The Federal
Flexible Benefits Plan
("FedFlex")

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THE FEDERAL FLEXIBLE BENEFITS PLAN

Article 1. INTRODUCTION.

1.1. Purpose of Plan. The purpose of this Plan is to provide Employees a choice between cash and pre-tax coverage under a Medical Plan, Health Care Flexible Spending Arrangement (HCFSA) and Dependent Care Flexible Spending Arrangement (DCFSA).

1.2. Cafeteria Plan Status. This Plan is intended to qualify as a "cafeteria plan" under Section 125 of the Internal Revenue Code of 1986, as amended and applicable regulations, and is to be interpreted in a manner consistent with the requirements of Section 125.

1.3. Flexible Spending Arrangement Plan Status. The HCFSAs are offered pursuant to a self-insured medical expense reimbursement plan under Code Section 105. The DCFSAs are offered under Code Section 129. FSAs are intended to allow Employees to pay medical and dependent care expenses using pre-tax dollars and are intended not to discriminate as to eligibility or benefits in favor of the prohibited group under Code Sections 105, 125, and 129.

Article 2. DEFINITIONS.

Whenever used, these terms have the following meanings unless a different meaning is clearly required by the context:

2.1. "Adopting Employer" means the Executive Branch of the Federal Government. Adopting Employer also means an Employer that signs an adoption agreement, accepted by OPM, to participate in this Plan. An Employer remains an Adopting Employer until the Plan terminates, the Adopting Employer withdraws from the Plan, or OPM terminates the Adopting Employer's participation in the Plan.

2.2. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.3. "Covered Employee" means an individual who is an Employee under Section 2.9, is employed by an Adopting Employer, and satisfies coverage requirements under Article 3.

2.4. "Dependent" for purposes of HCFSA and DCFSA, and no other purpose, means any individual who is a tax dependent of the Covered Employee as defined in Code Section 152(a) and with respect to whom the Covered Employee is entitled to an exemption under Section 151(c) of the Code. In addition, any child described in Code Section 152(e) shall be treated as a dependent of both parents for the purposes of a DCFSA.

2.5. "Dependent Care Flexible Spending Arrangement" or **"DCFSA"** means an account established by the Employer for designated allotments made by the Employee for reimbursement of Eligible Dependent Care Expenses.

2.6. "Effective Date" for an Employer means the date that an Employer becomes an Adopting Employer.

2.7. "Eligible Dependent Care Expenses" is defined in Section 4.4(c).

2.8. "Eligible Health Care Expenses" is defined in Section 4.3(c).

2.9. "Employee" means

a. for purposes of the Medical Plan and the Health Care Flexible Spending Arrangement, and no other purpose

1. an employee as defined in 5 U.S.C. section 8901(1) except that Employee does not include: employees of the Judicial Branch; employees of the District of Columbia government; or employees not eligible to participate in the FEHB Program in accordance with applicable statutes and regulations; or

2. a Reemployed Annuitant.

b. for purposes of the Dependent Care Flexible Spending Arrangement, and no other purpose

1. an employee as defined in 5 U.S.C. section 8901(1); except that Employee does not include: employees of the Judicial Branch; employees of the District of Columbia government; or

2. a Reemployed Annuitant.

2.10. "Employer" means an employer of an Employee. In the case of an Employee whose payroll office is not an Executive Branch payroll office, the Employer is the entity that issues pay on behalf of the Employee.

2.11. "FEHB Program" means Federal Employees Health Benefits Program described in 5 U.S.C. section 8901, et seq.

2.12. "Flexible Spending Arrangements" or **"FSA"** means Health Care Flexible Spending Arrangement and Dependent Care Flexible Spending Arrangement.

2.13. "FSA Initial Effective Date" means July 1, 2003.

2.14. "FSA Initial Plan Year" for an Employer means the period beginning on the FSA Initial Effective Date and ending on December 31 of that same year.

2.15. "Health Care Flexible Spending Arrangement" or **"HCFSA"** means an account established by the Employer for designated allotments made by the Employee for reimbursement of Eligible Health Care Expenses.

2.16. "Initial Effective Date" for the Executive Branch of the Federal Government means October 1, 2000.

2.17. "Initial Plan Year" for an Employer means the period beginning on the Effective Date and ending on December 31 of that same year.

2.18. "Medical Plan" means a health benefits plan participating in the FEHB Program.

2.19. "OPM" means the United States Office of Personnel Management.

2.20. "Plan" means The Federal Flexible Benefits Plan as set forth, together with any and all amendments, supplements and regulations published under Title 5 of the Code of Federal Regulations. If there is a conflict between The Federal Flexible Benefits Plan and the regulations, the regulations will govern. The Plan may also be known as "FedFlex."

2.21. "Plan Agent" means a third party administrator under contract to OPM to provide designated administrative services with regard to the Plan.

2.22. "Plan Administrator" means OPM.

2.23. "Plan Year" means the 12-month period ending on each December 31 after the Initial Plan Year.

2.24. "Qualifying Dependent" for purposes of DCFSA, and no other purpose, means :

a. a Dependent of the Covered Employee who is under the age of thirteen (13); or

b. a Dependent or spouse of the Covered Employee who is mentally or physically incapable of caring for himself or herself.

2.25. "Reemployed Annuitant" means an individual who is retired from the Federal Government, is reemployed as an employee as defined in 5 U.S.C. 8901(1), and who continues to receive an annuity.

2.26. "U.S.C." means the United States Code, as amended from time to time.

Article 3. COVERAGE

3.1. Commencement of Coverage under the Plan. An Employee will become a Covered Employee on the later of:

a. the Effective Date for his or her Adopting Employer; or

b. the first day he or she becomes an Employee.

However, if an Employee is eligible to participate in a cafeteria benefit plan offered by another executive branch Employer, then that Employee is not covered under this Plan. In addition, no Employee may be covered under more than one premium conversion plan for premiums paid to the FEHB Program.

3.2. Termination of Coverage under the Plan. A Covered Employee will cease to be a Covered Employee as of the earliest date on which any of the following occurs:

a. the Plan terminates;

b. he or she ceases to be an Employee;

c. the date the Covered Employee's election or deemed election to receive benefits under the Plan terminates; or

d. the Covered Employee's Employer ceases to be an Adopting Employer.

3.3. Reinstatement of Former Covered Employee. A former Covered Employee will become a Covered Employee again if and when he or she meets the coverage requirements of Section 3.1. A reinstated Covered Employee's election will be subject to the provisions of Section 4.15(e).

Article 4. OPTIONAL BENEFIT COVERAGES.

4.1. Coverage Options. Each Covered Employee may choose under this Plan to receive his or her pay for any Plan Year in cash or to have a portion of it applied on a pre-tax basis as Employer provided coverage toward (a) the Medical Plan; (b) an HCFSA; and/or (c) a DCFSA.

4.2. Options for Medical Plan.

a. Coverage and benefits to be provided by the Medical Plan. Medical Plan coverage and benefits will be provided not by this Plan but by the Medical Plan. The types and amounts of benefits available under the Medical Plan, the requirements for participating in the Medical Plan and the other terms and conditions of coverage and benefits under the Medical Plan are as set forth in 5 U.S.C. 8901, et seq., and applicable regulations as well as the FEHB Program contracts and benefit brochures, all of which are incorporated by reference into this Plan.

b. Cash. A Covered Employee may elect to receive cash in lieu of the optional pre-tax premiums for FEHB coverage described in Section 4.2(a), in accordance with the election procedures described in Sections 4.7 and 4.8. A Covered Employee may use cash to participate in a Medical Plan on an after-tax basis. The Employer will continue to pay its share of the cost of premiums under the FEHB Program.

c. Pre-tax Medical Plan coverage. If a Covered Employee does not elect the cash option under this section, the Covered Employee's pay will be reduced through an allotment as described in section 4.6, and an amount equal to the reduction will be contributed by the Employer to a Medical Plan designated by the Covered Employee to cover the Covered Employee's share of the cost of the premium.

4.3. Health Care Flexible Spending Arrangement.

a. Cash. A Covered Employee will receive cash in lieu of the optional pre-tax coverage described below, in accordance with the procedures described in Sections 4.9 and 4.10.

b. Health Care Flexible Spending Arrangement allotment. A Covered Employee may make an allotment as described in section 4.6 and an amount equal to the allotment will be contributed by the Employer to an HCFSA to pay for Eligible Health Care Expenses incurred during the HCFSA Plan Year for which the Employee has made an election.

c. Eligible Health Care Expenses. Eligible medical, dental, and vision expenses are expenses incurred by the Employee, the Employee's spouse or Dependent during the Plan Year that:

1. meet the criteria of tax-deductibility as a medical, dental, or vision expense under Section 213(d) of the Code;

2. will not be taken as a deduction from income on the Employee's federal income tax return in any tax year;

3. are not covered, paid, reimbursed, or reimbursable from any other source;

4. do not exceed the amount that the Employee has elected to have allotted for HCFSA reimbursement for the Plan Year, less previous reimbursement of Eligible Health Care Expenses made during the Plan Year;

5. do not include any expense incurred for qualified long-term care services as defined in Section 7702B(c) of the Code;

6. do not include premiums for other health insurance; and

7. are not limited to the amount in the Covered Employee's HCFSA at the time a claim is reimbursed, but includes the Covered Employee's entire allotment to the HCFSA for the Plan Year (properly reduced for prior reimbursements during the Plan Year).

d. Claims incurred. Eligible Health Care Expenses are reimbursable when incurred. Expenses are treated as incurred when the Employee is provided with the medical care that gives rise to the health care expense, and not when the Employee is billed or pays for the medical care.

e. Unused allotments. Any amounts allotted for the Plan Year but not claimed as Eligible Health Care Expenses during the Plan Year will be forfeited if a claim for reimbursement of Eligible Health Care Expenses is not filed within 120 days following the end of the Plan Year.

4.4. Dependent Care Flexible Spending Arrangement.

a. Cash. A Covered Employee will receive cash in lieu of the optional pre-tax coverage described below, in accordance with the procedures described in Sections 4.9 and 4.10.

b. Dependent Care Flexible Spending Arrangement allotment. A Covered Employee may make an allotment as described in Section 4.6 and an amount equal to the allotment will be contributed by the Employer to a DCFSA to pay for Eligible Dependent Care Expenses incurred during the DCFSA Plan Year for which the Employee has made an election.

c. Eligible Dependent Care Expenses means employment-related expenses under Code Section 21(b)(2) incurred during the Plan Year for the care of a Qualifying Dependent and household services necessary to enable the Covered Employee and spouse, if any, to be gainfully employed. Eligible Dependent Care Expenses:

1. are limited to amounts paid for services rendered in the Covered Employee's home or amounts paid for services rendered outside of the Covered Employee's home only if they are for the care of a Qualifying Dependent: (i) defined in Section 2.24(a), or (ii) defined in Section 2.24(b) and who regularly spends at least eight hours each day in the Covered Employee's household. Services rendered in a dependent care center as defined in Code Section 21(b)(2)(D) must satisfy the requirements of Code Section 21(b)(2)(C);

2. are limited to the amount the Covered Employee has allotted for reimbursement of Eligible Dependent Care Expenses for the Plan Year less any prior reimbursement of Eligible Dependent Care Expenses during the Plan Year;

3. are limited to the amount in the Covered Employee's DCFSA at the time a claim is reimbursed; and

4. are not covered, paid, reimbursed, or reimbursable from any other source.

d. Claims incurred. Eligible Dependent Care Expenses are reimbursable when incurred. Expenses are treated as incurred when the Covered Employee is provided with the services that give rise to the dependent care expense, and not when the Covered Employee is billed or pays for the service.

e. Unused allotments. Any amounts allotted for the Plan Year but not claimed as Eligible Dependent Care Expenses during the Plan Year will be forfeited if a claim for reimbursement of Eligible Dependent Care Expenses is not filed within 90 days following the end of the Plan Year.

4.5. Reserved.

4.6. Allotments. Reduction of pay for coverage options elected under Section 4.1 will occur via an allotment to the agency under 5 U.S.C. 5525, or its functional equivalent, and any applicable regulations. The allotment for any pay period may not exceed the amount of the Covered Employee's pay available for allotment for that period. Allotments are deemed to be made voluntarily.

a. Medical Plan. For a Covered Employee who elects pre-tax Medical Plan coverage under Sections 4.2 and 4.7, pay will be reduced by the amount equal to the Covered Employee's share of his or her FEHB Program premium.

b. HCFSA. For a Covered Employee who elects pre-tax contributions to an HCFSA under Sections 4.3 and 4.9, pay will be reduced by the amount elected for the year, apportioned substantially equally among the remaining pay periods for such year. A Covered Employee may elect an HCFSA allotment of not less than $500 per Plan Year and not more than $3,000 per Plan Year.

c. DCFSA. For a Covered Employee who elects pre-tax contributions to a DCFSA under Sections 4.4 and 4.9, pay will be reduced by the amount elected for the year, apportioned substantially equally among the remaining pay periods for such year. A Covered Employee may elect a DCFSA allotment for a Plan Year of not more than the lesser of: (i) the Covered Employee's earned income, as defined in Section 129(e)(2) of the Code; (ii) the actual or deemed earned income of the Covered Employee's spouse, or (iii) the maximum amount permitted under Code Section 129(a)(2)(A) ($5,000 or $2500 if married filing separately). A spouse of a Covered Employee who is not employed and who is either incapacitated or a student shall be deemed to have earned income in the amount of $200 per month per Qualifying Dependent for whom the Covered Employee incurs Eligible Dependent Care Expenses, up to a maximum amount of $400 per month. The maximum allotment allowable for the DCFSA must be reduced by any amounts received under the Child Care Tuition Assistance Plan (Pub. L. No. 106-58) or similar program.

4.7. Cash Election Procedure for Employees Covered under a Medical Plan.

a. Initial Plan Year election procedure. A Covered Employee who is enrolled in a Medical Plan may elect to receive cash in lieu of coverage as described in Section 4.2 and may obtain an election form from the Employer. The Covered Employee must complete and return this election form to the agency human resources office on or before the day designated by the Employer, but in no event later than the day before the first day of the first pay period that begins on or after the Effective Date. The election shall be effective as of the first day of the first pay period that begins on or after the Effective Date.

b. New Covered Employee election procedure. As soon as practicable after an individual becomes a Covered Employee under Section 3.1 or 3.3, the Employer shall make available the election form described in Section 4.7(a). If the Covered Employee enrolls in a Medical Plan and wishes to elect the cash option described in Section 4.2(b) for the balance of the Plan Year, the Covered Employee must complete the form and return it to the agency human resources office together with the Medical Plan enrollment form during the period permitted for new enrollment in the FEHB Program. The election will be effective prospectively as of the first day of the first pay period for which Medical Plan coverage becomes effective.

c. Reemployed Annuitant election procedure. If the new Covered Employee is a Reemployed Annuitant who is already enrolled in a Medical Plan as an annuitant, and that Covered Employee wishes to elect the cash option described in 4.2(b), the Covered Employee must complete the form and return it to the agency human resources office within 60 days of becoming a Covered Employee under 3.1. The election will be effective as of the first day of the first pay period following the Employer's receipt of the form.

d. Open season election procedure. At the time prescribed for the annual open season for the FEHB Program, a Covered Employee who enrolls or remains enrolled in a Medical Plan may elect to receive cash in lieu of coverage as described in Section 4.2. The Employer shall make available the written election form described in Section 4.7(a). This election form must be completed and returned to the agency human resources office on or before the last day of the open season. The election shall be effective on the same day as all FEHB open season changes. If, for any reason, OPM conducts a special open season, the above procedure shall apply, except that the election shall be effective as of the date that OPM shall prescribe.

e. Change in status election procedure. A Covered Employee may not revoke an election during a Plan Year except in the case of a change in status described in Section 4.15.

4.8. Failure to Return Cash Election Form for Employees Covered under a Medical Plan.

a. Initial Plan Year. A Covered Employee's failure to return a completed election form to the Employer on or before the Effective Date for the Initial Plan Year shall constitute an election of pre-tax premium coverage under 4.2(c).

b. New Covered Employees and Reemployed Annuitants. A Covered Employee's failure to return a completed election form to the Employer on or before the date described in Section 4.7 for the Plan Year in which he or she becomes a Covered Employee, shall constitute an election of pre-tax premium coverage under 4.2(c).

c. Subsequent Plan Years. A Covered Employee's failure to return a completed election form to the Employer on or before the date described in Section 4.7(d), for any subsequent Plan Year shall constitute a re-election of the same option as was in effect for the Covered Employee just prior to the end of the preceding Plan Year. If the Covered Employee's prior Plan Year election was pre-tax premium coverage, failure to return a completed election form to the Employer on or before the date described in Section 4.7(d) shall also constitute election of an allotment under Section 4.6.

4.9. Election Procedures under a Flexible Spending Arrangement.

a. FSA Initial Plan Year election procedure. Prior to the FSA Initial Effective Date, a Covered Employee may elect to allot an amount in lieu of pay on a pre-tax basis to an FSA, in an amount not to exceed the limits described in Section 4.6(b) for the HCFSA and Section 4.6(c) for the DCFSA. The Covered Employee may obtain an election form for this purpose from the Employer or entity designated by the Employer. The Covered Employee must complete and return this election form to the agency human resources office or entity designated by the Employer on or before the day designated, but in no event later than the FSA Initial Effective Date. The election shall be effective as of the first day of the first pay period that begins on or after the FSA Initial Effective Date.

b. New Covered Employee election procedure. As soon as practicable after an individual becomes a Covered Employee under Section 3.1 or 3.3, the Employer or entity designated by the Employer shall make available the election form described in Section 4.9(a). If the Covered Employee wishes to elect a pre-tax allotment to a Flexible Spending Arrangement for the balance of the Plan Year, the Covered Employee must complete the form and return it to the agency human resources office or entity designated by the Employer on or before the day designated by the Employer under Section 4.7(b) for pre-tax coverage under a Medical Plan. The election will be effective prospectively as of the first day of the first pay period following receipt of the election form by the Employer or entity designated by the Employer.

c. Reemployed Annuitant election procedure. Reemployed Annuitants with a break in service of at least 60 days will be treated as new Covered Employees for purposes of HCFSA and DCFSA elections. For Reemployed Annuitants with a break in service of less than 60 days, HCFSA and DCFSA elections previously in effect will be automatically reinstated as provided in Section 4.15(e).

d. Open season election procedure. At the time prescribed for the annual open season for the FEHB Program, a Covered Employee may elect to make a pre-tax allotment to an FSA, in an amount not to exceed the limits described in section 4.6(b) for the HCFSA and section 4.6(c) for the DCFSA. The Employer or entity designated by the Employer shall make available the written election form described in Section 4.9(a). This election form must be completed and returned to the agency human resources office or entity designated by the Employer on or before the last day of the open season. The election shall be effective on the same day as all FEHB open season changes. If, for any reason, OPM conducts a special FEHB Program open season, OPM may also conduct a special open season for the HCFSA. In such case, the above procedure shall apply, except that the election shall be effective as of the date that OPM shall prescribe.

e. Change in status election procedure. A Covered Employee may not revoke an election during a Plan Year except in the case of a change in status described in Section 4.15.

4.10. Failure to Return Flexible Spending Arrangement Election Form. A Covered Employee's failure to return a completed election form to the Employer on or before:

a. the Effective Date for the FSA Initial Plan Year;

b. the date described in Section 4.9(b) for the Plan Year in which he or she becomes a Covered Employee; or

c. the date described in Section 4.9(d), for any subsequent Plan Year;

shall constitute an election to receive cash in lieu of Flexible Spending Arrangement Benefits.

4.11. Reserved.

4.12. Reserved.

4.13. Reserved.

4.14. Reserved.

4.15. Irrevocability of Election by Covered Employee during the Plan Year.

a. A Covered Employee may not make an election change under the Plan (including an election made through inaction under Section 4.8) during the Plan Year, except as provided in paragraph (b) of this Section.

b. A Covered Employee may revoke an election and file a new election for the balance of a Plan Year if both the revocation and the new election are: (1) consistent with the terms of the Covered Employee's Medical Plan, HCFSA or DCFSA; and (2) made on account of and correspond with a change in status event. For this purpose, a change in status event means: a change in marital status, such as a marriage, death of a spouse, divorce, legal separation or annulment; a change in the Covered Employee's number of dependents, such as by birth, adoption, death or placement for adoption; a change in employment status that alters the Covered Employee's eligibility under the Medical Plan, such as termination of employment, a significant curtailment in coverage or elimination or addition of a new benefit package option under the Medical Plan; a significant change in the coverage of a spouse or dependent under a plan of the employer of the spouse or dependent; and any other event that the Employer determines will permit an election change during a Plan Year pursuant to Treasury Reg. §1.125-4 and other regulations and rulings of the Internal Revenue Service and regulations of OPM.

c. In order to revoke an election and/or file a new election under section 4.15(b), a Covered Employee must complete the election form described in section 4.7(a) for the Medical Plan or Section 4.9(a) for the FSA and return the appropriate form on or before the date specified in regulations by OPM to his or her agency human resources office or entity designated by the Employer. This revocation and new election will be effective at such time as OPM prescribes, but not earlier than the first day of the first pay period beginning after the revocation and new election.

d. No Covered Employee will be allowed to reduce his or her election for an HCFSA or DCFSA to a point where the total allotment for the Plan Year for such benefit is less than the amount already reimbursed for that Plan Year. In addition, any change in an election affecting the Covered Employee's annual allotments to the HCFSA or DCFSA pursuant to this section also will change the Covered Employee's benefits for the period of coverage remaining in the Plan Year. The Covered Employee's benefits following an election change will be calculated by adding any balance (including a negative balance) remaining in the Covered Employee's HCFSA or DCFSA as of the end of the portion of the Plan Year immediately preceding the change in election, to the total allotments scheduled to be made by the Covered Employee during the remainder of such Plan Year to each account, respectively.

e. If a former Covered Employee whose elections have automatically terminated under Section 4.18 again becomes a Covered Employee: (1) within 60 days of ceasing to be a Covered Employee; and (2) before the end of the same Plan

Year, the HCFSA and DCFSA elections previously in effect for the Covered Employee will automatically be reinstated for the balance of the Plan Year, unless: (1) there has been an intervening event that would permit an election change and the election right has been exercised, or (2) the Covered Employee subsequently qualifies to make an election change under paragraph (b) of this Section.

4.16. Reserved.

4.17. Adjustment of Allotments.

a. Change in cost of Medical Plan coverage. If the cost of coverage provided by a Medical Plan increases or decreases during a Plan Year, a Covered Employee's allotment will increase or decrease accordingly.

b. Adjustment to highly compensated employee allotments. If OPM determines that the Plan will fail to satisfy a nondiscrimination requirement imposed by the Code, OPM may modify or revoke elections made by key employees or highly compensated individuals or employees, as defined under Code Section 125 without the consent of such Covered Employees, or take any other appropriate action.

4.18. Automatic Termination of Election. Any election made under this Plan (including an election made through inaction under Section 4.8) automatically terminates when the Covered Employee stops being a Covered Employee in the Plan, even though coverage or benefits under the Medical Plan may continue if and to the extent provided by the Medical Plan or an election to receive Temporary Continuation of Coverage (TCC).

4.19. Failure to Pay Premiums. Coverage and benefits under a Medical Plan will terminate in accordance with the terms of the Medical Plan if a Covered Employee fails to pay his or her (Covered Employee's) share of the premium, through allotment or otherwise. However, a Covered Employee may not make an election change under the Plan during a Plan Year except as permitted under Section 4.15.

4.20. Leave Without Pay.

a. For Medical Plan. If a Covered Employee is on leave without pay and continues FEHB coverage, the Employer will contribute the Covered Employee's share of premiums during the leave without pay period that would otherwise have been treated as allotments under Section 4.6 and the Covered Employee will reimburse the Employer by prior allotment or catch-up allotment as prescribed by OPM regulations. Alternatively, the Covered Employee may pay FEHB premiums directly on an after-tax basis, as permitted by OPM regulations.

b. For FSAs. If a Covered Employee is on leave without pay (LWOP), the Employer will not contribute the Covered Employee's allotments during the leave without pay period. The Covered Employee's allotments that would otherwise be made during the LWOP period may be prepaid or may be made

through catch-up allotment as prescribed by OPM regulations or permitted by the Employer. Alternatively, the Covered Employee may pay allotments directly on an after-tax basis, as permitted by OPM regulations and the Employer.

Article 5. PAYMENT OF CLAIMS FOR FLEXIBLE SPENDING ARRANGEMENTS.

5.1. Claims Reimbursement for Eligible Health Care Expenses.

a. To make a claim for reimbursement of Eligible Health Care Expenses, the Covered Employee must submit a statement to OPM or its Plan Agent on an appropriate form adopted by OPM for this plan, containing the following information:

   1. written evidence from an independent third party stating the services rendered and the amount of the health care expense that has been incurred;

   2. the Covered Employee's certification that the claimed expenses are Eligible Health Care Expenses; and

   3. any other information OPM and its Plan Agent may find necessary.

b. OPM and its Plan Agent reserve the right to verify all claimed expenses prior to reimbursement and to reimburse only those amounts that they determine are Eligible Health Care Expenses.

c. All claims for reimbursement not filed during the Plan Year must be submitted within 120 days following the end of the Plan Year in which the expense was incurred.

5.2. Claims Reimbursement for Eligible Dependent Care Expenses.

a. To make a claim for reimbursement of Eligible Dependent Care Expenses, the Covered Employee must submit a statement to OPM or its Plan Agent on an appropriate form adopted by OPM for this plan, containing the following information:

   1. the Qualifying Dependent(s) for whom the Eligible Dependent Care Expenses were incurred;

   2. information necessary to substantiate that the dependent or dependents are Qualifying Dependent(s), such as the age of the dependent or a statement as to the physical or mental capacity of the dependent;

   3. written evidence from an independent third party stating that the expenses have been incurred, a description of the services and where the services were performed, the amount of the expense, and any other information OPM and its Plan Agent may find necessary;

4. the relationship to the Covered Employee, if any, of the person performing the services;

5. if the services are to be performed in a dependent care center, a statement that the dependent care center meets the requirements of Code Section 21;

6. if the Covered Employee is married:

   (a). the spouse's salary or wages, if he or she is employed;

   (b). if the spouse is not employed, a statement that he or she is incapacitated or is a student within the meaning of Code Section 21(d)(2);

7. the Covered Employee's certification that the expenses are Eligible Dependent Care Expenses, are necessary to enable the Covered Employee and spouse, if any, to be gainfully employed, and have not been reimbursed and are not reimbursable under any other plan or by any other entity.

b. OPM and its Plan Agent reserve the right to verify all claimed expenses prior to reimbursement and to reimburse only those amounts that they determine are Eligible Dependent Care Expenses.

c. All claims for reimbursement must be submitted not later than 90 days following the end of the Plan Year in which the expense was incurred.

d. On or before January 31 of each year, the Plan Agent will furnish to each Covered Employee who elected a DCFSA for the prior Plan Year, a written statement showing the amount of dependent care assistance paid during the Plan Year for Dependent Care Expenses incurred by the Covered Employee.

5.3. Payment of Claims. OPM or its Plan Agent will pay properly submitted claims for reimbursement at such intervals as it may consider appropriate, as may be designated by OPM regulations.

5.4. Expenses. All administrative expenses incurred under the Plan will be paid from the following Plan assets:

a. Forfeitures of FSA coverage under the Plan; or

b. Investment earnings credited on Plan assets pending payment against valid claims; or

c. Direct charges against FSAs as OPM may designate in regulations.

5.5. Minimum Reimbursement Amount. A minimum reimbursement amount from an FSA may be imposed by OPM regulations.

5.6. Repayment of Unsubstantiated Reimbursements. If a Covered Employee receives payments under this Plan that exceed the amount of Eligible Health Care Expenses or Eligible Dependent Care Expenses substantiated by the Covered Employee during the Plan Year, OPM or its Plan Agent will notify the Covered Employee in writing of any such excess amount, and the Covered Employee will repay that excess amount to the Plan within 60 days after receiving the notice.

5.7. Claims Appeal Process. A Covered Employee has the right to appeal a claim for benefits that has been denied in whole or in part by written request to the Plan Agent for reconsideration. If after reconsideration the claim is not paid in full, the Covered Employee may appeal in writing to the Plan Agent for further review of the denied claim using procedures outlined by the Plan Agent. OPM retains the authority to finally resolve all disputed claims through a binding arbitration process as follows. If the Covered Employee's appeal to the Plan Agent is denied in whole or in part, OPM and the Plan Agent will select an arbitrator from a panel of arbitrators pre-approved by OPM and the Plan Agent. The mutually selected arbitrator will review the denied claim and make a decision whether or not the claim should be paid. The arbitrator's decision will be binding on the Covered Employee and the Employer.

5.8. Coordination of Benefits under HCFSA. An HCFSA is not a group health plan for coordination of benefits purposes. Because an HCFSA is intended to reimburse benefits only for otherwise unreimbursable medical expenses, its benefits may not be taken into account when determining benefits payable under any other plan.

5.9. Post-Mortem Payments. If a Covered Employee dies after incurring an Eligible Health Care Expense but prior to filing a claim or receiving reimbursement, the deceased Covered Employee's surviving spouse or dependents, or if none, his or her estate may submit a claim or receive payment, as appropriate. Benefits reimbursable under the Plan after a Covered Employee dies will continue to be made to his or her surviving spouse or dependents but only if FEHB coverage is continued as a survivor annuitant or through Temporary Continuation of Coverage (TCC) election. The Plan Agent will retain the benefits without liability for any interest until the Plan Agent determines the proper person(s) to pay.

5.10. Inability to Locate Payee. If after reasonable efforts the Plan Agent cannot ascertain the identity or whereabouts of the proper person(s) to whom payment is due under the Plan, the payment will be forfeited.

5.11. Non-Alienation of Benefits. Except as expressly provided by OPM, no benefit under the Plan will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so will be void. No benefit under the Plan will in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person.

Article 6. ADMINISTRATION OF PLAN.

6.1. Plan Administration. OPM will administer the Plan according to its terms and subject to applicable law, for the exclusive benefit of persons entitled to participate in the Plan, without discrimination among them. In addition to all other powers provided by this Plan, OPM has authority to:

a. Make and enforce rules and regulations as OPM deems necessary or proper to efficiently administer the Plan;

b. Interpret the Plan in good faith, and OPM's interpretations will be final and conclusive on all persons claiming benefits under the Plan;

c. Decide all questions concerning the Plan, the criteria for eligibility to participate in the Plan, and accounting requirements under the Plan;

d. Require any person to furnish such information as it may request for the purpose of the proper administration of the Plan and as a condition to receiving any benefits under the Plan;

e. Appoint agents, counsel, accountants, consultants and other persons as needed to help administer the Plan; and

f. Allocate and delegate, in writing, OPM's responsibilities under the Plan and to designate other persons or entities to carry out any of its responsibilities under the Plan.

Notwithstanding the foregoing, any claim that arises under a Medical Plan is not subject to review under this Plan.

6.2. Eligibility Decisions. The Employer has authority to determine a Covered Employee's eligibility under the Plan, in accordance with criteria determined by OPM.

6.3. Accounting. OPM or its Plan Agent will maintain complete records of all amounts to be credited as a contribution or debited as a reimbursement of Eligible Health Care Expenses or Eligible Dependent Care Expenses on behalf of any Covered Employee. FSA records will be maintained for accounting purposes only and will not be representative of any identifiable trust assets. No interest will be credited to or paid on amounts credited to the FSAs.

6.4. Audit and Review of Plan Agent. OPM has the right to audit the records and operations of the Plan Agent and to review any decisions made by the Plan Agent on behalf of the Plan.

6.5. Examination of Records. The Employer will make available to each Covered Employee such Plan records that it has in its possession or control that pertain to the Covered Employee, for examination during normal business hours.

6.6. Reliance on Tables, etc. In administering the Plan, OPM may rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by, or in accordance with the instructions of the administrators of the Medical Plan, Plan Agent, or by accountants, counsel or other experts OPM employs or engages.

6.7. Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by OPM is required, OPM shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.

6.8. Reserved

Article 7. AMENDMENT OR TERMINATION OF PLAN.

OPM may amend or terminate the Plan at any time.

Article 8. MISCELLANEOUS PROVISIONS.

8.1. Information to be Furnished. Covered Employees must provide the Employer and OPM with information that may reasonably be requested from time to time to administer the Plan.

8.2. Limitation of Rights. This Plan and the benefits it offers do not provide any additional rights to Covered Employees.

8.3. Governing Law. This Plan shall be construed, administered and enforced according to the laws of the United States of America.

8.4. Adoption Agreements. An Employer of an Employee may adopt this Plan by signing an adoption agreement specified by OPM. The Employer will become an Adopting Employer under the Plan upon OPM's acceptance of the adoption agreement.

The Director of the Office of Personnel Management adopts this Plan for the Executive Branch of the United States Government.

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

By:_____
Kay Coles James, Director

Date: _____

ADOPTION AGREEMENT
THE FEDERAL FLEXIBLE BENEFITS PLAN
("FEDFLEX")

OPM has adopted the Federal Flexible Benefits Plan providing cafeteria benefits for premium conversion, Health Care Flexible Spending Arrangements, and Dependent Care Flexible Spending Arrangements for Employees covered under this Plan.

The Adopting Employer wishes to allow its eligible Employees to participate in the Federal Flexible Benefits Plan. By signing below, the Adopting Employer adopts the following coverage options under the Federal Flexible Benefits Plan effective as of _____ (Effective Date):

(Please check each coverage to be offered)

- ☐ Premium Conversion
- ☐ Health Care Flexible Spending Arrangements
- ☐ Dependent Care Flexible Spending Arrangements

This Adoption Agreement replaces all prior Federal Flexible Benefits Plan Adoption Agreements.

The Adopting Employer, upon adopting the Plan, will have the obligation to pay the contributions required for its own Employees for the coverages indicated above, and no other Employer will have this obligation.

The Adopting Employer may withdraw its adoption of the Plan at any time without affecting the other Employees in the Plan by giving OPM a written statement of withdrawal signed by a duly authorized official of the Employer. OPM may, in its absolute discretion, terminate any Adopting Employer's participation in the Plan if the Adopting Employer fails to discharge its obligations under the Plan.

SIGNED this _____ day of _____, on behalf of

_____(Name of Adopting Employer)

by its duly authorized officer:

_____ _____
(Print Name and Title) (Signature)

Adoption Agreement accepted by:
UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

By: _____ _____
Director Date