employee and labor-management relations representatives to a low of 46 percent among private attorneys. The percentage of respondents indicating that the appellate process at the headquarters level was very or generally unfair ranged from a low of 0 percent among agency general counsels to a high of 29 percent among private attorneys.

Table 3: Participants' Opinions on the Fairness of the Appeals Process at the Headquarters Level

	Percentage of respondents			
Participant group	Almost always or generally fair	Fair as often as unfair	Very or generally unfair	Number expressing an opinion
Agency general counsels	87	13	0	31
Agency attorneys and representatives	90	7	3	224
Agency employee and labor-management relations representatives	95	0	5	21
Private attorneys	46	25	29	69
Union officials	81	6	13	31

Source: GAO's Survey on MSPB's Appellate Process.

Another measure of MSPB's fairness in processing employee appeals is the rate at which the U.S. Court of Appeals for the Federal Circuit has affirmed MSPB's final decisions. As shown in table 4, during the 4-year period ending September 1994, 1,422 MSPB final decisions were appealed to the court and adjudicated on the merits. Of that amount, 1,287 cases (91 percent) were affirmed, while 116 cases (8 percent) were either reversed (3 percent) or remanded (5 percent) to MSPB for further processing.

Table 4: Dispositions of MSPB Decisions Reviewed and Adjudicated by the Court of Appeals for the Federal Circuit for the Period of FY 1991 Through FY 1994

	FY 1991		FY 1992		FY 1993		FY 1994		Total for 4-year period	
Disposition	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
Affirmed	196	91	409	94	370	90	312	86	1,287	91
Board initiated remand[a]	0	0	5	1	9	2	11	3	25	2
Court initiated remand[b]	6	3	11	3	10	2	14	4	41	3
Reversed	4	2	7	2	22	5	17	5	50	3
Other[c]	9	4	1	<1	0	0	9	2	19	1
Total cases	**215**	**100**	**433**	**100**	**411**	**99[d]**	**363**	**100**	**1,422**	**100**

[a]A case was returned to MSPB by the U.S. Court of Appeals for the Federal Circuit after MSPB requested additional processing of the case.

[b]A case was returned to MSPB by the U.S. Court of Appeals for the Federal Circuit for further action.

[c]This category includes court-vacated or summary decisions.

[d]This percentage does not total 100 due to rounding.

Source: GAO's analysis of MSPB's Case Management System data.

According to a recognized expert on the administrative redress system for federal employees, the affirmation rate of MSPB's decisions by the U.S. Court of Appeals for the Federal Circuit is much higher than the rate at which other federal circuits affirm the decisions of other federal administrative tribunals.[3]

Guidelines for the length of time MSPB should take to process cases differ at the regional and headquarters levels. Guidelines at the regional level stipulate that cases be processed in no more than 120 days. This guideline was imposed by MSPB itself and is identical to the time limit in the statute (5 U.S.C. 7702(a)(1)) requiring MSPB to decide appeals that involve allegations of discrimination within 120 days of the filing of the appeal. At the headquarters level, cases are to be processed within 110 days. This guideline also is self-imposed; the chairman explained that the 110-day guideline at the headquarters level represents a goal to strive toward rather than a hard and fast requirement for processing petitions for review

[3]Peter B. Broida, A Guide to Merit Systems Protection Board Law and Practice, 1979-1992 (Arlington, VA: Dewey Publications, Inc.), page 2,118.

(PFR). Further, MSPB's written policy states that "it will attempt to complete action on petitions for review of initial decisions within 110 days."

Over the 4-year period ending September 1994, the regional offices took an average of 78 days to process initial employee appeals and almost always met their 120-day case processing guideline. Most survey respondents were either very satisfied or generally satisfied with the actual amount of time MSPB took to process cases at the regional level (see app. I, question 22). Satisfaction with actual processing time ranged from 87 percent for employee and labor-management relations representatives to 67 percent for agency general counsels. Dissatisfaction with processing time among the five practitioner groups ranged from a high of 18 percent for agency general counsels to a low of 7 percent for agency attorneys and representatives. As shown in table 5, of the initial appeals processed at the regional office level in fiscal years 1991 through 1994, 3 percent, on average, were not processed within the 120-day guideline.

Table 5: Timeliness of Processing Initial Appeals at the Regional Office Level for the Period of FY 1991 Through FY 1994

		Percent[a] of cases processed in:					
Fiscal year	Number cases processed	0-30 days	31-60 days	61-90 days	91-120 days	More than 120 days	Overall average days
1991	7,525	8	29	28	34	1	74
1992	7,293	8	26	27	37	3	78
1993	6,861	8	25	26	37	4	79
1994	7,530	8	24	26	38	4	81
Cumulative results, 1991-1994	29,209	8	26	27	37	3	78

[a]The percentages do not always total 100 due to rounding.

Source: GAO's analysis of MSPB's Case Management System data.

During the same 4-year period, headquarters took an average of 170 days to process PFR cases. Although headquarters met its guideline less often than the regional offices met theirs, its processing time had been improving until fiscal year 1994. Most survey respondents were very or generally satisfied with the actual processing time at headquarters (see app. I, question 26). Satisfaction with actual processing time ranged from 68 percent for the agency attorneys and representatives to 44 percent for agency general counsels. Dissatisfaction among the five practitioner

groups with actual processing time at the headquarters level ranged from a high of 31 percent for private attorneys and agency general counsels to a low of 20 percent for agency attorneys and representatives. As shown in table 6, the percentage of PFR cases processed within the 110-day guideline at the headquarters level over the 4-year period steadily increased from 52 percent in fiscal year 1991 to 78 percent in fiscal year 1993, but it dropped to 61 percent in fiscal year 1994.

Table 6: Timeliness of Headquarters' Processing of PFRs on Merit Cases for the Period of FY 1991 Through FY 1994

		Percent[a] of cases processed in:				
Fiscal year	Number of cases processed	0-110 days	111-150 days	151-240 days	More than 240 days	Overall average days
1991	1,503	52	14	10	25	220
1992	1,612	70	5	8	17	165
1993	1,317	78	7	4	11	131
1994	1,696	61	11	9	19	162
Cumulative results, 1991-1994	6,128	65	9	8	18	170

[a]The percentages do not always total 100 due to rounding.

Source: GAO's analysis of MSPB's Case Management System data.

According to an MSPB headquarters official, the decline during 1994 in the percentage of PFR cases decided within 110 days was caused by an increase in workload due to Postal Service reorganization cases.[4] Also, the chairman cited two additional reasons for the drop in the fiscal year 1994 PFR processing time: a conscious effort by headquarters to reduce the backlog of PFR cases over 1 year old and a decrease in staff occurring simultaneously with an increase in PFR caseload.

In explaining the generally longer headquarters processing times, an MSPB official cited the complexity of cases reaching the PFR stage and the fact that individual cases may have been kept pending for various reasons, such as related cases being held to allow MSPB to decide a lead case. Also, cases have been held because they involved issues under consideration by the courts or because the contending parties failed to provide necessary

[4]In effecting a major restructuring in late 1992, the U.S. Postal Service abolished thousands of management positions, moved several thousand employees to lower graded positions, and offered buyouts as an inducement to employees to retire. The Postal Service maintained that the restructuring was not a reduction in force and that personnel actions taken in the course of the restructuring, therefore, were not appealable to MSPB. By the end of fiscal year 1993, however, MSPB had received a total of 277 appeals of actions resulting from the Postal Service reorganization.

information within the 110-day period. Further, according to the MSPB official, complex cases occasionally take more than 110 days because they require more time for research, analysis, and drafting, and for a majority of the board members to agree on a decision.

MSPB recently expanded its commitment to improving the appellate process by further encouraging the settlement of appeals. In June 1994, in accordance with National Performance Review (NPR) recommendations encouraging the use of alternative dispute resolution techniques, MSPB established a program to help parties resolve their disputes at the PFR level. From June 1994 through the end of September 1994, MSPB headquarters settlement attorneys attempted to settle 52 cases and succeeded in settling 17 cases—a success rate of 33 percent. MSPB is considering doing a comprehensive assessment of the PFR settlement program after more time has passed.

MSPB Has EEO and Internal Oversight Processes to Protect Its Employees, but Some Employees Expressed Concerns About Participating in These Processes

MSPB has established accountability mechanisms in the form of policies, procedures, and processes to protect its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices. MSPB has established an EEO policy and has taken various actions to implement it. The agency also has established new internal oversight arrangements in lieu of the nonstatutory OIG it abolished in February 1994. Despite these actions, a substantial number of employees expressed concerns about participating in the processes for handling EEO complaints and for reporting allegations of wrongdoing.

MSPB's EEO Policy and Its Implementation

MSPB's EEO policy is to provide equal opportunity to all persons and to prohibit discrimination because of race, color, sex, age, religion, national origin, or handicapping condition. In addition, its written policy prohibits reprisals against individuals who file a discrimination complaint; testify, assist, or participate in any manner in an investigation, proceeding, or hearing; or oppose a practice prohibited by Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, or the Rehabilitation Act. To facilitate implementation of its EEO policy, MSPB has (1) provided EEO training opportunities to supervisors, managers, and EEO staff; (2) evaluated supervisors and managers and rewarded some for their EEO performance; and (3) taken steps to inform employees about the EEO complaint process and their rights under it.

MSPB's EEO manual, distributed in April 1994, states that "as part of its commitment to equal opportunity in all management actions and decisions, training will be given to managers, supervisors and other personnel as a way of furthering EEO objectives." According to an MSPB official, all office directors, managers, and supervisors are responsible for identifying and obtaining the necessary EEO training for themselves, and the EEO director is responsible for ensuring that EEO counselors are knowledgeable of current federal EEO rules and regulations. MSPB training data provided to us showed that during the 2-year period ending September 1993, MSPB managers and supervisors were provided opportunities for training and were encouraged to attend various internal and external EEO training courses. The MSPB training data also showed that 10 of MSPB's 21 EEO staff, which consists of 2 full-time staff and 19 collateral-duty staff (mostly EEO counselors) received some type of EEO training during the 2-year period.

In November 1993, the chairman informed MSPB employees of his strong commitment to diversity and equitable treatment in the workplace. To demonstrate his commitment, he established a new performance element under which to review and evaluate employees' performance in valuing and respecting diversity in the workplace. An MSPB official told us that top management takes its commitment to EEO very seriously, as demonstrated by the fact that only one MSPB manager has received an outstanding rating under the new performance element. MSPB's senior executives and other managers and supervisory employees are also evaluated on their adherence to EEO and affirmative action principles under the performance element on human resources management.

To reward EEO performance, MSPB established the Chairman's Award for Excellence in EEO. An employee is eligible for this award under eight criteria, one of them being whether his or her leadership in achieving EEO goals and objectives serves as a model for others. Since October 1990, three MSPB employees have received the award—one manager and one nonsupervisory employee in January 1992 and another manager in November 1994.

MSPB's EEO director told us that MSPB has taken various actions to communicate MSPB's EEO policy, program, and complaint process to employees and to make them aware of their EEO rights. For example, offices and employees were provided information on the names and locations of the agency's EEO counselors and special emphasis program managers and on the circumstances under which EEO counseling should be

sought. Also, in April 1994, MSPB's EEO manual was distributed to all MSPB offices for their employees' reference and use. As shown in table 7, most of the survey respondents indicated that they had received or seen posted information that described MSPB's EEO program, their EEO rights, and procedures for contacting MSPB's EEO counselors; less than one-half of the respondents indicated that they had received or seen posted information that described the details of the EEO complaint process.

Table 7: MSPB Employees' Receipt of Information Regarding EEO

Employees were asked if they had received or seen information posted on:	Number of employees who responded yes	Percent of total survey respondents[a]
MSPB's EEO program	145	60
their EEO rights	127	53
how to contact MSPB's EEO counselors	164	68
the EEO complaint process	105	44

[a]Out of the 299 eligible MSPB employees to whom we mailed our questionnaire, 240 responded to it.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment

New Internal Oversight Policies and Procedures Recently Implemented

MSPB abolished its nonstatutory OIG in February 1994 because of concerns about its effectiveness and efficiency and in accordance with NPR's governmentwide goal of streamlining agency operations. Since then, MSPB has assigned the former OIG's internal oversight functions to its OGC. Also, to provide its employees with an avenue for reporting their concerns should they become aware of mismanagement, abuse, or improper personnel practices, MSPB has entered into an oral agreement with USDA's Inspector General for hotline and investigative services.

MSPB's OGC is responsible for planning and directing internal audits of MSPB's programs and operations. However, OGC is to contract for the actual performance of the audits, either with other agencies through interagency agreements or with private firms. MSPB has contracted with a certified public accounting firm to help develop a 5-year audit plan and to establish procedures for handling the agency's internal oversight functions. OGC also is responsible for arranging, as necessary, for investigations into allegations of wrongdoing and for coordinating the hotline and investigative services provided by USDA's Inspector General. Any complaints or allegations received by USDA's Inspector General hotline are to be forwarded to MSPB's OGC for appropriate action. USDA's Inspector

General has agreed to provide investigative services to MSPB on an as-needed basis. As of November 1994, USDA's OIG hotline had received two allegations; both allegations involved complaints about MSPB appellate decisions rather than instances of mismanagement, abuse, or improper personnel practices.

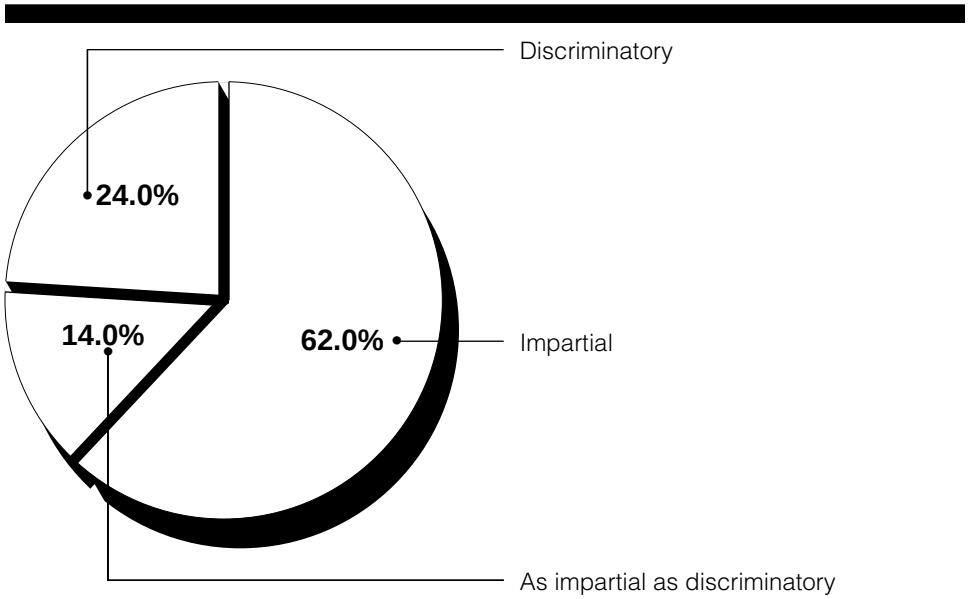
We found that by placing its oversight functions in a staff office in lieu of an OIG, MSPB is administering these functions in a manner comparable to those of 10 other federal entities we studied of roughly comparable budget and staff size (see app. IV). Like MSPB, 8 of the 10 federal entities we studied do not have their own audit or investigative offices but obtain audit or investigative services through contracts with private firms or agreements with other agencies' OIGs. Such arrangements do not ensure the same level of objectivity or independence as do statutory inspector general offices. However, if MSPB's arrangements are implemented as planned, MSPB should be able to comply with federal audit requirements set by the Office of Management and Budget and with investigative requirements set by the President's Council on Integrity and Efficiency. Since MSPB's arrangements are new, data on usage and results are not yet available, and it is too early to assess their effectiveness in ensuring that MSPB employees are provided an avenue for reporting their concerns should they become aware of mismanagement, abuse, or improper personnel practices.

Despite the provisions MSPB has made to protect its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices, a sizeable portion of survey respondents indicated concerns about becoming involved in the processes established for handling EEO complaints and for reporting wrongdoing. About 40 percent of the respondents indicated they would be either uncertain about or unwilling to participate in EEO counseling or to file a formal EEO complaint if they felt they had been discriminated against; the most common reason was fear of reprisal (see app. II, questions 19 through 22). Fifty-one percent of the survey respondents indicated they would be either uncertain about or unwilling to report waste, fraud, abuse, or mismanagement of which they became aware; the most common reasons were a concern over maintaining anonymity and a fear of retaliation (see app. II, questions 24 and 25).

Most Employees Described the MSPB Workplace as Impartial, but Perceptions Varied Among Groups

As shown in figure 1, nearly two-thirds of the MSPB employees responding to our survey described the work environment as impartial. Nearly one-fourth of the respondents described it as discriminatory.

Figure 1: Most Employees Described the Work Environment at MSPB as Impartial



Note: The percentages are based on 221 respondents.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

More female (29 percent) than male (16 percent) employees and more minority (45 percent) than nonminority (18 percent) employees described their work environment as discriminatory (see figure V.1 in app. V). Overall, most survey respondents believed that they had been treated fairly regarding various employment and personnel decisions, such as job assignments and promotions (see table V.1 in app. V). However, more women, minorities, and nonattorneys believed they had been treated unfairly regarding such decisions (see tables V.2 through V.4 in app. V). Sixty-nine (29 percent) of the MSPB employees responding to our survey suggested various actions for MSPB top management to take to further promote an impartial work environment. Employees' suggestions

generally related to promoting more diversity in management; treating everyone fairly; making promotion and hiring decisions only on the basis of merit and not on such factors as race, gender, or political affiliation; and providing counseling and training to supervisors who are repeatedly the subject of EEO complaints.

Regarding actual numbers of EEO cases, our analysis of MSPB data on the EEO complaint process showed that during the 5-year period ending September 1994, 34 employees received EEO counseling, and 10 employees filed a total of 21 formal EEO complaints. We have no basis on which to infer from these numbers the extent to which MSPB has been effective in establishing a fair and impartial workplace.

We recognize that the responses of MSPB employees to our survey represent perceptions rather than proven instances of discrimination or indicators of wrongdoing going unreported. Nevertheless, we believe the fact that, overall, 24 percent of MSPB employees view their workplace as discriminatory, and that 45 percent of the agency's minority employees concur, should be of concern to the agency because of (1) its role as protector of the merit system; and (2) the standard it set for itself in its 1992 vision statement, "To promote and protect, by deed and example, the Federal merit principles in an environment of trust, respect and fairness." We believe that in light of MSPB's mission and the standard adopted in its vision statement, it is important that MSPB's own employees feel confident that they are fairly treated regardless of their race, religion, color, sex, national origin, political affiliation, marital status, disability, or age.

Employees' Perceptions Varied Regarding MSPB's Efforts to Foster an Environment of Trust, Respect, and Fairness

In November 1992, MSPB announced as its vision, "To promote and protect, by deed and example, the Federal merit principles in an environment of trust, respect and fairness." Although the vision statement was developed and adopted prior to the current chairman's appointment, he supports it, according to MSPB officials. MSPB officials said that several actions have been taken to foster "an environment of trust, respect, and fairness." These actions have included the institution of a new performance element for valuing and respecting diversity in the workplace, various efforts to improve internal communication, and the involvement of employees in the decisionmaking process. Examples of these efforts include (1) featuring articles in MSPB's internal newsletter, News of Merit, that highlight various agency events; (2) cross-training employees within MSPB offices; (3) allowing employees to select award recipients; and (4) involving employees in the process for reengineering and reorganizing MSPB in

response to NPR recommendations on streamlining agencies and empowering employees.

Twenty-nine percent of survey respondents expressed the belief that MSPB has been very successful or generally successful in fostering an environment of trust, respect, and fairness. But 39 percent, of whom disproportionate numbers were headquarters, women, and minority employees, expressed the belief that the agency has been generally unsuccessful or very unsuccessful. Respondents' perceptions of MSPB's success varied by duty station, gender, and minority or nonminority status (see figs. V.2 through V.4 in app. V).

MSPB believes that the staff's mixed perceptions of the agency's efforts to foster an environment of trust, respect, and fairness may have been affected by the uncertainties associated with the arrival of a new chairman, along with the staff's concerns over job security at a time when management was in the process of reorganizing and reengineering the agency's operations. However, an internal MSPB survey that was administered about 2 years prior to both our survey and MSPB's current reorganization efforts yielded similar results. Fifty percent of the respondents to MSPB's internal survey administered in February 1992 disagreed with the statement that "overall, the Board creates and fosters an environment of trust, respect, and fairness."

The views of MSPB employees in this regard are somewhat similar to those of federal employees in general. In OPM's 1992 survey of 56,767 federal employees, 44 percent of the respondents expressed confidence and trust in their organizations, but 26 percent did not. OPM's survey also showed that although 30 percent believed their organizations treated all employees equally regardless of position or rank, 47 percent did not. OPM's survey results demonstrate that other federal agencies, based on their employees' perceptions, have had mixed success in fostering trust and fairness in the workplace.

Nearly half (45 percent) of MSPB employees responding to our survey—including many who felt that MSPB has been successful in promoting an environment of trust, respect, and fairness—suggested actions for MSPB top management to take in this regard. The suggestions generally related to improving workplace communication and managerial decisionmaking about employment and resource matters, allowing employees to contribute to the decisionmaking process and involving staff at all levels, and treating staff equitably without regard to position or to

minority or nonminority status. MSPB officials said that some of these suggestions correspond with actions already taken by management, and they are continuing to pursue them.

Conclusion

Our examination of MSPB's mission performance, employee protections, and working environment began 4 months after the swearing-in of MSPB's current chairman and therefore covered a transitional period for the agency. Regarding mission performance and employee protections, indications were that MSPB's new management is pursuing policies and initiatives that are in accord with relevant standards and with the needs of its customers and employees. Management has taken several actions to provide employee protections and to promote a working environment based on trust, respect, and fairness. However, MSPB employees had mixed perceptions of the impartiality of the workplace and of management's success in improving the work environment. We believe the eventual impact on MSPB's employees of management's actions will become clearer after the current chairman has been in office for a longer period of time, and the process of reorganizing and reengineering the agency's operations has been completed.

Agency Comments

In a letter dated July 14, 1995, MSPB's chairman provided comments on a draft of this report. The chairman said that our report, on the whole, was thorough and thoughtfully presented. He did not express any disagreement with its findings and conclusions. His comments consisted of apprising us that (1) processing time for petitions for review on merit cases improved during the first half of fiscal year 1995 (a time period that was outside the scope of our review); and (2) while the report states that OGC will contract out audits, it may also be prudent for OGC, under the current fiscal environment, to arrange for Board personnel to perform some audits in situations where appropriate safeguards can be established. The chairman also recommended a technical change that we made where appropriate. The chairman's comments are presented in their entirety in appendix VI.

We are sending copies of this report to the Chairmen of the Merit Systems Protection Board, the Senate Committee on Governmental Affairs, and the House Committee on Governmental Reform and Oversight. Copies will be made available to others upon request.

This report was prepared under the direction of Stephen Altman, Assistant Director, Federal Management and Workforce Issues. Other major contributors are listed in appendix VII. If you have any questions about this report, please contact me on (202) 512-8676.

Sincerely yours,

L. Nye Stevens
Director
Federal Management and Workforce Issues

Contents

Letter 1

Appendix I Annotated Survey on the Appellate Process of the U.S. Merit Systems Protection Board 26

Appendix II Annotated Survey of U.S. Merit Systems Protection Board Employees' Attitudes and Views About Their Work Environment 38

Appendix III Scope and Methodology 54

MSPB's Appeals Process 54
MSPB's Accountability Mechanisms 58
MSPB's Vision Statement 60
MSPB Employee Questionnaire Objectives and Development 60
Nonsampling Errors on Both Questionnaires 61

Appendix IV Comparison of MSPB's Internal Oversight Arrangements With Those of 10 Other Selected Federal Entities 62

Appendix V Figures and Tables on Selected MSPB Employee Survey Results 64

Appendix VI Comments From the Merit Systems Protection Board 70

Appendix VII GAO Contacts and Staff Acknowledgments 72

Tables

Table 1: Participants' Opinions on How Successful MSPB Has Been in Accomplishing its Mission Through the Appeals Process 6
Table 2: Participants' Opinions on the Fairness of the Appeals Process at the Regional Office Level 7
Table 3: Participants' Opinions on the Fairness of the Appeals Process at the Headquarters Level 8

Table 4: Dispositions of MSPB Decisions Reviewed and Adjudicated by the Court of Appeals for the Federal Circuit for the Period of FY 1991 Through FY 1994 9
Table 5: Timeliness of Processing Initial Appeals at the Regional Office Level for the Period of FY 1991 Through FY 1994 10
Table 6: Timeliness of Headquarters' Processing of PFRs on Merit Cases for the Period of FY 1991 Through FY 1994 11
Table 7: MSPB Employees' Receipt of Information Regarding EEO 14
Table III.1: cipant Groups Included in MSPB's Appeals Process Questionnaire Survey Mailed on April 27, 1994 56
Table III.2: Questionnaire Returns 56
Table III.3: Useable Return Rates by Group 57
Table III.4: Confidence Intervals for GAO's Analysis of Sampled Participants' Views of MSPB's Success in Accomplishing Its Mission and the Fairness of Its Appellate Process 58
Table III.5: Questionnaire Returns 61
Table V.1: Percentage of MSPB Employees Indicating They Believed They Have Been Treated Fairly Regarding Various Personnel and Pay Decisions 65
Table V.2: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Gender 65
Table V.3: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Nonminority/Minority Status 66
Table V.4: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Position 66

Figures

Figure 1: Most Employees Described the Work Environment at MSPB as Impartial 16
Figure V.1: Respondents' Description of the Impartiality of the Work Environment, by Gender and Nonminority/ Minority Status 64
Figure V.2: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Gender 67
Figure V.3: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Nonminority/Minority Status 68
Figure V.4: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Duty Station 69

Abbreviations

EEO	Equal Employment Opportunity
MSPB	Merit Systems Protection Board
NPR	National Performance Review
OGC	Office of the General Counsel
OIG	Office of the Inspector General
OPM	Office of Personnel Management
PFR	petition for review
USDA	U.S. Department of Agriculture

Annotated Survey on the Appellate Process of the U.S. Merit Systems Protection Board

United States General Accounting Office

Survey on the Appellate Process of the U.S. Merit Systems Protection Board

Introduction

The U.S. General Accounting Office (GAO), an independent agency of Congress, is reviewing the U.S. Merit Systems Protection Board (MSPB) at the request of the Chairmen of the House Subcommittee on Civil Service and the Senate Committee on Governmental Affairs. The purpose of this survey is to obtain your views on certain aspects of the MSPB appellate process that are of interest to the committees. Your frank and honest answers will help GAO advise the committees on the MSPB appellate process and the need, if any, to change it. The committees are interested in these aspects of the appellate process:

- -- MSPB's mission accomplishment and fairness of the appellate process,
- -- time limits for filing appeals,
- -- case processing standards, and
- -- alternative dispute resolution practices.

We are sending this questionnaire to:

- -- general counsels of federal agencies,
- -- federal agency attorneys/advocates,
- -- employee and labor-management relations representatives in federal agencies,
- -- private attorneys representing appellants, and
- -- union officials representing appellants.

To obtain different perspectives on MSPB's appellate process, we would appreciate receiving individual responses from each representative. We would like you to focus on your experiences with MSPB's operations since October 1991.

Your responses will be kept confidential and will not be released outside GAO, unless compelled by law to do so or required to do so by the Congress. While the results are generally provided in summary form, individual answers may be discussed in our report, but they will not include any information that could be used to identify individual respondents. The questionnaire is numbered only to aid us in our follow-up efforts and will not be used to identify you with your response. The link between you and your response will be destroyed before the report is issued.

The questionnaire can be completed in about 20 minutes. Space has been provided at the end of the questionnaire, and additional pages may be added, for any comments you may want to make.

Please return the completed questionnaire in the enclosed pre-addressed envelope within 10 days of receipt. If the envelope is misplaced, the return address is:

U.S. General Accounting Office
Attn: William Trancucci
Room 3150
441 G Street, N.W.
Washington, D.C. 20548

If you have any questions about this survey, please call William Trancucci at (202) 512-5043 or Mary Martin at (202) 512-4345.

Thank you for your cooperation and assistance.

DEFINITIONS

Regional level - Under MSPB regulations, an employee must initially file an appeal of an agency personnel decision with one of MSPB's 11 regional offices. At the regional level, an administrative judge will hear and decide the employee's appeal. In this survey, the appellate process that is carried out at MSPB's 11 regional offices is referred to as the regional level.

Headquarters level - Under MSPB regulations, an employee and/or agency may ask the 3-member Board located in Washington, D.C. to review the appeal's decision that was made by an administrative judge in the regional office. In this survey, the appellate process that is carried out by the 3-member Board at its office in Washington, D.C. is referred to as the headquarters level.

I. Background

1. **Since October 1991**, with about how many MSPB cases, if any, have you had experience in representing clients? *(Enter number and continue to Question 2. If none, enter "0" and read box below.)*

N=667 Number of cases at the regional level: Mean = 9.8

N=499 Number of cases at headquarters level: Mean = 2.2

*If you had **no** experience (entered 0) with MSPB cases, please **stop** here and return the questionnaire to us in the enclosed envelope. Thank you.*

2. Considering all the cases **since October 1991** with which you have had experience representing clients before MSPB (see Question 1), about how many were in each of the following categories? *(Enter numbers in appropriate boxes.)*

TYPE OF CASE	NUMBER OF CASES
a. Adverse action by agency (removal, reduction in grade or pay, suspension for more than 14 days, or furlough for 30 days or less for cause that will promote the efficiency of the service under 5 U.S.C. 7512)	N = 617 Mean = 8.5
b. Unacceptable performance action (reduction in grade or removal under 5 U.S.C. 4303)	N = 334 Mean = 1.9
c. Rights or interests of individuals under federal retirement programs (5 U.S.C. 8347(d)(1)-(2) and 8461(e)(1))	N = 198 Mean = 1.2
d. Other (Specify.) _____ _____ _____	N = 181 Mean = 3.3

3. Are you an attorney? *(Check one.)*

N = 672

60% ☐ Yes

40% ☐ No

II. Mission Accomplishment and Fairness of Appellate Process

MSPB was established by Reorganization Plan No. 2 of 1978, which was codified by the Civil Service Reform Act of 1978, as an independent, quasi-judicial agency. MSPB's mission is to assure that Federal merit systems are kept free of prohibited personnel practices, employees are protected against abuses by agency management, and executive branch agencies make employment decisions in accordance with merit systems principles. One way MSPB accomplishes its mission is by hearing and deciding employee appeals from agency personnel actions.

4. How familiar or unfamiliar are you with the MSPB precedential body of case law? *(Check one.)*

N = 676

28% ☐ Very familiar
49% ☐ Generally familiar
} *(Continue with Question 5.)*

11% ☐ As familiar as unfamiliar
9% ☐ Generally unfamiliar
2% ☐ Very unfamiliar
} *(Skip to Question 6.)*

5. In your opinion, are the outcomes in decisions that constitute the MSPB precedential body of case law consistent or inconsistent from case to case (where the same or similar issues are involved? *(Check one.)*

N = 513

15% ☐ Almost always consistent

68% ☐ Generally consistent

14% ☐ Consistent as often as inconsistent

3% ☐ Generally inconsistent

0% ☐ Almost always inconsistent

- - - - - - - - - - - - - - - -

N=9 ☐ No basis to judge/Don't know

6. Consider the cases with which you were associated. In your opinion, are the decisions at the regional level and headquarters level consistent or inconsistent with the evidence in the appeals records related to each individual case? *(Check one box in each row.)*

		Almost always consistent (1)	Generally consistent (2)	As consistent as inconsistent (3)	Generally inconsistent (4)	Almost always inconsistent (5)	No basis to judge/ Don't know (6)
a. Regional level	N=590	27%	54%	15%	3%	1%	N=77
b. Headquarters level	N=348	31%	51%	13%	5%	1%	N=246

7. In your opinion, at the regional level, how fair (impartial) or unfair (partial) is the appellate process? *(Check one.)*

N = 627

26% ☐ Almost always fair
55% ☐ Generally fair
} *(Skip to Question 9.)*

11% ☐ Fair as often as unfair
6% ☐ Generally unfair
2% ☐ Very unfair
} *(Continue with Question 8.)*

N=48 ☐ No basis to judge/Don't know *(Skip to Question 9.)*

8. Please explain your response to Question 7.

95 had comments

9. In your opinion, at the headquarters level, how fair (impartial) or unfair (partial) is the appellate process? *(Check one.)*

N = 376

29% ☐ Almost always fair
52% ☐ Generally fair
} *(Skip to Question 11.)*

10% ☐ Fair as often as unfair
7% ☐ Generally unfair
2% ☐ Very unfair
} *(Continue with Question 10.)*

N=281 ☐ No basis to judge/Don't know *(Skip to Question 11.)*

10. Please explain your response to Question 9.

56 had comments

11. Based on your experience with MSPB, do you believe MSPB considers each case on its own merits (is neutral) or is it biased in favor of employees or agencies (management)? *(Check one.)*

N = 629

2% ☐ Very biased in favor of employees

32% ☐ Somewhat biased in favor of employees

60% ☐ Neutral (considers each case on its own merits)

0% ☐ Somewhat biased in favor of agencies

6% ☐ Very biased in favor of agencies

- - - - - - - - - - - - - - - - - - - -

N=42 ☐ No basis to judge/Don't know

12. In your opinion, how successful or unsuccessful has MSPB, through the appellate process, been in accomplishing its mission (see introductory paragraph, Section II, page 2.) *(Check one.)*

N = 577

17% ☐ Very successful

58% ☐ Generally successful

17% ☐ As successful as unsuccessful

6% ☐ Generally unsuccessful

2% ☐ Very unsuccessful

- - - - - - - - - - - - - - - - - -

N=87 ☐ No basis to judge/Don't know

III. Time Limits For Filing Appeals

MSPB requires that an appeal of an agency personnel action, such as removal from employment or suspension for more than 14 days, be filed with the appropriate regional office within 20 days of the action's effective date. MSPB requires that a petition to review a regional office administrative judge decision be filed with the Clerk of the Board within 35 days after the regional office decision is issued. If these time frames are not met, MSPB may dismiss the appeal or the petition to review the regional office decision as untimely filed, and not decide the appeal or petition on its merits, unless a good reason for the delay in filing is shown.

13. In your opinion, how adequate or inadequate is the **20-day** time limit for filing an appeal with an MSPB regional office? *(Check one.)*

N = 653

43% ☐ Very adequate
30% ☐ Generally adequate
} *(Skip to Question 15.)*

7% ☐ Adequate as often as inadequate
14% ☐ Generally inadequate
6% ☐ Very inadequate
} *(Continue with Question 14.)*

- - - - - - - - - - - - - - - - - - - -

N=18 ☐ No basis to judge/Don't know *(Skip to Question 15.)*

14. In your opinion, which of the following limits for filing an appeal with an MSPB regional office would provide appellants the most reasonable amount of time to file the required petition for appeal? *(Check one.)*

N = 173

27% ☐ 21 - 30 days

31% ☐ 31 - 40 days

6% ☐ 41 - 50 days

27% ☐ 51 - 60 days

9% ☐ Other *(Specify.)* _____

_____

- - - - - - - - - - - - - - - - - -

N=0 ☐ No basis to judge/Don't know

15. In your opinion, how adequate or inadequate is the **35-day** time limit for filing a petition for review of a regional office decision with the Clerk of the Board? *(Check one.)*

N = 606

37% ☐ Very adequate
41% ☐ Generally adequate
} *(Skip to Question 17.)*

9% ☐ Adequate as often as inadequate
11% ☐ Generally inadequate
2% ☐ Very inadequate
} *(Continue with Question 16.)*

- - - - - - - - - - - - - - - - - - - -

N=65 ☐ No basis to judge *(Skip to Question 17.)*

16. In your opinion, which of the following time limits for filing a petition for review with the Clerk of the Board would provide petitioners the most reasonable amount of time to file the required petition? *(Check one.)*

N = 129

20% ☐ 36 - 45 days

19% ☐ 46 - 55 days

40% ☐ 56 - 65 days

8% ☐ 66 - 75 days

13% ☐ Other *(Specify.)*

_____
_____
_____

- - - - - - - - - - - - - - - - -

N=5 ☐ No basis to judge

MSPB requires that an agency response to an employee petition for appeal of an agency personnel action be filed with the appropriate regional office within 20 days of the date of the regional office order acknowledging the appeal.

17. In your opinion, how adequate or inadequate is the **20-day** time limit imposed on agencies for filing a response to an employee appeal with an MSPB regional office? *(Check one.)*

N = 638

19% ☐ Very adequate
39% ☐ Generally adequate
} *(Skip to Question 19.)*

15% ☐ Adequate as often as inadequate
20% ☐ Generally inadequate
7% ☐ Very inadequate
} *(Continue with Question 18.)*

- - - - - - - - - - - - - - - - - - - -

N=34 ☐ No basis to judge *(Skip to Question 19.)*

18. In your opinion, which of the following time limits for filing a response to an employee appeal with an MSPB regional office would provide agencies the most reasonable amount of time to file a response? *(Check one.)*

N = 261

42% ☐ 21 - 30 days

34% ☐ 31 - 40 days

10% ☐ 41 - 50 days

11% ☐ 51 - 60 days

3% ☐ Other (Specify.) _____

- - - - - - - - - - - - - - - - - -

N=1 ☐ Don't know/no basis to judge

MSPB requires that an agency or employee response to a petition for review of a regional office decision be filed with the Clerk of the Board within 25 days after the date that the petition for review was served on the party.

19. In your opinion, how adequate or inadequate is the **25-day** time limit imposed on parties for filing a response to a petition for review with the Clerk of the Board? *(Check one.)*

N = 603

19% ☐ Very adequate
45% ☐ Generally adequate
} *(Skip to Question 21.)*

15% ☐ Adequate as often as inadequate
18% ☐ Generally inadequate
4% ☐ Very inadequate
} *(Continue with Question 20.)*

- - - - - - - - - - - - - - - - - - - -

N=70 ☐ No basis to judge *(Skip to Question 21.)*

20. In your opinion, which of the following time limits for filing a response to a petition for review with the Clerk of the Board would provide a party the most reasonable amount of time to file a response? *(Check one.)*

N = 217

23% ☐ 26 - 30 days

40% ☐ 31 - 40 days

12% ☐ 41 - 50 days

21% ☐ 51 - 60 days

4% ☐ Other (Specify.) _____

- - - - - - - - - - - - - - - - - - - -

N=0 ☐ Don't know/no basis to judge

IV. Case Processing Standards

MSPB has established standard time frames for processing cases at both the regional (120 days) and Board (110 days) levels. At the regional level, the 120 days begins with receipt of the initial appeal and ends with the issuance of an initial decision. During that time period, the appeal is assigned to an administrative judge, the agency's case file is received, and the discovery process begins. Also, prehearing motions are filed, attempts are made to achieve settlement, and a hearing may be held.

At the Board headquarters level, the 110 days begins with the filing of the petition for review by the appellant or agency. The case file is received from the regional office and reviewed. The 110 day period ends with the issuance of a final Board decision.

We are interested in (1) how satisfied or dissatisfied in general you are with these standard time frames for processing cases; (2) how satisfied or dissatisfied you are with the actual amount of time MSPB has taken to process and decide cases at the regional and headquarters level; (3) whether you believe MSPB should revise its standard time frames; and (4) what would be a reasonable standard for MSPB to process and decide cases.

21. How satisfied or dissatisfied are you with MSPB's standard time frames for administrative judges and board members to decide cases at the regional (120 days) and headquarters (110 days) levels, respectively? *(Check one box in each row.)*

	MSPB STANDARD TIME FRAMES					
	Very satisfied (1)	Generally satisfied (2)	As satisfied as dissatisfied (3)	Generally dissatisfied (4)	Very dissatisfied (5)	Not sure/ No basis to judge (6)
a. Regional level (120 days) N=629	28%	47%	11%	10%	3%	N=41
b. Headquarters level (110 days) N=415	25%	49%	14%	8%	4%	N=180

22. Consider the actual amount of time it has generally taken MSPB to process a case at the regional level. How satisfied or dissatisfied are you with the time it actually takes MSPB to process a case at the regional level? *(Check one.)*

N = 636

24% ☐ Very satisfied
54% ☐ Generally satisfied
(Skip to Question 26.)

12% ☐ As satisfied as dissatisfied
8% ☐ Generally dissatisfied
2% ☐ Very dissatisfied
(Continue with Question 23.)

- - - - - - - - - - - - - - - - - - - -

N=39 ☐ Not sure/No basis to judge *(Skip to Question 26.)*

23. Please explain the reason for your dissatisfaction with the actual amount of time it takes MSPB to process a case at the regional level.

117 Responses

_____

_____

24. If you are dissatisfied with the actual amount of time it has taken MSPB to process cases at the regional level, do you believe it needs to revise its standard time frames for processing cases? *(Check one.)*

N = 118

87% ☐ Yes --> *(Continue with Question 25.)*

13% ☐ No
- - - - - - - - - - - - - - - -
N=17 ☐ Not sure/No opinion
(Skip to Question 26.)

25. In your opinion, what would be the most reasonable standard for processing a case through MSPB at the regional level? *(Check one.)*

N = 104

2% ☐ 30 days or less

12% ☐ 31 - 60 days

14% ☐ 61 - 90 days

4% ☐ 91 - 120 days

14% ☐ 121 - 150 days

38% ☐ 151 - 180 days

17% ☐ 181 days or more - Please specify: _____

- -

N=1 ☐ No opinion

26. Consider the actual amount of time it has generally taken MSPB to process a case at the headquarters level. How satisfied or dissatisfied are you with the time it actually takes MSPB to process a case at the headquarters level? *(Check one.)*

N = 400

11% ☐ Very satisfied
52% ☐ Generally satisfied
} *(Skip to Question 30.)*

14% ☐ As satisfied as dissatisfied
14% ☐ Generally dissatisfied
9% ☐ Very dissatisfied
} *(Continue with Question 27.)*

- -

N=265 ☐ Not sure/No basis to judge *(Skip to Question 30.)*

27. Please explain the reason for your dissatisfaction with the actual amount of time it takes MSPB to process a case at the headquarters level.

132 Comments

_____

_____

28. If you are dissatisfied with the actual amount of time it has taken MSPB to process cases at the headquarters level, do you believe it needs to revise its standard time frames for processing cases? *(Check one.)*

N = 132

60% ☐ Yes ---> *(Continue with Question 29.)*

40% ☐ No
- - - - - - - - - - - - - - -
N=16 ☐ Not sure/No opinion
} *(Skip to Section V on page 9.)*

29. In your opinion, what would be the most reasonable standard for processing a case through MSPB at the headquarters level? *(Check one.)*

N = 81

6% ☐ 30 days or less

17% ☐ 31 - 60 days

21% ☐ 61 - 90 days

19% ☐ 91 - 120 days

7% ☐ 121 - 150 days

21% ☐ 151 - 180 days

9% ☐ 181 days or more - Please specify: _____

- -

N=1 ☐ No opinion

V. Alternative Dispute Resolution Practices

Broadly defined, alternative dispute resolution is any process that disputing parties use to resolve a disagreement other than a formal process such as court or administrative proceedings. MSPB has incorporated alternative dispute resolution into the appellate process by requiring administrative judges to order the parties to discuss the possibility of voluntarily settling their dispute. With the parties' approval, the administrative judge may participate in the settlement discussions.

30. Consider all the cases with which you have had experience with MSPB since October 1991 (See Question 1). In about how many cases, if any, have you had experience where an administrative judge participated (encouraged, discussed terms of settlement, etc.) in the settlement discussions? *(Enter number and continue to Question 31. If none, check box below and then skip to Question 32.)* N = 551

N = 438 1 - 10 Cases
N = 65 11 - 20 Cases
N = 20 21 - 30 Cases
N = 12 31 - 40 Cases
N = 7 41 - 50 Cases
N = 9 Over 50 Cases

_____
(Number of cases)

N=122 ☐ None *(Skip to Question 32.)*

31. In about how many of these cases *(see question 30)*, if any, did you want to proceed with a formal adjudication of the case, but were persuaded by the Administrative Judge not to terminate settlement negotiations?
(Check one.)
N = 528

14% ☐ All, or almost all, of the cases

11% ☐ Most of the cases

11% ☐ About half of the cases

22% ☐ Some of the cases

42% ☐ None, or almost none, of the cases
- - - - - - - - - - - - - - - - -
N=19 ☐ No basis to judge

32. Consider all the cases with which you have had experience with MSPB since October 1991 (see Question 1). In about how many cases, if any, have you entered into a settlement agreement with the other party to resolve the dispute? *(Enter number and continue to Question 33. If none, check box below and then skip to Question 36. If necessary, an estimate will suffice.)*
N = 510

N = 454 1 - 10 Cases
N = 39 11 - 20 Cases
N = 7 21 - 30 Cases
N = 10 Over 30 Cases

_____
(Number of cases)

N=165 ☐ None *(Skip to Section VI on page 11.*

33. Consider those cases since October 1991 where you entered into settlement agreements with other parties (see Question 32). In about how many, if any, do you believe that the settlement agreements' terms were equitable, given the weight of the evidence in the other parties' and your cases? *(Check one.)*
N = 497

52% ☐ All, or almost all, of the cases

31% ☐ Most of the cases

7% ☐ About half of the cases

5% ☐ Some of the cases

6% ☐ None, or almost none, of the cases
- - - - - - - - - - - - - - - - -
N=11 ☐ No basis to judge

34. Consider those cases since October 1991 where you entered into settlement agreements with the other parties (see Question 32). In about how many, if any, do you believe that the terms of the settlement agreements left the party you represented better off than if you had proceeded with adjudication? *(Check one.)*

N = 471

29% ☐ All, or almost all, of the cases

24% ☐ Most of the cases

13% ☐ About half of the cases

16% ☐ Some of the cases

18% ☐ None, or almost none, of the cases

- - - - - - - - - - - - - - - - -

N=32 ☐ No basis to judge

35. Consider all the cases since October 1991 where you entered into settlement agreements with the other parties (see Question 32). In about how many of these cases, if any, did the administrative judges discuss *(either in writing or verbally)* the following? *(Check one box in each row.)*

Administrative judges discussed whether you . . .	All, or almost all, of the cases (1)	Most of the cases (2)	About half of the cases (3)	Some of the cases (4)	None, or almost none, of the cases (5)	Don't know/ not applicable (6)
a. agreed to a settlement N=479	83%	11%	2%	3%	2%	N=20
b. understood the terms of the agreement N=471	76%	11%	3%	3%	6%	N=25
c. wanted the agreement made part of the appeals record N=470	74%	14%	3%	4%	4%	N=26

VI. General Comments

36. If you have additional comments regarding any previous question or general comments or suggestions for improving the MSPB appeals process, please use the space provided below. If necessary, attach additional sheets.

253 provided additional comments

Please check here if you would like a copy of the final report. ☐

358 requested a copy of the report

GGD/MS/8-95

OPTIONAL

The following section will be separated from the questionnaire before processing.

Name of agency, union, law firm you represent:

_____

Name of the person who filled out this questionnaire and who may be contacted, if necessary, for clarification of responses. *(Please print.)*

Name: _____

Title: _____

Address: _____

_____

Telephone: (_____) _____
(Area code) (Number)

Annotated Survey of U.S. Merit Systems Protection Board Employees' Attitudes and Views About Their Work Environment

United States General Accounting Office

Survey of U.S. Merit Systems Protection Board Employees' Attitudes and Views About Their Work Environment

Introduction

The U.S. General Accounting Office (GAO), an independent agency of Congress, is reviewing the U.S. Merit Systems Protection Board (MSPB) at the request of the Chairman, Senate Committee on Governmental Affairs and the Chairman, Subcommittee on Civil Service, House Post Office and Civil Service Committee. As part of this review, we are surveying all MSPB employees to get their views on the work environment in general and MSPB's efforts to (1) foster a work environment that is based on trust, respect, and fairness; (2) ensure that its employees work in an environment that is free of discrimination; and (3) create a climate that encourages reporting of waste, fraud, abuse, and mismanagement. We also ask for views on the reasonableness of MSPB's standard time frames for processing and deciding cases.

Your frank and honest answers will help GAO inform the committees on how MSPB employees view their work environment and the agency's equal employment opportunity (EEO) operations. Your responses will be kept confidential and will not be released outside GAO, unless compelled by law or required by Congress to do so. While the results are generally provided in summary form, individual answers may be discussed in our report, but they will not include any information that could be used to identify individual respondents. The questionnaire is numbered only to aid us in our follow-up efforts and will not be used to identify you with your response. The link between you and your response will be destroyed before the report is issued.

The questionnaire should take about 20 to 30 minutes to complete. Space has been provided at the end of the questionnaire for any comments you may want to make. Additional pages may be added if necessary.

Please complete and return the questionnaire in the enclosed preaddressed envelope within 10 working days to avoid costly follow-up efforts. In the event the envelope is misplaced, the return address is:

U.S. General Accounting Office
441 G Street, NW
Room 3150
Washington, D.C. 20548

Attention: Ms. Mary Martin

If you have any questions, please call Mary Martin on (202) 512-4345 or Bill Trancucci on (202) 512-5043. Thank you very much for your time.

* * * * * * *

I. Your Views on the Work Environment at MSPB

In this section, we ask about your satisfaction or dissatisfaction with certain aspects of your work environment at MSPB.

1. In general, how satisfied or dissatisfied are you with each of the following as they relate to your current MSPB work environment? *(Check one box in each row.)*

	Very satisfied	Generally satisfied	As satisfied as dissatisfied	Generally dissatisfied	Very dissatisfied	Not applicable/ No basis to judge
a. The people you work with daily (peers/colleagues) N=236	42%	43%	11%	3%	1%	N=0
b. Your immediate supervisor N=221	40%	34%	12%	8%	7%	N=17
c. Your division director N=123	29%	42%	15%	7%	7%	N=102
d. Your office director in headquarters N=161	23%	40%	18%	12%	8%	N=73
e. Your regional director N=97	43%	33%	19%	2%	3%	N=138
f. Availability of training opportunities N=238	21%	43%	17%	11%	8%	N=1
g. Availability of resources (i.e., budget, technology, staff, etc.) necessary to do your job N=233	15%	49%	23%	11%	3%	N=3
h. The career progress you have made in MSPB up to now N=230	23%	41%	16%	10%	10%	N=8
i. The opportunities for promotion or career advancement N=222	7%	29%	14%	26%	24%	N=14
j. Other *(Please specify.)* _____ N=11	18%	-	9%	18%	55%	N=4

2. Looking at your responses to question 1, overall, how satisfied or dissatisfied are you with your **current** MSPB work environment? *(Check one.)*

N=237

- ☐ Very satisfied 21%
- ☐ Generally satisfied 45%
- ☐ As satisfied as dissatisfied 17%
- ☐ Generally dissatisfied 11%
- ☐ Very dissatisfied 6%

- ☐ Not sure/No basis to judge N=1

3. Thinking in general about your responses to question 1, would you say that the work environment at MSPB is improving, staying about the same, or getting worse? *(Check one.)*

N=230

- ☐ Improving greatly 5%
- ☐ Improving somewhat 28%
- ☐ Staying about the same 31%
- ☐ Worsening somewhat 24%
- ☐ Worsening greatly 11%

- ☐ Not sure/No basis to judge N=5

4. What actions, if any, would you suggest that MSPB top management take to further improve the work environment at MSPB? *(Please describe below. If you believe no actions are necessary, enter "None".)*

No comment	20% (N=49)
"None" entered	9% (N=21)
Suggested actions	56% (N=135)
Dissatisfaction expressed or problems cited	15% (N=35)

In November 1992, MSPB announced the following vision statement: "To promote and protect, by deed and example, the Federal merit principles in an environment of trust, respect and fairness." The following questions ask for your views on the extent to which MSPB has fostered a work environment based on trust, respect, and fairness, since announcing its vision statement in November 1992.

5. Based on your experience, in general, to what extent does your MSPB manager or supervisor currently show respect to you in the following ways? ***Please focus on manager or supervisor you currently report to.*** *(Check one box in each row.)*

	To a very great extent	To a great extent	To a moderate extent	To some extent	To little or no extent	Not applicable/ No basis to judge
a. He/she shows interest in my well-being. N=229	29%	25%	19%	16%	12%	N=11
b. He/she creates an environment in which I feel valued. N=229	27%	25%	17%	15%	16%	N=10
c. He/she is receptive to my suggestions on how to improve operations. N=218	27%	23%	21%	17%	12%	N=21
d. He/she considers my views in formulating policy or programs. N=211	25%	21%	17%	19%	18%	N=27
e. Other *(Please specify.)* _____ N=2	50%	-	50%	-	-	N=2

6. In general, how much do you currently trust or distrust the people in each of the following categories? By trust, we mean your expectation that they will maintain a fair and honest work relationship with you. *(Check one box in each row.)*

	Strongly trust	Generally trust	Trust as much as distrust	Generally distrust	Strongly distrust	Not applicable/ No basis to judge
a. Members of your work group or unit (peers/colleagues) N=238	31%	48%	15%	4%	3%	N=0
b. Your immediate supervisor N=224	35%	37%	15%	6%	7%	N=14
c. Your division director N=123	21%	42%	20%	9%	8%	N=109
d. Your office director in headquarters N=154	14%	38%	23%	16%	9%	N=78
e. Your regional director N=95	39%	33%	21%	3%	4%	N=139
f. Senior managers above your office director N=178	3%	23%	36%	26%	12%	N=58
g. Members of the Board N=199	5%	26%	42%	17%	11%	N=40
h. Human resource officials or staff N=203	10%	37%	36%	13%	5%	N=34
i. Other *(Please specify.)* _____ N=9	-	22%	-	22%	56%	N=2

7. Since MSPB announced its vision statement in November 1992, overall, how fairly or unfairly do you believe you have been treated in terms of decisions in each of the following areas? By fair, we mean decisions that were based on merit and were free of bias and favoritism. *(Check one box in each row.)* (32-38)

		Very fairly	Generally fairly	As fairly as unfairly	Generally unfairly	Very unfairly	Not applicable/ No basis to judge
a. Job or project assignments	N=226	30%	38%	18%	8%	7%	N=9
b. Training	N=230	28%	44%	19%	7%	3%	N=7
c. Formal performance appraisals/ratings	N=228	35%	36%	18%	7%	4%	N=10
d. Monetary awards and bonuses	N=219	33%	32%	18%	7%	11%	N=18
e. Promotion or career advancement	N=202	23%	34%	19%	13%	12%	N=35
f. Nonmonetary awards and recognition	N=206	24%	34%	19%	11%	13%	N=31
g. Other *(Please specify.)* _____	N=2	-	-	-	-	100%	N=1

8. Overall, since MSPB announced its vision statement in November 1992, how successful or unsuccessful has MSPB been in fostering an environment of trust, respect, and fairness? *(Check one.)*

N=225

- ☐ Very successful 5%
- ☐ Generally successful 24%
- ☐ As successful as unsuccessful 32%
- ☐ Generally unsuccessful 27%
- ☐ Very unsuccessful 12%

- ☐ Don't know/No basis to judge N=10

9. If necessary, what actions would you suggest that MSPB top management take to further promote a work environment based on greater trust, respect, and fairness? *(Please describe below. If you believe no actions are necessary, enter "None".)*

No comment	25% (N=59)
"None" entered	11% (N=27)
Suggested actions	45% (N=108)
Dissatisfaction expressed or problems cited	19% (N=46)

The following questions ask for your views on the extent to which MSPB has a discrimination-free work environment.

10. We have listed below certain behaviors and actions that could occur in any organization. During the past 2 years, do you believe that any of these situations occurred anywhere at MSPB? If yes, please indicate whether it happened to you, you saw it happen or you were told by the person it happened to, or you heard about it through a third party. *(Check yes or no for each situation. If yes, check all boxes that apply.)*

	Do you believe the situation occurred at MSPB?			**What is the basis for your belief?** ***(Check all boxes that apply.)***		
N's reported for this question	**Yes**	**No**		It happened to me	I saw it happen or was told by the person it happened to	I heard it through a third party
a. An employee was not considered for job or career advancement because of family responsibilities (e.g., caring for children/elders).	20	205	If yes -->	3	11	8
b. An employee was not considered for job or career advancement because of a physical disability.	10	216	If yes -->	-	5	4
c. An employee was assigned to a job or project based primarily on race or sex.	65	155	If yes -->	7	45	19
d. An individual was hired based primarily on the hiring official's personal bias regarding race or sex.	49	174	If yes -->	3	35	16
e. An employee was given formal recognition or rewarded based primarily on race or sex.	65	158	If yes -->	5	43	20
f. An employee was given a training or developmental opportunity based primarily on race or sex.	38	182	If yes -->	5	27	7
g. A qualified employee was not promoted based primarily on the selecting official's personal bias regarding race or sex.	47	173	If yes -->	13	25	12
h. Management was informed that remarks with racial or ethnic overtones were being made but continued to tolerate them.	20	204	If yes -->	4	13	3
i. Management was informed that remarks or actions with sexist or sexual overtones were being made but continued to tolerate them.	38	183	If yes -->	6	20	15
j. Other *(Please specify.)* _____	9		If yes -->	-	9	2

11. Considering your responses to the situations listed in question 10, would you describe the work environment at MSPB as impartial or discriminatory? *(Check one.)*

We define an impartial work environment as one in which an employee is treated fairly without regard to race, religion, color, sex, national origin, political affiliation, marital status, disability, or age (if at least age 40).

N=221

☐ Very impartial	29%
☐ Somewhat impartial	33%
☐ As impartial as discriminatory	14%
☐ Somewhat discriminatory	16%
☐ Very discriminatory	8%

☐ Not sure/No basis to judge	N=15

12. Are you aware of any efforts by MSPB during the past 2 years to further promote an impartial work environment? *(Check one.)*

N=233

55% ☐ Yes ---> ***(Continue with Question 13.)***

45% ☐ No ---> ***(Skip to Question 14.)***

13. In your opinion, how successful or unsuccessful have MSPB's efforts been to further promote an impartial work environment? *(Check one.)*

N=119

☐ Very successful	12%
☐ Somewhat successful	36%
☐ As successful as unsuccessful	30%
☐ Somewhat unsuccessful	10%
☐ Very unsuccessful	12%

☐ Not sure/No basis to judge	N=9

14. If necessary, what actions would you suggest that MSPB top management take to further promote an impartial work environment at MSPB? *(Please describe below. If you believe no actions are necessary, enter "None".)*

No comment	35% (N=84)
"None" entered	24% (N=57)
Suggested actions	29% (N=69)
Dissatisfaction expressed or problems cited	12% (N=24)

15. During the next year, how likely are you to stay with or leave MSPB? *(Check one.)*

N=230

41% ☐ Very likely to stay
24% ☐ More likely to stay than leave
} ***Skip to Section II on Page 8***

17% ☐ As likely to stay as leave
10% ☐ More likely to leave than stay
9% ☐ Very likely to leave

N=8 ☐ Undecided
} ***Continue with Question 16***

16. To what extent, if at all, is your likelihood to leave MSPB within the next year or your indecision due to any dissatisfaction you might have with the employment environment at MSPB *(i.e., the issues raised in the questions you've answered thus far)*? *(Check one.)*

N=83

☐ To little or no extent	8%
☐ To some extent	19%
☐ To a moderate extent	18%
☐ To a large extent	29%
☐ To a very large extent	25%

II. Your Views on the Operations of MSPB's EEO Office

MSPB's EEO office manages the agency's equal employment, affirmative action and complaint programs. Among other things, it is responsible for disseminating information on the agency's EEO program and complaint process, developing EEO and affirmative action plans, providing counseling to employees who believe they have been discriminated against, and processing and resolving discrimination complaints.

This section asks about the extent to which MSPB's EEO office has taken certain actions to inform you of your EEO rights and of the agency's EEO program and operations. It also asks about your willingness to participate in the complaint process if you believed you had been discriminated against.

17. Before reading the description at the beginning of this section, how familiar or unfamiliar were you with the responsibilities of MSPB's EEO office? *(Check one.)*

N=235

☐ Very familiar	31%
☐ Generally familiar	44%
☐ As familiar as unfamiliar	13%
☐ Generally unfamiliar	9%
☐ Very unfamiliar	4%

18. Within the past 2 years, do you recall receiving the following materials or seeing them posted at MSPB? **(Check all boxes that apply.)**

N's reported for this question. Responses combined for responses 1 and 2.	I received this information	I saw this information posted	I neither received nor saw this information posted	I don't remember whether I received or saw this information posted
a. Written materials that describe MSPB's EEO program N=240	<-- 145 -->		31	64
b. Written materials about your rights under the federal government's EEO regulations N=240	<-- 127 -->		37	76
c. Written materials describing how to contact MSPB's EEO counselors such as their names, addresses, and telephone numbers N=240	<-- 164 -->		25	51
d. Notices, memoranda, or newsletters that describe the EEO complaint process N=240	<-- 105 -->		46	89
e. Notices, memoranda, or newsletters that communicate MSPB's sexual harassment policy N=240	<-- 126 -->		37	77
f. Other materials *(Please specify.)* _____ N=13	<-- 8 -->		2	3

19. If you believed that you had been discriminated against, how willing or unwilling would you be to participate in EEO counseling at MSPB, including discussing the matter with all parties in an attempt to informally resolve it early in the process? *(Check one.)*

N=235

20%	☐ Very willing	***Skip to Question 21.***
24%	☐ Generally willing	
18%	☐ As willing as unwilling	***Continue with Question 20.***
19%	☐ Generally unwilling	
14%	☐ Very unwilling	
4%	☐ Uncertain	

20. Which of the following describes your reason(s) for being uncertain or unwilling to participate in counseling? *(Check all that apply.)*

N's reported for this question

83	☐ I would be concerned that my contact with the EEO counselor during the counseling period would not be kept confidential.
43	☐ I would be concerned that I would be assigned to an EEO counselor who was not competent or well trained.
33	☐ I would be concerned that the matter would not be resolved in a timely manner.
44	☐ I would be concerned that too much of my time would be consumed in the complaint process.
44	☐ I would be concerned that the matter, if resolved informally, would not result in a mutually satisfactory solution for all parties involved.
39	☐ I would be concerned that I would be alienated from my co-workers.
83	☐ I would fear reprisal.
21	☐ I would not be willing to participate for personal reasons.
14	☐ Other *(Please specify.)*

_____

21. If you believed that you had been discriminated against, how willing or unwilling would you be to file a formal EEO discrimination complaint at MSPB? *(Check one.)*

N=236

20%	☐ Very willing	***Skip to Question 23.***
21%	☐ Generally willing	
17%	☐ As willing as unwilling	***Continue with Question 22.***
23%	☐ Generally unwilling	
14%	☐ Very unwilling	
5%	☐ Uncertain	

22. Which of the following describes your reason(s) for being uncertain or unwilling to file a formal discrimination complaint? *(Check all that apply.)*

N's reported for this question

46	☐ I would be concerned that my complaint would not be investigated in a competent manner.
37	☐ I would be concerned that my complaint would not be thoroughly investigated by the EEO office.
56	☐ I would be concerned that my complaint would not be handled in a fair manner.
30	☐ I would be concerned that my complaint would not be handled in a timely manner.
53	☐ I would be concerned that too much of my time would be consumed in the complaint process.
49	☐ I would be concerned that I would be alienated from my co-workers.
93	☐ I would fear reprisal.
30	☐ I would not be willing to file a formal complaint for personal reasons.
10	☐ Other *(Please specify.)*

_____

III. Your Views on The Extent to Which a Climate Exists in MSPB That Encourages Reporting of Waste, Fraud, Abuse, and Mismanagement

This section asks for your views on reporting illegal or wasteful activities, whether you would report such activities if you became aware of them, and the extent to which MSPB has taken certain actions to create a climate that encourages reporting of waste, fraud, abuse, or mismanagement.

23. In encouraging you to report any activities involving waste, fraud, abuse, or mismanagement, how important, if at all, would it be to you that MSPB take the following actions? *(Check one box in each row.)*

How important is it to you that MSPB would . . .	Of very great importance to me	Of great importance to me	Of moderate importance to me	Of some importance to me	Of little or no importance to me	Not sure
a. take action to correct the problem. N=234	62%	31%	4%	1%	2%	N=1
b. punish the wrongdoer(s). N=230	30%	30%	24%	10%	7%	N=4
c. allow me to remain anonymous. N=229	52%	20%	16%	6%	7%	N=6
d. assure me that the legal protections against unlawful retaliation for reporting such activities would be enforced. N=233	75%	18%	3%	2%	1%	N=2
e. provide me with a nonmonetary award for reporting such activities. N=227	4%	3%	13%	9%	72%	N=7
f. provide me with a monetary award for reporting such activities. N=227	4%	2%	12%	12%	70%	N=8
g. Other *(Please specify.)* _____ N=3	100%	-	-	-	-	N=1

24. If you became aware of activities involving waste, fraud, abuse, or mismanagement in any MSPB program or operation, how willing or unwilling would you be to report it? *(Check one.)*

N=235

17% ☐ Very willing
32% ☐ Generally willing
} ***Skip to Question 26.***

26% ☐ Uncertain
16% ☐ Generally unwilling
9% ☐ Very unwilling
} ***Continue with Question 25.***

25. If you are uncertain or unwilling to report any activities involving waste, fraud, abuse, or mismanagement, which of the following would describe the reason(s) for being unwilling to report them? *(Check all that apply.)*

N's reported for this question

39 ☐ I am not sure to whom I should report such activities.
10 ☐ I feel it would not be my responsibility to report such activities.
12 ☐ I would be concerned that the solution to the problem would not be under MSPB's control.
70 ☐ I would be concerned that MSPB would not take action to correct the problem.
50 ☐ I would be concerned that MSPB would not punish the wrongdoer(s).
91 ☐ I would be concerned that I would not remain anonymous.
84 ☐ I would be concerned that MSPB would not assure me that the legal protections against unlawful retaliation for reporting such activities would be enforced.
1 ☐ I would be concerned that MSPB would not provide me with a nonmonetary award for reporting such activities.
2 ☐ I would be concerned that MSPB would not provide me with a monetary award for reporting such activities.
10 ☐ Other *(Please specify.)* _____

26. Over the past 2 years, how adequate or inadequate was the information provided by MSPB about the following aspects of reporting instances of waste, fraud, abuse, and mismanagement? *(Check one box in each row.)*

	More than adequate	Generally adequate	As adequate as inadequate	Generally inadequate	Very inadequate	Not sure/ No basis to judge
a. Where to report these instances N=194	16%	38%	22%	11%	13%	N=34
b. The process for reporting these instances N=190	12%	37%	24%	13%	14%	N=38
c. The protections afforded to employees who report these instances N=176	13%	31%	24%	18%	14%	N=52

27. Over the past 2 years, to your knowledge has MSPB management done any of the following to foster an environment that encourages reporting of waste, fraud, abuse, or mismanagement? *(Check one box in each row.)*

Over the past 2 years, MSPB has . . .	Yes	No	Not applicable, not aware of illegal or improper activities	Don't know/No basis to judge
a. solicited employee knowledge of illegal or wasteful activities using surveys or other means. N=157	24%	76%		N=70
b. made presentations to MSPB employees at your location that emphasized the importance of reporting illegal or improper activities. N=173	18%	82%		N=52
c. distributed or made readily available literature which described how and/or where to report illegal or improper activities. N=164	50%	49%		N=63
d. taken action(s) to correct illegal or improper activities. N=129	26%	47%	27%	N=103
e. punished an individual who took part in illegal or improper activities. N=114	18%	48%	33%	N=117
f. punished an individual who retaliated against an employee who reported illegal or improper activities. N=93	3%	60%	37%	N=141
g. provided an individual with a nonmonetary award for reporting illegal or improper activities. N=80	-	56%	44%	N=153
h. provided an individual with a monetary award for reporting illegal or improper activities. N=80	1%	55%	44%	N=153
i. Other *(Please specify.)* _____	-	-	-	N=9

IV. Views on Case Processing Time Frames and Caseload

28. Are you . . . ? *(Check one.)* N=233

0% (N=0)	☐ a board member	***Continue with Question 29.***
25% (N=58)	☐ an administrative judge (includes Chief Administrative Judge)	
13% (N=31)	☐ a staff attorney in the Office of the Appeals Counsel	
2% (N=4)	☐ an attorney on a board member's personal staff	
5% (N=11)	☐ an attorney in the Office of the General Counsel	
55% (N=129)	☐ None of the above -----> ***Skip to Question 38 on page 15.***	

29. How satisfied or dissatisfied are you with MSPB's 120-day standard time frame for administrative judges to decide initial appeal cases at the regional level? *(Check one.)*

N=101

12%	☐ Very satisfied	***Skip to Question 32.***
35%	☐ Generally satisfied	
29%	☐ As satisfied as dissatisfied	***Continue with Question 30.***
16%	☐ Generally dissatisfied	
9%	☐ Very dissatisfied	
N=7	☐ Not sure/No basis to judge	***Skip to Question 32.***

30. Please explain your reason(s) for your dissatisfaction with the standard 120-day time frame for deciding initial appeal cases at the regional level.

48 respondents expressed or implied a reason

31. In your opinion, which of the following time frames would be the most reasonable standard for administrative judges to decide initial appeal cases at the regional level? *(Check one.)*

N=49

☐ 30 days or less	0%
☐ 31 to 60 days	0%
☐ 61 to 90 days	0%
☐ 91 to 120 days	18%
☐ 121 to 150 days	39%
☐ 151 to 180 days	41%
☐ 181 days or more	2%
(Please specify.) _____	
☐ No opinion	N=2

32. How satisfied or dissatisfied are you with MSPB's 110-day standard time frame for board members to decide petition for review cases at the headquarters level? *(Check one.)*

N=87

7%	☐ Very satisfied	***Skip to Question 35.***
38%	☐ Generally satisfied	
30%	☐ As satisfied as dissatisfied	***Continue with Question 33.***
16%	☐ Generally dissatisfied	
9%	☐ Very dissatisfied	
N=21	☐ Not sure/No basis to judge	***Skip to Question 35.***

33. Please explain your reason(s) for your dissatisfaction with the standard 110-day time frame for deciding petition for review cases at the headquarters level.

44 respondents expressed or implied a reason

34. In your opinion, which of the following time frames would be the most reasonable standard for board members to decide petition for review cases at the headquarters level? *(Check one.)*

N=40

☐ 30 days or less	0%
☐ 31 to 60 days	3%
☐ 61 to 90 days	8%
☐ 91 to 120 days	28%
☐ 121 to 150 days	25%
☐ 151 to 180 days	35%
☐ 181 days or more	3%
(Please specify.) _____	
☐ No opinion	N=10

35. On average, how many initial appeal cases or petition for review cases do you have pending per month? *(Enter number. If none, enter zero.)*

Initial Appeal Cases Per Month N=85

0 Cases	N=22
1 to 10 Cases	N=7
11 to 20 Cases	N=6
21 to 30 Cases	N=44
31 to 40 Cases	N=6

Petition for review Cases Per Month N=41

0 Cases	N=11
1 to 10 Cases	N=16
11 to 20 Cases	N=10
21 to 30 Cases	N=2
31 to 40 Cases	N=1
More than 40 Cases	N=1

36. In your opinion, given the current standard time frames and the requirements for adjudication, is your average pending caseload too heavy, about right, or too light? *(Check one.)* N=96

10% ☐ Much too heavy
44% ☐ Generally too heavy
} ***Continue with***

43% ☐ About right -----> ***Skip to question 38.***

10% ☐ Generally too light
44% ☐ Much too light
} ***Continue with Question 37.***

37. In your opinion, given the current standard time frames and the requirements for adjudication, what would be the appropriate number of cases you should reasonably have pending per month? *(Enter number.)*

Number of Cases Pending Per Month N=51

1 to 10 Cases	N=13
11 to 20 Cases	N=18
21 to 30 Cases	N=20

V. Background

38. How long have you been employed with MSPB? *(Check one.)*

	N=236
☐ Less than 2 years	9%
☐ 2 to less than 5 years	21%
☐ 5 to less than 10 years	23%
☐ 10 or more years	48%

39. Where is your permanent duty station? *(Check one.)*

	N=238
☐ Headquarters	58%
☐ Regional office	30%
☐ Field office	12%

40. What is your sex? *(Check one.)*

	N=237
☐ Male	39%
☐ Female	61%

41. Are you of Hispanic origin? *(Check one.)*

	N=236
☐ Yes	2%
☐ No	98%

42. What is your race? *(Check one.)*

	N=235
☐ African-American	21%
☐ Asian/Pacific Islander	2%
☐ Native American (American-Indian)	<1%
☐ White	76%
☐ Other *(Please specify.)*	1%

_____

VI. Comments

43. If you have any comments relating to any of the issues discussed in this questionnaire, please write them here. *(If necessary, you may attach additional sheets.)* N=240

91 respondents (38%) provided comments

44. If you have any additional suggestions not noted elsewhere on this questionnaire on how MSPB can improve its work environment and its EEO operation, please write them here. *(If necessary, you may attach additional sheets.)* N=239

26 respondents (11%) made suggestions

26 respondents (11%) expressed dissatisfaction or cited problems

Please return your completed questionnaire in the enclosed preaddressed envelope.
Thank you for your assistance.

Scope and Methodology

MSPB's Appeals Process

To assess whether MSPB is accomplishing its statutory mission through the appeals process in a fair and timely manner, we (1) developed a questionnaire and mailed it in April 1994 to individuals who had experience as practitioners with MSPB's process for adjudicating federal employees' appeals of agency personnel actions during the 2-year period ending September 1993; (2) analyzed its case processing performance reports to determine whether MSPB abided by its own guidelines in processing cases during fiscal years 1991 through 1994 at the regional and headquarters levels; and (3) analyzed data on the extent to which MSPB's final decisions were appealed to and affirmed by the U.S. Court of Appeals for the Federal Circuit during fiscal years 1991 through 1994.

In analyzing the case processing performance reports, we did not verify them to source documents but did review available MSPB information on the reliability of the case management system from which the reports were generated. For example, we identified various MSPB systemwide controls used to ensure the accuracy and reliability of appeals case data. We also identified and reviewed three data verification studies performed by MSPB's management analysis group. We did not review appeals cases to determine whether the process was carried out fairly or resulted in well-reasoned decisions.

Questionnaire Objectives and Development

We mailed a total of 1,179 questionnaires on April 27, 1994, to appeals process practitioners asking for their views on (1) how successful MSPB has been in accomplishing its mission through the appeals process, (2) the fairness of the appeals process, and (3) the time limits for filing and processing appeals. The practitioners included (1) general counsels of federal agencies, (2) federal agency attorneys and representatives, (3) employee and labor-management relations representatives in federal agencies, (4) private attorneys representing appellants, and (5) union officials representing appellants.

The questionnaire was designed by a social science survey specialist in conjunction with GAO evaluators who were knowledgeable about MSPB's appeals process. We pretested the questionnaire with members of each of the five participant groups to determine if (1) the respondents possessed the information desired; (2) the questionnaire would be burdensome to the respondents; and (3) the questionnaire design, including such elements as the type size, layout, and procedures for recording the information, was appropriate. Any problems with the questionnaire that were identified by the pretest process were corrected. We also provided the questionnaire to

MSPB for review and incorporated the agency's comments as appropriate. After the questionnaires were completed and returned by survey respondents, the questionnaires were edited. Three data verification procedures were used. All data were double-keyed and verified during data entry. A random sample of these data was verified back to the source questionnaires. Also, computerized logic checks were run to look for incorrect data; any errors that were found were corrected.

Sampling Methodology

The total population of the 5 participant groups was 5,015 individuals; 1,179 of these 5,015 individuals were mailed questionnaires. Questionnaires were mailed to all persons in the general counsel (83) and employee and labor-management relations representative groups (98). Federal agency general counsels were identified and selected from agency general counsels listed in the Federal Yellow Book, Winter 1994. Employee and labor-management relations representatives in federal agencies were selected from a membership listing of OPM's Interagency Advisory Group Committee on Employee and Labor-Management Relations.

We sent questionnaires to a total sample of 998 individuals who made up the remaining 3 groups of appeals process participants—federal agency attorneys and representatives (492), private attorneys (368), and union officials (138). Federal agency attorneys and representatives, private attorneys, and union officials were selected from MSPB's lists of individuals who represented federal employees or agencies before MSPB sometime during fiscal year 1992 or fiscal year 1993; because of the large number of individuals included in these lists, we randomly sampled from the three groups.

Table III.1 presents the population sizes and the original and revised sample sizes for each of the five participant groups that were mailed questionnaires on April 27, 1994.

Table III.1: cipant Groups Included in MSPB's Appeals Process Questionnaire Survey Mailed on April 27, 1994

Group	Number of persons in population	Sample of persons mailed questionnaires	Sample of persons eligible to receive questionnaires[b]
Agency general counsels	83	83[a]	50
Agency attorneys and representatives	2,336	492	443
Agency employee and labor-management relations representatives	98	98[a]	41
Private attorneys	1,855	368	316
Union representatives	643	138	123
Total	**5,015**	**1,179**	**973**

[a]The entire population, rather than a sample, was mailed the questionnaire.

[b]Figures represent the sample of persons mailed questionnaires minus those who indicated on returned questionnaires that they had not had personnel appeals cases experience with MSPB since October 1991.

Questionnaire Response Rate

Of the 1,179 questionnaires we mailed in April 1994, 206 questionnaires were returned by individuals who indicated they had not had personnel appeals case experience with MSPB since October 1991 and thus were deemed ineligible for our sample. These individuals were dropped from our original population of individuals, resulting in a revised survey sample size of 973 questionnaires for our 5 participant groups. Those individuals who did not respond were sent a second questionnaire mailing on June 8, 1994, and a final questionnaire mailing on August 4, 1994. As a result of these 3 mailings, we received 676 completed and useable questionnaires, for a response rate of 69 percent. Table III.2 summarizes the questionnaire returns for the revised survey sample size of 973.

Table III.2: Questionnaire Returns

Types of returns	Number of eligible returns	Percent
Useable returns	676	69.5
Delivered but not returned	218	22.4
Undeliverable	70	7.2
Returned not completed or useable	9	0.9
Total	**973**	**100**

The useable return rates for the individual groups ranged from 47 to 85 percent. Table III.3 presents the revised sample size and return rates for each group.

Table III.3: Useable Return Rates by Group

Group	Eligible returns	Useable returns	Useable return rate
Agency general counsels	50	42	84.0
Agency attorneys and representatives	443	375	84.7
Agency employee and labor- management relations representatives	41	30	73.2
Private attorneys	316	149	47.2
Union officials	123	80	65.0
Total	**973**	**676**	**69.5**

Population Estimates From the Sample Results and Sampling Error

The results obtained from our sampling methodology allow us to make observations about each group's experience in representing clients before MSPB. Our sample results can be projected to the populations for three of the five groups who have had experience representing clients before MSPB—federal agency attorneys and representatives, private attorneys, and union officials representing appellants. The other two groups—employee and labor-management relations representatives and general counsels of federal agencies—were not sampled; instead, the populations of individuals in these two groups were mailed questionnaires.

Because our survey selected a sample or portion of the population of agency attorneys and representatives, private attorneys, and union representatives, the review results obtained are subject to some uncertainty, or sampling error. The sampling error consists of two parts—confidence level and confidence interval. The confidence level indicates the degree of confidence that can be placed in the estimates derived from the sample. The confidence interval is the upper and lower limit between which the actual population estimate may be found.

We chose the specific sample sizes for each of the three groups so that the confidence interval, based on a 100-percent response rate, would not be greater than plus or minus 5 percent at the 95-percent level of confidence. However, because the useable questionnaire response rate was less than 100 percent and varied for each of the three practitioner groups we sampled, the confidence intervals were generally larger than plus or minus 5 percent.

We calculated the confidence intervals only for the sampled groups' responses to the three survey questions on MSPB's success in accomplishing its mission and the fairness of its appellate process, which we presented earlier in tables 1, 2, and 3. In calculating the confidence intervals, we assumed that for each of the three practitioner sample groups the reported percentage of practitioners responding to the three survey questions was near 50 percent, which may result in larger confidence intervals. The confidence intervals are smaller when the actual reported percentages approach 100 percent and 0 percent. For example, the 90 percent of agency attorneys and representatives who responded that MSPB's appellate process was fair at the headquarters level had a confidence interval of plus or minus 4 percent, as compared to a confidence interval of plus or minus 6 percent if 50 percent had responded that the process was fair.

Table III.4 shows what the confidence intervals for each of the sampled groups would have been if the reported percentage of practitioners responding to the three questions had been near 50 percent.

Table III.4: Confidence Intervals for GAO's Analysis of Sampled Participants' Views of MSPB's Success in Accomplishing Its Mission and the Fairness of Its Appellate Process

	Confidence intervals[a] for participants' views on:		
Sampled group	MSPB's success in mission accomplishment	Fairness of MSPB's appellate process at the regional level	Fairness of MSPB's appellate process at the headquarters' level
Agency attorneys and representatives	5%	5%	6%
Private attorneys	9	8	12
Union officials	11	11	17

[a]The confidence intervals are stated as a plus or minus percent with a confidence level of 95 percent.

MSPB's Accountability Mechanisms

To determine what accountability mechanisms MSPB had in place to provide its employees the merit system protections that MSPB was created to uphold, we reviewed the agency's EEO and internal oversight activities designed to protect its employees against workplace discrimination, mismanagement, abuse, and improper personnel practices. We also sought MSPB employees' views on selected aspects of the agency's EEO operations and internal oversight activities by mailing a questionnaire to all MSPB

employees. A more detailed discussion of the questionnaire development and its mailing is presented later in this appendix.

As discussed and agreed with your office, we did not review (1) MSPB's affirmative employment program for recruiting, hiring, advancing, and placing minorities, women, and other protected groups; or (2) how well audits and investigations were performed by MSPB's former OIG. We also did not review appeal cases of MSPB employees to determine whether the process was carried out fairly and resulted in well-reasoned decisions.

MSPB's EEO Operations

In reviewing MSPB's EEO operations, we focused on (1) training received during fiscal years 1992 and 1993 by MSPB managers and supervisors to make them aware of their EEO responsibilities and by EEO staff in carrying out the agency's EEO functions; (2) policies and procedures in place to evaluate and reward managers and supervisors on their EEO performance; and (3) actions MSPB has taken to communicate its EEO policy, program, and complaint process to its employees and to make them aware of their rights under the EEO complaint process. We reviewed MSPB's EEO manual and collected and analyzed data for fiscal years 1990 through 1994 on the number of employees who had received EEO counseling or filed formal EEO complaints. We also reviewed MSPB's performance management manual and collected data for fiscal years 1991 through 1994 on the number of employees who had received the Chairman's Award for Excellence in EEO.

MSPB's Internal Oversight Activities

We interviewed MSPB officials to determine what measures agency management has taken, since abolishing its nonstatutory OIG in February 1994, to provide audit and investigative coverage of its programs and operations. We examined whether these measures would enable MSPB to conduct audits and investigations in compliance with requirements established by the Office of Management and Budget and the President's Council on Integrity and Efficiency.

We also compared MSPB's measures for carrying out its internal oversight activities with those of 10 other federal entities (see app. IV). Specifically, we compared the entities' capabilities to provide audits and investigations, the offices responsible for handling allegations of wrong-doing, arrangements for obtaining investigative and audit services, and the types of audits provided. We judgmentally selected these 10 entities because they were roughly comparable to MSPB in budget and staff size. As agreed

with your office, we did not review how well audits and investigations were performed by MSPB's former OIG.

MSPB's Vision Statement

To determine what actions MSPB has taken to foster a work environment that is based on trust, respect, and fairness, as called for in its 1992 vision statement, we interviewed MSPB's Chief Operating Officer, EEO director, and members of a task force charged with proposing actions for implementing MSPB's vision. We also used our previously mentioned MSPB employee questionnaire to solicit employees' views on their agency's success in fostering an environment based on trust, respect, and fairness. Lastly, we compared the workplace views of MSPB employees with those of federal employees in general. We did this by reviewing a May 1992 OPM special report entitled "Survey of Federal Employees," which contained data on federal employees' attitudes towards their jobs, their supervisors, and their organizations. OPM had distributed this questionnaire to 56,767 federal employees.

MSPB Employee Questionnaire Objectives and Development

We mailed our questionnaire to all individuals employed by MSPB as of May 12, 1994, asking for their views on MSPB's efforts to (1) carry out its EEO operations and ensure that its employees work in a discrimination-free environment; (2) create a climate that encourages reporting of waste, fraud, abuse, and mismanagement; and (3) foster a work environment that is based on trust, respect, and fairness. We also asked employees who were involved in the processing of cases at the regional and headquarters levels for their views on the reasonableness of MSPB's guidelines regarding time frames for processing and deciding cases. These employees included the regional administrative judges, attorneys in MSPB's Offices of the Appeals Counsel and the General Counsel, attorneys on the board members' personal staffs, and the board members. The Chairman was not included.

The questionnaire was first mailed on May 25, 1994, to all MSPB employees. On July 7, 1994, we sent a second copy of the questionnaire to those who did not respond to our first mailing. On August 1, 1994, we sent a third copy of the questionnaire to those who still had not responded.

The questionnaire was designed by a social science survey specialist in conjunction with GAO evaluators who were knowledgeable about MSPB's EEO and internal oversight operations. Before mailing our questionnaire, we pretested it with 10 MSPB employees who held various job titles and

were assigned to either an MSPB regional office or to various offices within MSPB headquarters. The pretest helped to ensure that our questions would be interpreted correctly and that the respondents would be willing to provide the information required. We also provided the questionnaire to MSPB for review and incorporated the agency's comments as appropriate. After the questionnaires were received from survey respondents, the surveys were edited. Three data verification procedures were used. All data were double-keyed and verified during data entry. A random sample of these data was verified back to the source questionnaires. Also, computerized logic checks were run to look for incorrect data, and any errors detected were corrected.

Questionnaire Response Rate

A total of 301 employees were mailed the questionnaire, but 2 employees were later dropped from the our original population because they were not employed with MSPB as of May 12, 1994. Of the 299 eligible employees in our universe, 240 of them returned useable questionnaires to us, for a response rate of 80 percent. Table III.5 summarizes the questionnaire returns for the 299 eligible MSPB employees who were mailed questionnaires.

Table III.5: Questionnaire Returns

Types of returns	Number	Percent
Useable returns	240	80
Delivered but not returned	56	19
Returned not completed or unuseable	3	1
Total	**299**	**100**

Nonsampling Errors on Both Questionnaires

In addition to the sampling errors of the kind discussed earlier for the MSPB appeals process questionnaire, the practical difficulties of conducting any survey may introduce other types of errors, commonly referred to as nonsampling errors. For example, differences in how a particular question is interpreted by the survey respondents could introduce unwanted variability into the survey's results. We took steps in the development of each questionnaire, the data collection, and the data analysis to minimize nonsampling errors. These steps, such as pretesting and editing the questionnaires, have been discussed in previous sections of this appendix.

Comparison of MSPB's Internal Oversight Arrangements With Those of 10 Other Selected Federal Entities

Areas of comparison	MSPB	FRTIB	IAF
Fiscal year 1992 actual budget authority (in millions of dollars)	$23.4	$24.1	$24.6
Fiscal year 1992 full-time equivalents	283	89	76
Official who handles allegations	General Counsel	General Counsel	General Counsel
Inhouse capability for conducting audits	No	No	Yes
Audits contracted out with private firms	Yes	Yes	Yes
Agreement with an OIG to perform audits	No	Yes[b]	No
Types of audits performed	Financial related	Financial related	Grant and compliance
Required to report to the Office of Management and Budget annually on audit and investigative activity	Yes	Yes	Yes

IMS	FMCS	NTSB	NGA	OSHRC	ABMC	SJI	USIP
$27.0	$28.1	$34.7	$48.6	$6.7	$17.6	$13.5	$11.0
17	311	352	863	77	386	25	51
General Counsel[a]	General Counsel	Budget and Financial Policy Director	General Counsel	General Counsel	Director of Personnel	General Counsel	Executive Vice President
No	No	No	Yes	No	No	No	No
Yes	Yes	Yes	Yes	No	No	Yes	Yes
Yes	No	No	No	Yes	No[c]	No	No
Financial related	Financial	Financial related	Financial, economy and efficiency, performance	Financial (to be performed)	Financial, management	Financial, program	Financial
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Legend:

MSPB - Merit Systems Protection Board
FRTIB - Federal Retirement Thrift Investment Board
IAF - Inter-American Foundation
IMS - Institute of Museum Services
FMCS - Federal Mediation and Conciliation Service
NTSB - National Transportation Safety Board
NGA - National Gallery of Art
OSHRC - Occupational Safety and Health Review Commission
ABMC - American Battle Monuments Commission
SJI - State Justice Institute
USIP - U.S. Institute of Peace

[a]IMS does not have a general counsel. An IMS official said that depending on the nature of the allegation, it may be handled by the National Endowment for the Humanities' general counsel under the interagency agreement that IMS has with it.

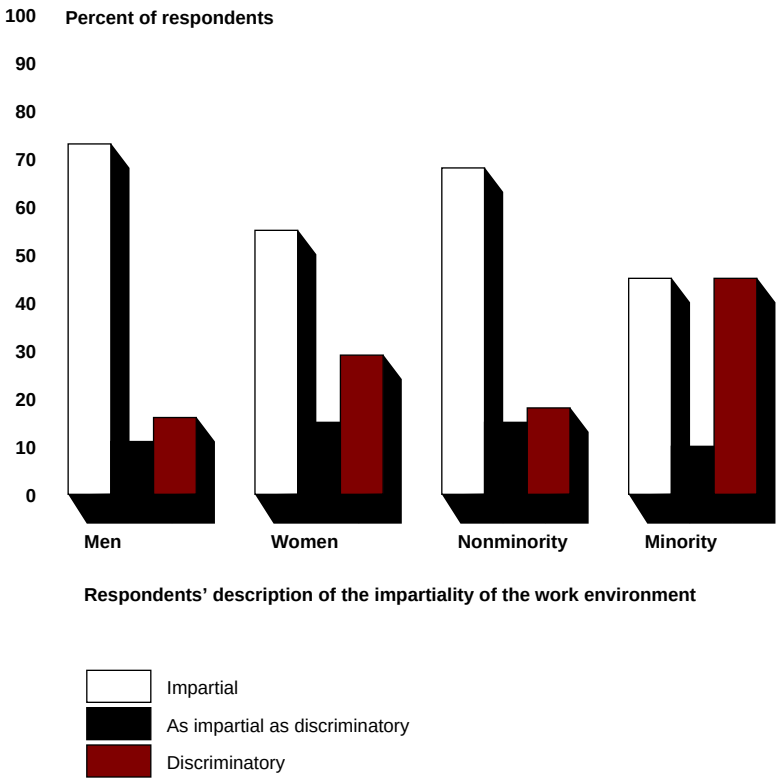
[b]The Federal Employees' Retirement System Act of 1986 requires the Secretary of the Department of Labor to establish a program to carry out audits of compliance with fiduciary responsibilities relating to the Thrift Savings Plan, which is administered by FRTIB.

[c]ABMC does have an agreement with the Army Audit Agency to perform audits.

Figures and Tables on Selected MSPB Employee Survey Results

Based on situations that they either had personally experienced or had seen or heard occurred at MSPB during the past 2 years, 24 percent of the respondents to our employee questionnaire described the MSPB work environment as either somewhat discriminatory or very discriminatory. The discriminatory acts that respondents perceived to have taken place most often involved employees being hired, assigned to jobs, or formally recognized or rewarded primarily because of their race or sex. As figure V.1 shows, more women than men and more minority than nonminority employees described the work environment at MSPB as discriminatory. Women and minorities were 61 percent and 32 percent of MSPB's workforce, respectively, at the time we initiated our survey.

Figure V.1: Respondents' Description of the Impartiality of the Work Environment, by Gender and Nonminority/ Minority Status



Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

As shown in table V.1, most employees responding to our survey believed that since MSPB announced its vision statement in November 1992, they have been treated fairly in decisions regarding job assignments, training, formal ratings, monetary awards and bonuses, promotion or career advancement, and nonmonetary awards and recognition. However, employees' responses regarding these decisions varied with their gender, nonminority/minority status, and position as shown in tables V.2 through V.4.

Table V.1: Percentage of MSPB Employees Indicating They Believed They Have Been Treated Fairly Regarding Various Personnel and Pay Decisions

Type of personnel or pay decision	Percent of respondents indicating fairly[a]
Job or project assignments	68
Training	72
Formal performance appraisals/ratings	71
Monetary awards and bonuses	65
Promotion or career advancement	57
Nonmonetary awards and recognition	58

[a]For ease of presentation, "fairly" refers to the responses of employees who believed they have been treated either very fairly or generally fairly.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Table V.2: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Gender

	Percentage who believed they have been treated unfairly[a]	
Type of personnel/pay decision	Men	Women
Job or project assignments	11	17
Training	7	11
Formal performance appraisals/ratings	9	12
Monetary awards and bonuses	17	16
Promotion or career advancement	19	27
Nonmonetary awards and recognition	20	25

[a]For ease of presentation, "unfairly" refers to the responses of employees who believed they have been treated either very unfairly or generally unfairly.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Table V.3: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Nonminority/Minority Status

	Percentage who believed they have been treated unfairly[a]	
Type of personnel/pay decision	**Nonminorities**	**Minorities**
Job or project assignments	14	18
Training	8	10
Formal performance appraisals/ratings	9	13
Monetary awards and bonuses	15	21
Promotion or career advancement	19	36
Nonmonetary awards and recognition	20	32

[a]For ease of presentation, "unfairly" refers to the responses of employees who believed they have been treated either very unfairly or generally unfairly.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Table V.4: Percentage of Employees Indicating They Believed They Have Been Treated Unfairly, by Position

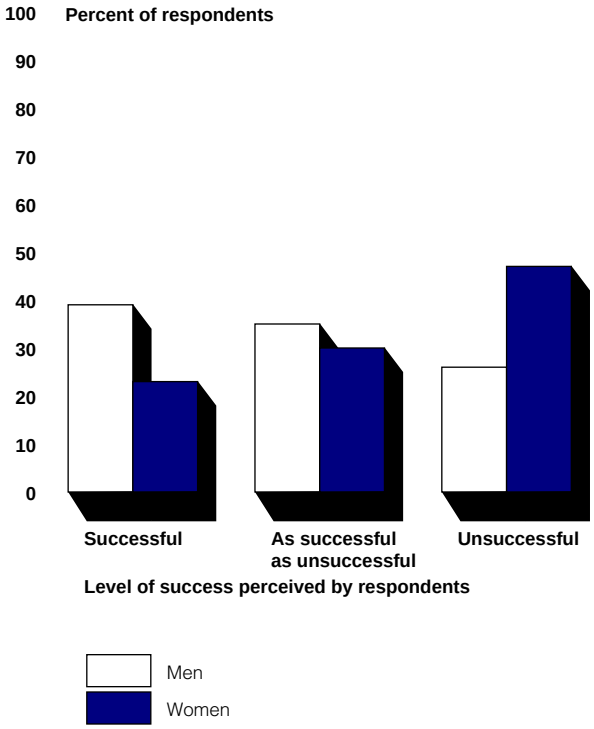
	Percentage who believed they have been treated unfairly[a]	
Type of personnel/pay decision	**Attorneys**	**Nonattorneys**
Job or project assignments	9	18
Training	4	12
Formal performance appraisals/ratings	8	11
Monetary awards/bonuses	12	19
Promotion or career advancement	12	32
Nonmonetary awards and recognition	17	26

[a]For ease of presentation, "unfairly" refers to the responses of employees who believed they have been treated either very unfairly or generally unfairly.

Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

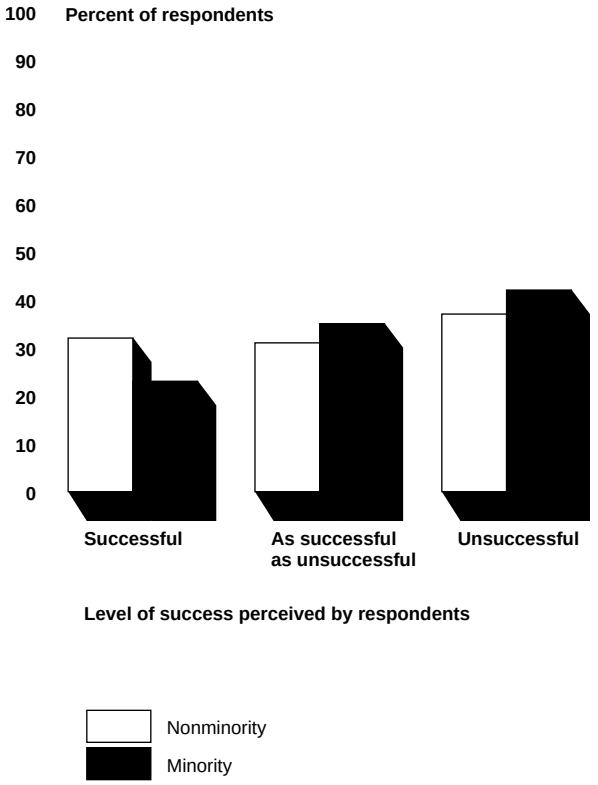
Figures V.2 through V.4 show how employees' perceptions of MSPB's success in fostering an environment of trust, respect, and fairness in the workplace varied with their gender, nonminority/minority status, and duty station. More women (47 percent) than men (26 percent), more minorities (42 percent) than nonminorities (37 percent), and more headquarters (42 percent) than nonheadquarters (34 percent) employees indicated they believed that MSPB had been unsuccessful in fostering such an environment.

Figure V.2: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Gender



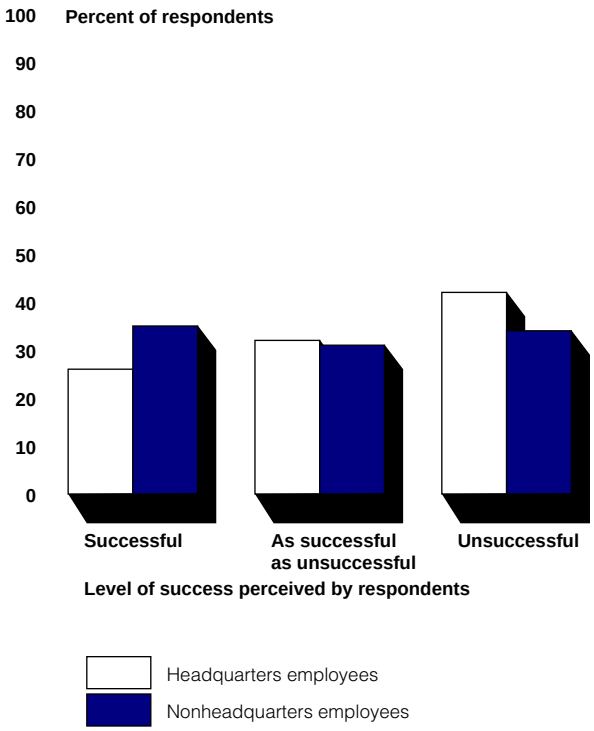
Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Figure V.3: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Nonminority/Minority Status



Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Figure V.4: Employees' Perceptions of MSPB's Success in Fostering an Environment of Trust, Respect, and Fairness, by Duty Station



Source: GAO's Survey of U.S. MSPB Employees' Attitudes and Views About Their Work Environment.

Comments From the Merit Systems Protection Board

THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

July 14, 1995

Mr. L. Nye Stevens
Director
Federal Management and
Workforce Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Stevens:

I appreciate the opportunity to comment on the draft of the August 1995 report on the Merit Systems Protection Board. The report is on the whole objective, thorough and thoughtfully presented. The Board will take your recommendations into account as we strive to become even more effective and efficient.

I am pleased to advise you that since the period covered by the report, we have improved the processing time for headquarters cases by 30 percent. For the first half of FY 1995, the overall average processing time for petitions for review on merits cases was 119 days, down from an average of 170 days for the four preceding fiscal years. We also increased the percentage of cases decided within our 110-day goal to 73 percent in the first half of FY 1995, up from an average of 65 percent for the four preceding fiscal years. These improvements illustrate that we are serving our customers better.

In the section on the Board's new oversight policies and procedures, the report notes that the Office of General Counsel (OGC) is responsible for program and operations audits. The report states that OGC will contract for audits with private firms or through interagency agreements. It may also be prudent, especially in the current fiscal environment, for OGC to arrange for Board personnel to perform some audits in situations where appropriate safeguards can be established.

The Bicentennial of the U.S. Constitution 1787-1987

See p. 2.

2

As a final technical note, the Merit Systems Protection Board is constituted by statute as a Board, rather than as a Board of Directors as indicated on page three of the draft report.

Thank you for your efforts to assist in improving the civil service adjudication system.

Sincerely,

Ben L. Erdreich
Chairman

GAO Contacts and Staff Acknowledgments

GAO Contacts

Stephen Altman, Assistant Director (202) 512-3712
Mary Y. Martin, Evaluator in Charge (202) 512-4345
William Trancucci, Senior Evaluator (202) 512-5043

Acknowledgments

In addition to those named above, the following individuals in GAO's General Government Division (GGD), Accounting and Information and Management Division (AIMD), and Office of the General Counsel (OGC) made important contributions to this report: Philip Kagan, Senior Evaluator (GGD), assisted with the design of the job; Stuart M. Kaufman, Senior Social Science Analyst (GGD), assisted with the design and development of both questionnaires and prepared the computerized analyses of the MSPB employee questionnaire results; Gregory H. Wilmoth, Senior Social Science Analyst (GGD), assisted with selecting the appropriate methodology to accomplish the job's objectives; Jerome T. Sandau, Social Science Analyst (GGD), prepared the computerized analyses of the MSPB appellate process questionnaire results; Jackson W. Hufnagle, Assistant Director (AIMD), reviewed MSPB's internal oversight activities; Clarence A. Whitt, senior accountant (AIMD), did the comparative analysis of MSPB's internal oversight activities with 10 other federal entities; Alan N. Belkin, Assistant General Counsel (OGC), and Jessica A. Botsford, Senior Attorney (OGC), provided legal advice.

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