

# Human Resources Flexibilities and Authorities in the Federal Government



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# Preface

We have designed this handbook to communicate the myriad human resources (HR) flexibilities and authorities currently available and how they can be used to manage your human capital challenges. We serve as a resource for you as you use existing HR flexibilities to strategically align human resources management systems with your mission. Through reading this handbook, you may be surprised to discover how flexible title 5 is in meeting your organizational needs.

This handbook is divided into three major parts: Part I describes the foundation of our Governmentwide human resource system as a "single employer" and highlights the common policies that make for good public policy. Part II is designed for the General Schedule and Federal Wage Systems, and Part III is for the Senior Executive Service. These are provided to help you strategically align your HR systems with your organization's mission.

At any given time, you may be facing a particular human resource challenge. You can configure specific sets and applications of the ideas and opportunities this handbook describes to address different situations and problems in ways that hone in on particular issues and provide solutions tailored to your mission, workforce, and resources. Here are three examples of the kinds of challenges you may be confronting and brief descriptions of how the material in this handbook can help:

- **Recruiting and Hiring a Diverse and High Performing Workforce**

The war for talent is a manager's number one challenge whether it's hiring in the private sector or the Federal Government. The extensive *Staffing Your Organization* section is designed to show you all the options available that can help you in your search for talent, whether you are hiring at the entry or executive level, meeting short-term hiring needs or searching for special skills and competencies. This handbook can help you develop

aggressive recruitment strategies that include tailoring a recruitment package that highlights the job in plain English, marketing your organization so that it speaks to the needs and interests of potential candidates and emphasizing the competitive advantage that Government has to offer. These strategies will help to set you apart from your industry competitors so that you can successfully attract those candidates who will contribute and succeed in your organization.

- **Setting a Strategic Direction Through Workforce Planning and Organizational Realignment**

*Workforce Planning* has taken on a renewed importance, especially with the anticipated exodus of Federal employees retiring over the next decade. This section highlights the OPM Workforce Planning Model and points agencies in the right direction on where to turn to see "who's doing what" in workforce planning throughout Government.

Agencies are also interested in realigning their organizational structures as they respond to mission changes. The material on *Workforce Restructuring* in the *Staffing Your Organization* section and the *Work Design & Classification* section are designed to answer your questions and refer you to additional assistance when needed.

- **Unleashing the Potential of Your Organization**

Many retention strategies focus primarily on salary to retain quality employees. However, recent Corporate Leadership Council research findings conclude that pay was the least important reason cited by employees as to why they continue to work for a particular company. Employees surveyed gave the following reasons, in priority order, why they remained in their organizations: Career growth, learning and development, exciting work and challenge, meaningful work, making a difference and a contribution, working with great people, being part of a team, having a good boss, recognition for work well done, autonomy and control over one's work, flexible work hours and dress code, and fair pay and benefits. Almost all of the reasons cited are within easy reach of any organization, are relatively low cost to

implement and should not be overlooked in developing strategies that effectively retain a high performing workforce.

This handbook will help you redesign human resource systems that optimize and retain the necessary skills and competencies of your workforce. The *Staffing Your Organization, Benefits, Compensation, and Work Design & Classification* sections will help you learn what is available to assist you in developing integrated and merit-based systems that make sense for your organization. The *Work Arrangements & Work/Life Policies* section will help you foster a greater balance of employees' work and leisure time for greater productivity and higher morale. The *Performance Development & Training* section will show you how to inject new skills and competencies into your workforce; and the *Compensation and Performance Management* sections will give you ideas for developing compensation, performance and reward systems that send clear messages that high performance is valued and rewarded. And don't forget to review the *Labor-Management Relations, Poor Performance, and Dispute Resolution* sections for a wealth of information on tackling workforce challenges. Finally, Part III is devoted to the flexibilities and authorities designed specifically for the Senior Executive Service.

Federal human resource policies continue to evolve in the Federal Government to respond to the changing times. For the latest information on Federal human resources policies, we invite you to check out our Web site at <http://www.opm.gov>.



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## **PART I: GOVERNMENTWIDE INTERESTS**

For certain aspects of human resources management, conceiving the Government as a "single employer" remains sound public policy. Consequently, it is important to retain Governmentwide approaches, authorities, entitlements, and requirements in several areas, including:

- Accountability for adherence to merit system principles;
- Employee protection from prohibited personnel practices;
- Veterans preference in employment and retention;
- A Governmentwide benefits system for retirement, insurance, and leave;
- A Governmentwide system for determining annual adjustments to the pay structures for General Schedule, Prevailing Rate System, and other employees;
- A statutory collective bargaining framework for labor management relations;
- A system of due process protections for employees related to adverse actions;
- A Governmentwide system for collecting and publishing workforce information;
- Executive management by members of the Senior Executive Service and Senior Foreign Service; and
- Oversight by the Office of Personnel Management.

In addition, certain principles that promote the public interest must guide agencies as they make use of the flexibilities described in this document.

Such principles include:

- Maintaining budget discipline as human resources systems and authorities are changed;
- Making organizational improvements with employees and their representatives and in accordance with whatever bargaining and consultation rights are invoked by employee representatives;
- Insuring interagency mobility (i.e., policies should not inhibit or discourage movement in or out of the agency);
- Achieving reasonable Governmentwide internal equity; and
- Avoiding the escalation of payroll costs driven primarily by interagency competition for employees.

Within these broad parameters, agencies are free to make immediate use of the existing human resources flexibilities listed in Parts II and III of this document. They can also pursue demonstration projects that allow agencies to find new ways to hire, pay, and reward employees. See our demonstration project Web site at [www.opm.gov/demos](http://www.opm.gov/demos) for more information.

## **PART II: EXISTING HUMAN RESOURCES FLEXIBILITIES AND AUTHORITIES**

### **A. STAFFING YOUR ORGANIZATION**

Contact: Employment Service at 202-606-6500 or email  
[eswebmaster@opm.gov](mailto:eswebmaster@opm.gov)

Federal agencies have many flexibilities and authorities available to hire new employees for short and long-term assignments. The following is a list of methods and flexibilities that agencies can use right now to attract and retain quality employees.

#### **1. USAJOBS and Studentjobs.gov—Recruiting Tools for Your Agency**

USAJOBS is the Federal government's centralized one-stop shopping service for agency vacancy announcements and various items of relevant employment information available 24/7. Because agency job postings and employment information are located in one government-wide system, it saves considerable time and resources for both users and Federal agencies. As testament to its success, the number of job postings has steadily increased over the last few years to well over 17,000 daily in FY 2001. USAJOBS had over 20 million visitors in FY 2001—up from over 16 million in FY 2000 and almost 15 million in FY 1999. Online customer satisfaction ratings remain at least 90% satisfactory and higher.

USAJOBS is accessible through two delivery systems in which vacancy announcements and employment information are available to all customers—job seekers, Federal employees, and the general public:

- Web site at <http://www.usajobs.opm.gov/>
- USAJOBS by Phone at 478/757-3000 (478/744-2299 TDD)

USAJOBS offers a variety of features to support recruiting efforts of Federal agencies:

- A wide array of job searches including one for student employment opportunities and IT job postings, and even jobs by state.
- Employment information fact sheets on a wide variety of topics related to Federal employment issues, which include agency-specific fact sheets.
- USAJOBS by Email features a capability for job seekers to specify up to three customized job searches and then receive an automatic email when new jobs are posted that match those search criteria. The emails provide links directly to the vacancy announcements.
- Agency search pages can be created for any agency to advertise either internal and/or external positions.
- The Hot Jobs area is available to agencies for posting of jobs that are critical or hard to fill. This provides essential visibility to job seekers one click from the home page.
- The USAJOBS web site can run banner ads for an agency with special hiring needs.
- USAJOBS has a resume builder feature that allows individuals to create, save, update, print, and even submit resumes online. Applicants can use this feature to build a resume and then print it for mailing. In many cases, they can submit them to the hiring agencies online.
- Studentjobs.gov provides a one-stop shopping service that is strictly for student opportunities within the Federal government. It includes links to the student search, USAJOBS by Email, the resume builder, and many agency profile articles and web pages. The site presents a fabulous opportunity to advertise your agency with profile articles and links to your web pages. Contact Tina Strickland at [tsstrick@opm.gov](mailto:tsstrick@opm.gov) if you are interested in this service or any of the USAJOBS services.

Under continuing efforts to modernize and streamline the hiring process, OPM encourages agencies to accept job applications and resumes electronically. Now that we have the capability to use the Internet and make use of automation, we should seek new and improved ways to continue automating our hiring processes. Accepting online resumes and applications are a great first step. This will help us make our processes better and faster and allow us to provide the best possible service to our citizens. Let's do all we can to enhance our recruiting efforts. Automation of applications and hiring processes is becoming the wave of the future.

## 2. Recruiting and Examining Job Applicants

Agencies have the authority to:

- Conduct competitive examining for all positions (except administrative law judges) under delegation agreements between OPM and the agencies. (Pub. L. 104-52; 5 U.S.C. 1104(a)(2); 5 CFR 2.1)
- Use commercial recruiting firms and nonprofit employment services to recruit for vacancies. (5 CFR part 300, subpart D)
- Hire from a wide array of sources. (5 CFR 7.4)

## 3. Short-term Staffing Options

Agencies have the authority to:

- Bring in temporary assignees from state and local governments, colleges and universities, Indian tribal governments, and other not-for-profit organizations under the **Intergovernmental Personnel Act (IPA) Mobility Program**. Assignments should be made for the mutual benefit of the Federal Government and the non-Federal entity, and are for 2 years duration. However, assignments may be extended for an additional 2 years, allowing for a maximum term of 4 consecutive years. Assignees are either temporarily appointed to the Federal agency or serve while on detail. Cost-sharing arrangements for

mobility assignments are negotiated between the participating organizations. The Federal agency may agree to pay all, some, or none of the costs associated with the assignment. Such costs may include basic pay, supplemental pay, benefits, and travel and relocation expenses. (5 U.S.C. 3371-3375; 5 CFR 334)

- Use:
  - **temporary appointments** for short-term needs that are not expected to last longer than one year, and
  - the streamlined **student employment program** for meeting future workforce needs. (5 CFR part 316, subpart D, and 213.3202)
- Use **term appointments for more than one and up to four years** when the need for the employee's services is not permanent including, but not limited to: project work; extraordinary workload; scheduled abolishment, reorganization, or contracting out of the function; uncertainty of future funding; or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization. Recruitment is accomplished through the competitive process. (5 CFR part 316, subpart C)
- Allow **details** of their employees within a Department for up to 120 days. Intra-agency details in increments of 120 days are allowed when approved by the head of the Department. (5 U.S.C. 3341; 5 CFR 316, 334)
- Employ **experts or consultants** for temporary or intermittent employment. The excepted service appointment is used to hire expert and consultants under 5 U.S.C. 3109 to perform expert or consultant work that is temporary (not to exceed one year) or intermittent. (This differs from employing experts and consultants through procurement contracts, which are covered by regulations issued by the General Services Administration.) Under 5 CFR part 304, an expert is someone who is specifically qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement. A consultant is someone who can provide valuable and pertinent advice generally drawn from a

high degree of broad administrative, professional, or technical knowledge or experience. (5 U.S.C. 3109; 5 CFR part 304; agency specific legislation)

- Give a non-competitive temporary appointment of more than 60 days or a term appointment to **30 percent or more disabled veterans**, that is, to any veteran:
  - Retired from active military service with a disability rating of 30 percent or more; or
  - Rated by the Department of Veterans Affairs (VA) within the preceding year as having a compensable service-connected disability of 30 percent or more.

There is no grade level limitation for this authority, but the appointee must meet all qualification requirements, including any written test requirement. The agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment. (5 U.S.C. 3112; 5 CFR 316.302, 316.402 and 315.707)

- Waive the 40 hours per week limitation on basic pay to one position and **recruit current Federal employees for second jobs** when "required services cannot be readily obtained otherwise" and "under emergency conditions relating to health, safety, protection of life or property, or national emergency." (5 U.S.C. 5533; 5 CFR part 550, subpart E)
- Use **commercial temporary help services** for brief periods (120 days, with extension of additional 120 days) for short-term situations. This option may be used only when regular recruitment and hiring procedures are impractical, and the commercial service is purchased through the Federal procurement system. (5 CFR part 300, subpart E)
- Choose to enter into various types of **contracts** where appropriate. These contracts follow Federal procurement regulations.



#### 4. Alternative Staffing Options

- **Federal Career Intern Program.** This program helps agencies recruit and attract exceptional individuals into a variety of occupations. It was created under Executive Order 13162 and is for positions at grade levels GS-5, 7, and 9 or other trainee positions. In general, individuals are appointed to a 2-year internship. Upon successful completion of the internships, the interns may be eligible for permanent placement within an agency. (5 CFR 213.3202(o))
- **Veteran Employment Opportunities Act.** The Veterans Employment Opportunities Act (VEOA) of 1998, as amended by Section 511 of the Veterans Millennium Health Care Act (Public Law 106-117), November 30, 1999, provides that agencies must allow eligible veterans to apply for positions announced under merit promotion procedures when the agency is recruiting from outside its own workforce. ("Agency," in this context, means the parent agency, i.e., Treasury, not the Internal Revenue Service, and the Department of Defense, not the Department of the Army.) A VEOA eligible who competes under merit promotion procedures and is selected will be given a career or career conditional appointment. Veterans' preference is not a factor in these appointments. (Public Law 106-117; 5 CFR part 213.3202(n); 315.611; 335.106)
- **Presidential Management Intern (PMI) Program.** This program was established by Executive Order in 1977. It attracts to the Federal service outstanding graduate students (masters and doctoral-level) from a wide variety of academic disciplines who have an interest in, and commitment to, a career in the analysis and management of public policies and programs. (Executive Order 12364 and 5 CFR part 362)
- **Veterans Readjustment Appointments.** Agencies have the authority to appoint veterans in the excepted service under the Veterans Readjustment Appointment. This is a special authority under which agencies can appoint an eligible veteran up through the GS-11 or equivalent grade level without competition. The candidate must meet specific eligibility requirements along with the applicable qualification requirements. (5 CFR part 307)

- **Student Educational Employment Program.** The authority to appoint graduate and undergraduate students in the excepted service under the Student Educational Employment Program. There are two components of this program: the Student Temporary Employment Program (STEP) and Student Career Experience Program (SCEP). These are special authorities under which agencies can appoint students who are enrolled or have been accepted for enrollment in at least a part-time schedule at an accredited institution. Appointment in the STEP program is not to exceed one year and may not be converted to term or permanent. Individuals in the SCEP program may be non-competitively converted to term or career/career-conditional appointments within 120 days of academic requirement completion. Students hired under SCEP may be granted tuition assistance by the hiring agency. (5 CFR 213.3202)
- **Job Sharing and Other Than Full-time Permanent Positions.** Making appointments with varying work schedules such as part-time (which may include job sharing arrangements), intermittent, and seasonal is a viable option to manage fluctuating and less than full-time workforce needs. Intermittent work schedules are used only when the nature of the work is sporadic and unpredictable. Seasonal work involves annually recurring periods of work that is expected to last at least six months during a calendar year. The use of varying work schedules may attract applicants who prefer to work less than full-time. (See Section C for other *Work Arrangements & Work/Life Policies* that promote a more flexible workforce). (5 CFR part 340)

## 5. Probationary Period

Agencies have the discretion to remove, with few procedural requirements, new appointees, supervisors, and managers during their probationary period. (5 CFR part 315, subparts H and I)

## 6. Lateral and Upward Movement

Agencies may determine the knowledge, skills, and abilities and define the specialized experience required to perform each job. They may use training

agreements under which employees may receive accelerated training or on-the-job experience to gain new skills more rapidly. (Office of Personnel Management Operating Manual: *Qualification Standards for General Schedule Positions*)

Agencies may design merit promotion plans. (5 CFR part 335)

Agencies may also establish career ladders that allow noncompetitive promotion based on performance and acquisition of appropriate knowledge and skills. (5 CFR part 335)

## 7. Workforce Restructuring

Contact: Staffing and Restructuring Policy Division at 202-606-0960

**Management Considerations:** Consider a variety of issues when determining the best downsizing or restructuring approach. These considerations may lessen the impact, help prepare employees, prevent administrative problems, save money, reduce the number of employees affected, or even avoid a reduction in force. Management considerations include:

- **Scope.** What is the size of the downsizing/restructuring? Is it driven by budget, program shifts, skill imbalances, or mandatory legislative or agency employment reductions? The size, type, and the time available affect your decision about which tools are best for your situation.
- **Timing.** The more time you have, the better, and the less likely you will need drastic measures like reduction in force. Start as soon as possible. Identify where cuts must be made and concentrate your tools and strategies there.
- **Targeting.** Targeted cuts are more effective than across-the-board cuts, which can leave the agency without the staff to perform critical functions. Identify which functions to end, to consolidate, and to keep. Then identify and target the positions impacted.
- **Flexibility.** There are multiple strategies available for downsizing or restructuring, so be flexible. Remember that reduction in force should

be the last resort. Make your strategies compatible with the agency's mission and goals.

**Multiple Strategies:** The following tools and strategies are available to effect downsizing and restructuring. Consider the alternatives that best fit your situation.

- **Inplacement Programs.** Strong inplacement programs, where agencies freeze vacancies and give surplus employees priority for them, can reduce outside hiring and create vacancies for surplus employees.
- **Freeze Hiring and Promotions.** This can reduce personnel costs. Agencies can limit hiring more easily than promotions. A "1 for 2" or similar limit on replacement hiring is often more effective than a total freeze. Promotion freezes are more difficult to administer. When effecting freezes, you should consider:
  - Will you freeze all promotions, only promotions for certain positions, or only promotions at certain grade levels?
  - Will you allow career ladder promotions or promotions based on accretion of duties?
  - How will freezing promotions affect morale?
  - Will you have a "safety valve" policy permitting exceptions to the freeze?
- **Voluntary Reduction of Hours.** Employees may be willing to reduce their hours or convert to a part-time work schedule to avoid more drastic cost-cutting measures. Employees may view such a reduction as an opportunity to meet family or educational needs. You can survey employees to determine the interest level and project cost savings, e.g., What grade levels? How many hours?
- **Voluntary Leave Without Pay.** Employees may be willing to take one day of leave without pay in each pay period, for example, to reduce personnel costs. You can survey employees to determine the interest level and project cost savings.

NOTE: If you consider either the voluntary reduction of hours or voluntary leave without pay, every effort must be made to avoid the appearance of

coercion. These are voluntary actions your employees can take to help the agency lessen the impact of a budget reduction. Agencies must use adverse action procedures to effect either of these two options on an involuntary basis.

- **Voluntary Change to Lower Grade.** You can offer an employee a voluntary change to lower grade without using reduction in force procedures. However, employees have the right to reduction in force competition and protections before they are involuntarily downgraded due to reorganization, lack of work, shortage of funds, or insufficient personnel ceiling. You may offer saved grade and pay to employees accepting a voluntary change to lower grade under certain conditions. (5 CFR part 536)
- **Separate Temporary Employees and Reemployed Annuitants.** Releasing re-employed annuitants can save payroll dollars and free up continuing positions for surplus permanent employees.
- **Short Furloughs.** You can reduce personnel costs by furloughing employees for short periods. Furloughs of 30 continuous (or 22 discontinuous) days or less are effected through adverse action procedures. This means you must notify employees 30 days in advance and employees can appeal an improper furlough action to the Merit Systems Protection Board. Furloughs can be continuous or discontinuous (for example, one day each week or pay period). Furloughs of more than 30 continuous or 22 discontinuous days require reduction in force procedures. (5 CFR part 752)

NOTE: If you consider furlough, plan carefully, and discuss with your employees, managers, supervisors, and union officials. Any furlough should be equitably applied, and the financial impact on employees should be considered.

- **Details.** You can detail employees in 120-day increments to other positions within the agency. This provides additional work experience and exposure for the employee.

You can also detail employees to other organizations in the same or a different agency on a reimbursable basis. This works well when your agency needs funds and other agencies need the specific skills your employees have. This may not be a viable option if you are downsizing or restructuring.

NOTE: Competitive procedures are required to detail an employee to a higher-graded position for more than 120 days. (5 CFR part 335)

- **Reassign Employees.** You can reassign an employee to another position at the same grade, either within or to another local commuting area. You must have a legitimate management need for the reassignment and the employee must qualify. You could reassign employees in surplus positions into vacant continuing positions in unaffected organizations. Unless the agency has a policy or collective bargaining agreement limiting management's right to reassign, you can reassign an employee without regard to their relative reduction in force retention standing. In other words, you need not consider veterans' preference, length of service, or performance ratings in reassigning employees. OPM's reduction in force regulations must be followed only if you do not reassign the employee to another position at the same grade. You must follow reduction in force procedures if you involuntarily separate or downgrade the employee as part of reorganization.
- **Voluntary Relocation.** Employees may be willing to voluntarily relocate outside the local commuting area. You should consider cost of travel and relocation expenses, cost of living expenses, and grade level differences between offices, and any necessary orientation or retraining costs required.
- **Modify Qualification Requirements.** You can modify minimum qualification (but not education) requirements for reassignments and voluntary changes to lower grade if the employee has the capacity, adaptability, and special skills needed to perform the duties of the position. (Operating Manual: *Qualification Standards for General Schedule Positions*)

- **Train Employees for Other Positions.** Train employees for reassignment to shortage positions.
- **Train Employees for Positions in Other Agencies.** Section 5 U.S.C. 4103(b) allows you to train surplus employees to help place them in other agencies. The statute requires the agency head to determine that the training is in the Government's interest. (Until 1994, the employee had to be eligible for severance pay to qualify for this training; Public Law 103-226 removed that requirement.) The agency head must consider several factors in selecting an employee for training, including use of the employee's current skills, knowledge and abilities in the new position; the employee's capability to learn skills and acquire knowledge and abilities needed; and potential benefits to the Government resulting from training.
- **Outplacement Programs.** Such programs can include:
  - Career counseling;
  - Application referrals;
  - Job search counseling;
  - Granting administrative leave for job searches;
  - Issuing a Certificate of Expected Separation when possible to allow early registration in Federal placement programs. (5 CFR 351.807)

OPM requires agencies to make positive placement efforts to place employees through the "CAREER TRANSITION ASSISTANCE PLAN," described in 5 CFR 330, subpart F of OPM's regulations.

- **Organizational Flattening.** This option restructures the way work is done by reassigning employees from supervisory to non-supervisory positions at the same grade. This can effectively reduce layers of supervision, flattening the organization. Using more team leaders and fewer first-level supervisors can also flatten the organization.
- **Discontinued Service Retirement.** Employees can qualify for an immediate annuity if they meet early retirement eligibility (25 years of creditable service at any age or 20 years of service and at least age 50), their jobs are abolished, and they face involuntary separation. Under certain circumstances, discontinued service retirement can be

offered to employees occupying the same or identical position descriptions. (*CSRS and FERS Handbook for Personnel and Payroll Offices*)

- **Voluntary Early Retirement Authority.** Voluntary Early Retirement Authority helps agencies complete major downsizing with minimal workforce disruption. Senior employees retiring under a VERA create vacancies for those who might otherwise be involuntarily separated. OPM offers, and must approve, voluntary early retirement authority to agencies faced with severe downsizing or major restructuring. Your headquarters can request voluntary early retirement authority for an entire fiscal year (ending September 30). Voluntary early retirement can be offered to employees as broadly or narrowly as an agency chooses. To be eligible, an employee must be age 50 with 20 years of creditable service, or have 25 years of creditable service at any age. (5 CFR 831.114 and 5 CFR 842.213)
- **Voluntary Separation Incentive Payments (Buyouts).** Buyouts began under Public Law 102-484 (the National Defense Authorization Act of 1993), which gave the Department of Defense authority to offer employees Voluntary Separation Incentive Payments (i.e., "Buyouts") of up to \$25,000. Defense employees who resigned or retired under voluntary early or optional retirement could receive the payment. This option is presently available to Defense through September 30, 2003.

Other agencies have received specific legislative authority to offer buyouts to employees willing to retire or resign. These voluntary separations significantly aid the agency's downsizing effort while minimizing involuntary separations and downgrades.

- **State Employment Service Activities.** Most states offer excellent services to employees facing job loss. Such services include various types of training, counseling, skill assessments, job search assistance, and occupational skills retraining. The individual state decides which services to offer and the programs are administered by their local substate grantees. Agencies that may be separating employees are encouraged to contact their state employment office early in the downsizing process.



## B. WORKFORCE PLANNING

Contact: Employment Service at 202-606-1040 or email [wfpcomments@opm.gov](mailto:wfpcomments@opm.gov)

Throughout Government, agencies have reached a stage where downsizing and realignment efforts require a look towards the future to ensure that workforce needs are defined and addressed. In addition, workforce demographics in the first decade of the 21<sup>st</sup> Century are forcing agencies to deal with potential crises (e.g., the aging workforce) that could be averted through workforce planning. To this end, OPM has developed a model for workforce planning and analysis (initially providing a direct link to Census, Department of Labor, and educational institution data). By following this model, agencies can enhance workforce quality for mission-critical occupations with selections from a diverse pool of well-qualified applicants, and they can conduct effective succession planning.



## 1. The OPM Workforce Planning Model

The OPM Workforce Planning (WFP) model is organized into modules that can pull together initiatives that sometimes seem disconnected from other facets of management strategy.

In addition to strategic thinking about the workforce in Module 1, we also offer guidance about reviewing the organizational structure to see how well it fits the achievement of the mission. This is also where organizations may want to consider Business Process Reengineering to optimize internal processes.

In Module 2, we envision analysis that moves beyond a "headcount" to the competencies that the workforce will need to be successful and recognition of the gaps that exist between needs and available resources.

Module 3 allows for the crafting of actions that focus not only on the current workforce, but also on other potential sources of staff: new hires, contractors, a contingent workforce, etc. AND, the HR infrastructure needs to be in place to support the plan.

In implementing the action plan at Module 4, organizations need to implement a communication strategy. This is also the place to do organizational assessments, such as the Organization Assessment Survey (OAS), and to take the actions that are needed.

Module 5's evaluation phase provides an opportunity to review successes and failures, and to use that information as input for the next cycle.

Along with the model you can also view information about "Who's Doing What" in workforce planning throughout the government. Please go to <http://www.opm.gov/workforceplanning> for this additional information.

Another valuable analytic tool is FedScope, OPM's user-friendly, Internet-based version of the Central Personnel Data File that can be accessed at <http://www.fedscope.opm.gov>.

## 2. Learning Management Systems/Training Data Systems

Contact: Office of Human Resources Development at 202-606-2721 or email [hrdleadership@opm.gov](mailto:hrdleadership@opm.gov)

Executives and managers must have a comprehensive understanding of the current and future skills their staff will need and factor those resources into their short and long term planning. Agencies need to be able to determine what training programs are needed to accomplish their workforce development goals. They need information to substantiate that their expenditures on training have met the intended purpose. There is a demand for evidence to ensure that human capital development decisions support the organization's mission and goals. Such evidence can be critical to continued funding. Therefore, it is imperative that comprehensive, accurate, and current training information is available to decision-makers.

In addition to meeting the internal need of the organization and providing the business case for HRD professionals, there are regulatory requirements for collecting training data. Further, there is a continued emphasis across government and in Congress for data to support strategic planning, explain expenditures, and justify requests for additional funds (performance-based budgeting). In addition, the Government Performance Reform Act (GPRA) requires agencies to identify long-term strategic goals, and describe how the agency intends to achieve those goals through its activities and through its human capital, financial, information, and other resources. This illustrates the importance of effective information management systems that are not limited to training data, but rather incorporate data from multiple systems to provide a comprehensive analysis of the agency's performance.

The following publications are useful in strategically planning human resources and measuring results.

- *A Guide to Strategically Planning Training and Measuring Results* (Published August 2000)
- *Establishing the Value of Training Resource Guide*
- *Making the "Business Case" for HRD Investments: A Tool for Making Training and Development Decisions*
- *Training Needs Assessment Handbook*

These publications are on line at  
<http://www.opm.gov/hrd/lead/Pubs/pubs.htm>.

### **3. The Learning Technologies Resource Center**

Contact: Office of Human Resources Development at 202-606-2721 or  
email [hrdleadership@opm.gov](mailto:hrdleadership@opm.gov)

The Learning Technologies Resource Center is an on line resource which allows agencies to custom design a training program using some or all of the learning technology delivery strategies in the Center. It provides a decision matrix that helps agencies select the most appropriate technology for the size and purpose of their audience. This Center includes a Resource Library that provides some illustrations and hyperlinks to both government and private sector web sites that explain or simulate the technology that agencies may be considering for use.

The Center will also be available on CD\_ROM.

## **C. WORK ARRANGEMENTS & WORK/LIFE POLICIES**

The Federal Government is a leader in providing family-oriented leave policies and flextime and telecommuting arrangements to support a positive work culture and environment. This includes the use of flexible work schedules and telecommuting; leave programs (leave sharing, leave banks, leave for medical conditions and family responsibilities); part-time employment and job sharing; Employee Assistance Programs; Employee Health and Wellness Programs; on-site child development centers; and information and referral services. The Government is committed to helping employees meet the responsibilities of work and home life.

### **1. Hours of Work and Scheduling Flexibilities**

Contact: Office of Compensation Administration at 202-606-2858 or  
[payleave@opm.gov](mailto:payleave@opm.gov)

Agencies have the discretionary authority to determine the hours of work for their employees to ensure agencies meet organizational goals and to help employees balance personal needs. (5 U.S.C. Chapter 61, subchapters I and II; 5 CFR part 610)

Agencies may establish—

- Full-time, part-time, intermittent, and seasonal **work schedules**.
- **Hours of work** for employees, including traditional day shifts, night and weekend duty, rotating shifts, and “first-40” schedules.
- **Paid and unpaid breaks** in the workday. Additional information on establishing breaks can be obtained at <http://www.opm.gov/oca/worksch/html/lunch.htm>.
- **Alternative work schedules**, which can replace traditional schedules (i.e., 8 hours per day/40 hours per week, with fixed starting and stopping times). The *Handbook on Alternative Work Schedules* provides a framework for Federal agencies to consult in establishing alternative work schedules and provides information to assist agencies in administering such programs. This handbook is on our Web site at <http://www.opm.gov/oca/aws>. Also, information concerning negotiating alternative work schedules can be found in OPM's Labor-Management Relations Guidance Bulletin “Negotiating Flexible and Compressed Work Schedules” at <http://www1.opm.gov/cplmr/html/flexible.htm>.

Alternative work schedules include—

- **Flexible work schedules (FWS)**. FWS allow an employee to complete the basic 80-hour biweekly work requirement in less than 10 workdays. FWS consist of workdays composed of core hours and flexible hours. Core hours are the designated period of the day when all employees must be at work. Flexible hours are the part of the workday when employees may (within limits or “bands”) choose their time of arrival and departure. The authority for FWS is contained in 5 U.S.C. 6122.

An agency's FWS plan may permit employees to earn **credit hours**. An employee may elect to earn credit hours for working hours in excess of the employee's basic work requirement (e.g., 40 hours a week). An employee may use earned credit hours to take time off and vary the length of a workweek or a workday. Refer to the *Handbook on Alternative Work Schedules* for more information on the administration of credit hours.

- **Compressed work schedules (CWS)**. CWS are fixed work schedules that enable full-time employees to complete the basic 80-hour biweekly work requirement in less than 10 workdays. These schedules are authorized by 5 U.S.C. 6127.

Agencies may adopt either flexible or compressed work schedules for their employees.

An employee may not be permitted to work on a "hybrid" schedule that combines aspects of both programs.

- **Adjusted work schedules for religious observances**, which are available for employees whose personal religious beliefs require abstaining from work at certain times of the workday or workweek. Modifications in work schedules must not interfere with the efficient accomplishment of an agency's mission. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay (including overtime pay). Additional information on the adjustment of work schedules for religious observances may be obtained from <http://www.opm.gov/oca/worksch/html/reli.htm>. (5 U.S.C. 5550a; 5 CFR part 550, subpart J)

## 2. Telecommuting

Contact: Office of Work/Life Programs at 202-606-5520 or [workandfamily@opm.gov](mailto:workandfamily@opm.gov)

Telecommuting, also referred to as telework, allows employees to work at home or at another approved location away from the regular office. A

telecenter is a multi-agency facility that provides a geographically convenient office setting as an alternative to the employee's main office. A telecenter can also serve as an administrative support center for employees working at home. OPM maintains an extensive Web site with the latest guidance and assistance about implementing telecommuting programs at <http://www.opm.gov/wrkfam/telecomm/telecomm.htm>.

### 3. Leave

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov)

Additional information on Federal leave programs may be obtained from <http://www.opm.gov/oca/leave>. OPM also presents periodic workshops on Federal leave policies. Additional information may be obtained from [www.opm.gov/oca/leave/html/workshop.htm](http://www.opm.gov/oca/leave/html/workshop.htm).

- **Annual and sick leave programs** provide most employees with a total of (a) 13 days of sick leave each year (which accumulates without limit in succeeding years) and (b) 13, 20, or 26 days of annual leave, depending on years of service. (A maximum of 240 hours may be carried over to the next leave year.). Under expanded sick leave policies, employees may use up to 12 weeks of paid sick leave each year to care for a family member with a serious health condition. In addition, an employee may use limited amounts of sick leave each year to care for a family member who is incapacitated by illness or injury, accompany family members to routine health care appointments, arrange for or attend the funeral of a family member, and for absences related to adopting a child. (5 U.S.C. chapter 63, subchapter I; 5 CFR part 630, subparts B, C, and D; 5 CFR 630.401 and 630.1202)
- **Leave sharing programs** allow an employee who has a personal or family medical emergency and who has exhausted his or her own leave to receive donated annual leave from other Federal employees through the voluntary leave transfer or leave bank programs. (5 U.S.C. 6331-6340 and 6361-6373; 5 CFR part 630, subparts I and J)



- **The Family and Medical Leave Act of 1993** entitles an employee to a total of 12 administrative workweeks of *unpaid* leave during any 12-month period for (1) the birth of a son or daughter and care of the newborn; (2) the placement of a son or daughter with the employee for adoption or foster care; (3) the care of an employee's spouse, son or daughter, or parent with a serious health condition; and (4) an employee's own serious health condition that makes him or her unable to perform the duties of his or her position. Employees continue to be covered by the Federal Government's health insurance program while using family and medical leave. (5 U.S.C. 6381-6387; 5 CFR part 630, subpart L)
- **Leave for bone-marrow and organ donation** allows Federal employees to use up to 7 days of paid leave each year (in addition to sick or annual leave) to serve as a bone-marrow donor and up to 30 days of paid leave each year to serve as an organ donor. (5 U.S.C. 6327)
- **Time off for volunteer activities.** Federal agencies can support employees' commitment to community service by ensuring that all employees are aware of the various flexibilities available to them to participate in volunteer activities. Agencies may permit employees to make maximum use of existing flexibilities such as alternative work schedules, annual leave, leave without pay, credit hours under flexible work schedules, compensatory time off, and excused absence (administrative leave), where appropriate, to perform community service. OPM advises that the granting of excused absence for volunteer activities should be limited to those situations in which the employee's absence, in the department's or agency's determination, is not specifically prohibited by law and satisfies one or more of the following criteria: (1) the absence is directly related to the department or agency's mission; (2) the absence is officially sponsored or sanctioned by the head of the department or agency; (3) the absence will clearly enhance the professional development or skills of the employee in his or her current position; or (4) the absence is brief and is determined to be in the interest of the agency. Additional information may be obtained at <http://www.opm.gov/oca/compmemo/1998/cpm98-V.htm>.



#### **4. Job Sharing**

Job sharing is an available option that may help balance some employees' work and family responsibilities. Under such an arrangement, two employees each work less than full-time, but coordinate their schedules and assignments so that together they "share" a work role and ensure that the duties and responsibilities of what would otherwise be one full-time position are properly carried out.

#### **5. Employee Assistance Programs (EAPs)**

These programs provide a variety of confidential services, including counseling and referrals, to employees who are experiencing personal problems such as work and family pressures, substance abuse, financial problems, that can adversely affect performance, reliability, and personal health.

Employee Assistance Programs (EAPs) help employees and, where feasible, their families with problems that may affect their well-being and their ability to do their jobs. These worksite programs, which are generally available to all Federal employees, offer cost-free, confidential employee counseling and referral to community treatment and/or professional services, as appropriate. Although agencies are only required by law to establish and administer employee counseling programs that deal specifically with alcohol and drug problems, most agencies have "broad brush" EAPs that offer help for a variety of other problems. These EAPs offer counseling and referral services for problems such as mental, emotional, family, financial, dependent care, and legal difficulties.

In addition, to providing individual counseling, EAPs also play a key role in educating employees on a variety of health and assistance topics such as HIV/AIDS, money management, parenting, caring for aging parents, stress management, and selecting quality child care.

The basic services of EAPs include:

- Confidential, free, short-term counseling to identify and assess the problem(s) and to assist employees in problem solving.
- Referral, where appropriate, to a community service or professional resource that provides treatment and/or rehabilitation. With the exception of illness or injury directly resulting from employment, medical care and treatment are personal to the employee and, therefore, payment may not be made from appropriated funds unless provided for in a contract of employment or by statute or regulation.
- Follow-up services to assist an employee in achieving an effective readjustment to his or her job during and after treatment, e.g., back-to-work conferences.
- Training sessions for managers and supervisors on handling work-related problems that may be related to substance abuse or other personal, and/or health-related problems.
- Orientation and educational programs to familiarize all employees with the services of EAP programs and how to access them.
- Briefings to educate management and union officials on the role of EAP programs.

In addition, the Employee Assistance Program can be extremely important in the prevention of, and intervention in, workplace violence incidents; the delivery of critical incident stress debriefings; and providing assistance to employees during agency restructuring. (5 U.S.C. 7361, 7362, and 7904; 5 CFR part 792)

## **6. On-site/Near-site Child Development Centers**

Many Federal agencies also provide on-site child development centers. There are approximately 1,000 worksite childcare centers sponsored by the civilian and military agencies.

## 7. Child and Elder Care Assistance

Child and elder care are available to help employees with child and elder care needs. Many agencies offer referral assistance to community resources, provide lunch and learn seminars, and sponsor caregiver fairs. We recently updated the *Handbook of Child and Elder Care Resources*, which provides employees, managers, and employee assistance counselors with information about organizations and agencies across the country that can help employees locate quality child and elder care services. In addition, we recommend two resource and referral services that direct callers to local services providers and community resources: (1) Child Care Aware on 1-800-424-2246, and (2) the Elder Care Locator on 1-800-677-1116.

- **Child Care Subsidy Authority.** The authority for agencies to use appropriated funds (from salaries and expenses) to assist their lower income employees with the costs of child care was contained in the Consolidated Appropriations Act, Public Law 106-554. The authority expires on September 30, 2001. However, OPM will seek a permanent authority. For more information about this authority, call the Office of Work Life Programs at 202-606-5520.

## 8. Subsidized Transportation

Federal agencies offer qualified employees a transportation fringe benefit program that includes the option to exclude from taxable income employee commuting costs incurred through the use of mass transportation and van pools. Agencies in the National Capital Region offer employees "transit passes" in amounts approximately equal to employee commuting costs, not to exceed the maximum level allowed by law. (Executive Order 13150)

## D. BENEFITS

### 1. Holidays

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov)

Full-time Federal employees are entitled to ten paid holidays each year. These holidays are specified in 5 U.S.C. 6103 and are listed by year on OPM's Web site at <http://www.opm.gov/fedhol/index.htm>. (5 U.S.C. 6301; Executive Order 11582; 5 CFR 610.201, and 610.202)

### 2. Life Insurance

Contact: email [feqli@opm.gov](mailto:feqli@opm.gov)

Most full-time and part-time employees are automatically enrolled in Basic Life Insurance equal to their salary, rounded to the next \$1,000, plus \$2,000. The government pays one-third of the cost of this group term insurance. Employees do not have to prove insurability -- no physical is required. Basic coverage includes double benefits for accidental death and benefits for dismemberment. Employees can also purchase Optional Insurance at their own expense. Optional coverage includes additional insurance on the employee's life as well as coverage for the employee's spouse and eligible children, if any.

Accelerated death benefits are available to terminally ill enrollees so that they can receive life insurance proceeds while they are living.

Many large organizations are cutting life insurance benefits to retirees. This is untrue in the Federal Government, where life insurance coverage can be continued into retirement. It can also be converted to private coverage upon termination, without proof of insurability. (5 CFR part 870) See also <http://www.opm.gov/insure>.

In addition, to offering the life insurance program, agencies can pay up to \$10,000 as a death gratuity to the personal representatives of employees who die from injuries sustained in the line of duty.

### **3. Health Insurance**

Contact: email [fehb@opm.gov](mailto:fehb@opm.gov)

Federal employees can enroll in health insurance coverage for themselves and their families at reasonable rates. They enjoy one of the widest selections of plans in the country. About 245 plans participate in the health insurance program. Employees can choose among fee-for-service plans, health maintenance organizations, and point-of-service plans. There is an annual open season during which employees can change their enrollment. Unlike a growing number of private sector health benefits programs, Federal employees can continue their health insurance coverage into retirement with a full Government contribution. Most enrollees pay just about one-fourth of the health benefits premium. (5 CFR part 890) See also <http://www.opm.gov/insure>.

### **4. Pensions**

Contact: email [retire@opm.gov](mailto:retire@opm.gov)

The Federal Employees Retirement System (FERS) is an outstanding three-tiered plan to provide secure retirement, disability and survivor benefits for employees and their dependents. In addition to Social Security benefits as a base, FERS offers both an annuity that grows with length of service and a tax deferred savings plan. Employees pay less than one percent of salary to qualify for the annuity and are fully vested after five years of service and, for disability benefits, after just 18 months. (5 CFR part 843) See also <http://www.opm.gov/asd/> and <http://www.opm.gov/retire/index.htm>.

### **5. Thrift Savings Plan**

The Thrift Savings Plan (TSP) allows employees to save on a tax-deferred basis for retirement. The TSP has previously permitted employees to save

up to ten percent of salary for retirement for employees under FERS and five percent for CSRS covered employees. However, recently enacted legislation will gradually increase to the limit, and eventually only the Internal Revenue Code dollar limit will apply (\$10,500 in 2000). The Government contributes one percent of salary to FERS employees who do not contribute and will match up to another four percent of savings for FERS employees who do contribute. Because the savings plan is tax deferred, no income tax is due on either the employee's contributions or the Government matching funds, or the earnings on those amounts, until retirement. Employees can choose to invest in any of three funds, or to spread investments across the three funds: a Government securities fund, a bond fund, and a stock fund, all professionally and securely managed by an independent Government agency, the Federal Retirement Thrift Investment Board. A broader selection of investment funds is planned for the near future. Since the inception of FERS in 1987, the performance of this state-of-the-art retirement system has been excellent. (26 U.S.C. 401(a), 501(a), and 7701(j)) See also: <http://www.tsp.gov>.

## **6. Long-Term Care Insurance**

Contact: email [LTC@opm.gov](mailto:LTC@opm.gov)

With the Long-Term Care Security Act, long-term care insurance became a reality for Federal employees, members of the military, retirees and their families. It is the first new benefit offered to Federal employees since the inception of the Federal Employees Retirement System, with its Thrift Savings Plan component, in June 1986. The program will be available no later than October 2002. It will provide coverage for long-term care health care needs, such as nursing home care, home health care, assisted living facilities, adult day care, and personal care/homemaker care. See also <http://www.opm.gov/insure/ltc/index.htm>.

## **7. Liability Insurance**

A recently enacted law (section 642 of Public Law 106-58) requires Federal agencies to reimburse law enforcement officers, supervisors and managers for up to one-half of the cost of professional liability insurance, protecting

them from potential liability and attorney's fees for actions arising out of the conduct of official duties.

## **8. Severance Pay**

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov)

Employees under qualifying appointments with at least 12 months of continuous service are eligible for severance pay upon removal from Federal service by involuntary separation (excluding removal due to unacceptable performance or conduct). (5 U.S.C. 5595; 5 CFR part 550, subpart G)

## **9. Lump-Sum Annual Leave Payments**

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov)

An employee will receive a lump-sum payment for any unused annual leave when he or she separates from Federal service or enters on active duty in the armed forces and elects to receive a lump-sum payment. Generally, a lump-sum payment will equal the pay the employee would have received had he or she remained employed until expiration of the period covered by the annual leave. Additional information on lump-sum annual leave payments is found at <http://www.opm.gov/oca/leave/HTML/lumpsum.htm>. (5 U.S.C. 5551; 5 CFR part 550, subpart L)

## **E. AGENCY-BASED COMPENSATION FLEXIBILITIES**

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov) (except as otherwise noted)

Agencies have considerable discretionary authority to provide additional direct compensation in certain circumstances to support their recruitment, relocation, and retention efforts. The following summarizes some of these compensation flexibilities. Authorities that only apply to the Federal Wage System are grouped together.

## **1. Recruitment Bonuses**

Agencies may pay a recruitment bonus of up to 25 percent of basic pay to a newly appointed employee to fill a position that would otherwise be difficult to fill. In return, the employee must sign a service agreement of at least 6 months with the agency. A recruitment bonus may be used in combination with superior qualifications appointments and may be paid to employees covered by a special rate. Recruitment bonuses must be paid in accordance with the agency's recruitment bonus plan. Recruitment bonuses are subject to the limit on aggregate compensation established by 5 U.S.C. 5307 and 5 CFR part 530, subpart B. Additional information on recruitment bonuses may be found at <http://www.opm.gov/oca/pay/HTML/RECBONFS.HTM>. (5 U.S.C. 5753; 5 CFR part 575, subpart A)

## **2. Relocation Bonuses**

Agencies may pay a relocation bonus of up to 25 percent of basic pay to an existing employee who must relocate to fill a position that would otherwise be difficult to fill. In return, the employee must sign a service agreement (of any length) with the agency. A relocation bonus may be paid to employees receiving a special rate. Relocation bonuses must be paid in accordance with the agency's relocation bonus plan. Relocation bonuses are subject to the limit on aggregate compensation established by 5 U.S.C. 5307 and 5 CFR part 530, subpart B. Additional information on relocation bonuses may be found at <http://www.opm.gov/oca/pay/HTML/RELBONFS.HTM>. (5 U.S.C. 5753; 5 CFR part 575, subpart B)

## **3. Retention Allowances**

Agencies may make continuing (i.e., biweekly) payments of up to 25 percent of basic pay to individual employees and up to 10 percent of basic pay to a group or category of employees. Agencies must determine that the unusually high or unique qualifications of the employees or a special need of the agency for the employees' services makes it essential to retain the employee. The agency must also determine that the employee or a significant number of employees in the targeted category would be likely to



leave the Federal Government (for any reason, including retirement) in the absence of a retention allowance. Retention allowances must be paid in accordance with the agency's retention allowance plan and must be reviewed and certified annually. Retention allowances are subject to the limit on aggregate compensation established by 5 U.S.C. 5307 and 5 CFR part 530, Subpart B. Additional information on retention allowances may be found at <http://www.opm.gov/oca/pay/HTML/RETALLFS.HTM>. Additional information on retention allowances for groups of employees may be found at <http://www.opm.gov/oca/pay/HTML/GRPALLFS.HTM>. (5 U.S.C. 5754; 5 CFR part 575 subpart C)

#### **4. Superior Qualifications and Special Qualifications Appointments**

Contact: Employment Service at 202-606-0960

Federal agencies have the authority to set pay for new appointments or reappointments of individuals to General Schedule positions above step 1 of the grade based on superior qualifications of the candidate or a special need of the agency. Under the Federal Wage System, special qualification appointments allow an employing agency to set pay at a rate above step 1 of the appropriate grade level for candidates with highly specialized skills in an occupation. Agencies must have documentation and recordkeeping procedures on making superior qualifications or special qualifications appointments in place in order to make such appointments. (5 U.S.C. 5333; 5 CFR 531.203(b) for General Schedule employees. See 5 U.S.C. 5341 and 5 CFR 532.403 for the Federal Wage System)

#### **5. Highest Previous Rate**

Upon reemployment, transfer, reassignment, promotion, demotion, or change in type of appointment, agencies may set the rate of basic pay of an employee by taking into account a rate of basic pay previously received by the individual while employed in another civilian Federal position (with certain exceptions). This rate may not exceed the maximum rate of the employee's grade. (5 U.S.C. 5334(a); 5 CFR 531.202 (definition of "highest previous rate") and 531.203(c) & (d) for General Schedule employees. See 5 U.S.C. 5343 and 5 CFR 532.405 for the Federal Wage System.)

## **6. Waiver of Dual Pay Limitation**

Contact: Employment Service at 202-606-0960

Agencies have authority to waive the limitation (40 hours per week) on aggregate basic pay, when "required services cannot be readily obtained otherwise" and "under emergency conditions relating to health, safety, protection of life or property, or national emergency." This authority enables an agency to employ a full-time Federal employee in a second job or to schedule a part-time agency employee with multiple part-time appointments to work more than an aggregate of 40 hours during a week. The agency pays overtime ONLY when an individual works more than 8 hours per day or 40 hours per week for the SAME agency. (5 U.S.C. 5533; 5 CFR part 550, subpart E)

## **7. Travel and Transportation Expenses for Interviews and/or New Appointments**

Contact: Employment Service at 202-606-0960

An agency, at its discretion, may pay the travel or transportation expenses of any individual candidate for a pre-employment interview or pay travel and transportation expenses for a new appointee to the first post of duty. For either payment, a decision made for one vacancy does not require a like decision for any similar future vacancies. Before authorizing any payments, the agency must consider factors such as availability of funds, desirability of conducting interviews, and feasibility of offering a recruiting incentive. (5 U.S.C. 5706b; 5 CFR part 572)

## **8. Advanced Payments for New Appointees**

Agencies may advance a new hire up to two paychecks so that a new employee can meet living and other expenses. (5 U.S.C. 5524a; 5 CFR part 550, subpart B)

## **9. Premium Pay, Exceptions to the Biweekly Limitation**

The head of an agency (or designee) may make an exception to the *GS-15, step 10*, biweekly limitation on premium pay during emergencies involving a direct threat to life or property. If the head of an agency determines that such an emergency exists, the premium pay paid to an employee performing work in connection with that emergency, when added to the employee's rate of basic pay (including any locality payment or special salary rate), must not cause his or her total pay to exceed the rate for *GS-15, step 10* (including any locality payment or special salary rate), on an annual basis. (Note: A different limitation applies to law enforcement officers. This limitation does not apply to overtime pay earned under the Fair Labor Standards Act. This limitation does not apply to the Federal Wage System. (5 U.S.C. 5547(b); 5 CFR 550.106))

## **10. Supervisory Differential**

The head of an agency may pay a supervisory differential to a *General Schedule* employee who has supervisory responsibility for one or more civilian employees not covered by the *General Schedule* and who, in the absence of such a differential, would be paid more than the supervisory employee. (5 U.S.C. 5755; 5 CFR part 575, subpart D)

## **11. Student Loan Repayment Program**

Using this authority, agencies may repay Federally insured student loans as a recruitment or retention incentive for candidates or current employees. The program implements 5 U.S.C. 5379, which authorizes agencies to set up their own loan repayment programs to attract or retain highly qualified employees. Individuals interested in student loan repayment opportunities must contact agencies directly. The amount paid by an agency may not exceed \$6,000 per employee in any calendar year or a total of \$40,000 per employee. (5 U.S.C. 5379; 5 CFR part 537)

## **F. COMPENSATION FLEXIBILITIES AVAILABLE WITH OPM AND/OR OMB APPROVAL**

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov) (except as otherwise noted)

### **1. Special Salary Rates**

OPM may establish higher rates of basic pay for an occupation or group of occupations nationwide or in a local area based on a finding that the Government's recruitment or retention efforts are, or would likely become, significantly handicapped without those higher rates. The minimum rate of a special rate range may exceed the maximum rate of the corresponding grade by as much as 30 percent. However, no special rate may exceed the rate for Executive Level V. A special rate request must be submitted to OPM by department headquarters and must be coordinated with other Federal agencies with employees in the same occupational group and geographic area. Additional information on how to request a special rate may be found at <http://www.opm.gov/oca/COMPMEMO/2000/ssrpage.htm>. (5 U.S.C. 5305; 5 CFR part 530, subpart C)

### **2. Group Retention Allowances in Excess of 10 Percent**

Upon the request of the head of an agency, OPM may approve a retention allowance in excess of 10 percent (but not to exceed 25 percent) of an employee's rate of basic pay for a group or category of employees. The agency must determine that the unusually high or unique qualifications of the employees or a special need of the agency for the employees' services makes it essential to retain the employees. The agency must also determine that a significant number of employees in the targeted category would be likely to leave the Federal Government (for any reason, including retirement) in the absence of a retention allowance. Retention allowances must be paid in accordance with the agency's previously established retention allowance plan and must be reviewed and certified annually. Retention allowances are subject to the limit on aggregate compensation established by 5 U.S.C. 5307 and 5 CFR part 530, subpart B. Additional information on retention allowances for groups of employees may be found at

<http://www.opm.gov/oca/pay/HTML/GRPALLFS.HTM>. (5 U.S.C. 5754; 5 CFR part 575, subpart C)

### **3. Critical Position Pay Authority**

Contact: Office of Executive Resources Management at 202-606-1610

Based on a recommendation from OPM, the Office of Management and Budget (OMB) is authorized to increase the rate of basic pay for a position subject to the limit on aggregate compensation established by 5 U.S.C. 5307 and 5 CFR part 530, Subpart B. Critical pay may be authorized for a position that requires expertise of an extremely high level in a scientific, technical, professional, or administrative field or one that is critical to the agency's successful accomplishment of an important mission. Critical pay may be granted only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position. (This authority does not apply to Federal Wage System employees and is currently limited to positions above the GS-15 level.) (5 U.S.C. 5377; OMB Bulletin No. 91-09)

### **4. Physicians Comparability Allowance**

Agencies may pay physicians comparability allowances (PCA) to recruit and retain highly qualified Government physicians. In return, the physician must sign a service agreement with the agency. The head of an agency determines the size of the PCA, which may not exceed \$14,000 per annum for a physician who has served as a Government physician for 24 months or less or \$30,000 per annum for a physician who has served as a Government physician for more than 24 months. An agency plan for implementing the PCA program must be approved by the Office of Management and Budget before an agency may pay a PCA to a physician. Public Law 106-571, December 28, 2000, permanently extended the authority to pay physicians' comparability allowances. The act also makes physicians' comparability allowances basic pay for retirement purposes if certain criteria are met. (This allowance does not apply to Federal Wage System employees.) (5 U.S.C. 5948; 5 CFR part 595)

## 5. Title 38 Flexibilities for Health Care Employees

Upon the request of the head of an agency, OPM may delegate the discretionary use of certain Department of Veterans Affairs' personnel authorities under chapter 74 of title 38, United States Code, to help recruit and retain employees in health care occupations. We have entered into title 38 delegation agreements with the Departments of Defense, Health and Human Services, Justice, and Veterans Affairs for employees covered under chapter 51 of title 5, United States Code, (excluding members of the Senior Executive Service) performing direct patient-care services or services incident to direct patient care. Under these delegation agreements, agencies may establish and use certain title 38 authorities such as the special salary rate, premium pay, qualifications-based grading system, and physician and dentist special pay authorities. (5 U.S.C. 5371)

## 6. Federal Wage System Authorities

- **Special Rates.** The special rate authority allows a lead agency, with the approval of OPM, to establish rates above the regular Federal Wage System wage schedule rates for an occupation or group of occupations experiencing or potentially experiencing recruitment or retention difficulties. Special rates are established by occupation, grade, agency, and/or geographic location. These rates will be paid by all agencies having positions for which the rates are authorized. The special rate payable may not, at any time, be less than the unrestricted rate otherwise payable for such positions under the applicable regular wage schedule. (5 U.S.C. 5341; 5 CFR 532.251)
- **Increased Minimum Hiring Rate.** The increased minimum hiring rate authority allows a lead agency to establish any Federal Wage System scheduled rate above step 1 as the minimum rate at which a new employee can be hired. When there is an increased minimum rate authorization for an occupation and grade at a particular location, all appointments must be made at the authorized increased minimum rate. (5 U.S.C. 5341; 5 CFR 532.249)

- **Special Schedules.** The special schedule authority allows a lead agency, with the approval of OPM, to establish a Federal Wage System schedule of rates that are broader in scope than would normally be authorized under the special rates program. Special schedules are established for specific occupations within a geographic area. (5 U.S.C. 5341; 5 CFR 532.254)
- **Unrestricted Rate Authority.** Upon the request of an agency, OPM may approve exceptions to a statutory limitation on Federal Wage System pay adjustments for an occupation or group of occupations in a wage area or part of a wage area. The lead agency for the wage area must coordinate an employing agency's request for this exception with other agencies, as necessary, and submit a consolidated request to OPM. The consolidated request must include any available supporting wage survey data and a formal recommendation by the lead agency to approve or disapprove the request. (Requires specific authority in the pay limitation legislation; 5 CFR 532.801)

## 6. PREMIUM PAY AND ALLOWANCES

Contact: Office of Compensation Administration at 202-606-2858 or [payleave@opm.gov](mailto:payleave@opm.gov).

### 1. Overtime Pay or Compensatory Time Off

Overtime pay<sup>1</sup> or compensatory time off is generally earned for hours of work officially ordered or approved in excess of 8 hours in a day or 40 hours in an administrative workweek. (For employees on compressed work schedules overtime pay is for hours of work in excess of the compressed work schedule.) Additional information on overtime pay under title 5, United States Code, for exempt employees can be obtained at <http://www.opm.gov/oca/pay/html/factot.htm>. Information on overtime pay under the Fair Labor standards Act for nonexempt employees is in 5 CFR part 551. Information on compensatory time off can be obtained at

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<sup>1</sup> Members of the Senior Executive Service are exempt from overtime compensation of any sort (i.e., overtime pay, comp time, and credit hours).

<http://www.opm.gov/oca/pay/html/comp.htm>. Information on hours of work for travel can be found at

<http://www.opm.gov/oca/worksch/HTML/TRAVEL.htm>. (5 U.S.C. 5542 and 5543; 29 U.S.C. 201 et seq; 5 CFR part 550, subpart A and 5 CFR part 551, subpart E)

## **2. Night Pay**

Generally, General Schedule employees regularly scheduled to work between the hours of 6 p.m. and 6 a.m. are entitled to night pay. Employees receive night pay for work performed during these hours (including paid holidays) and for periods of paid leave when the total amount of leave taken is less than 8 hours during the pay period. Premium pay for night work equals 10 percent of the employee's rate of basic pay. (5 U.S.C. 5545(a); 5 CFR 550.121)

## **3. Night Shift Differential**

A prevailing rate employee is entitled to pay at his or her scheduled rate plus a differential of 7  $\frac{1}{2}$  percent of the scheduled rate for regularly scheduled nonovertime work when the majority of the employee's work hours occur between 3 p.m. and midnight. Employees are entitled to 10 percent of the employee's scheduled rate if the majority of the employee's work hours occur between 11 p.m. and 8 a.m. Night shift differential is paid for the entire shift when the majority of hours fall within the specified periods. (5 U.S.C. 5343; 5 CFR 532.505)

## **4. Sunday Premium Pay**

A full-time employee who performs up to 8 hours of regularly scheduled nonovertime work during a tour of duty, any part of which occurs on Sunday, is entitled to premium pay for the entire tour of duty equal to 25 percent of the employee's rate of basic pay. Sunday premium pay is not paid when Sunday work is not actually performed, including during leave hours. Part-time employees are not entitled to Sunday premium pay. Employees on



compressed work schedules are paid for the number of regularly scheduled nonovertime hours worked in a tour of duty that begins or ends on a Sunday. (5 U.S.C. 5546(a) and 6128(c); 5 CFR 550.171)

## 5. Holiday Premium Pay

Most Federal employees who perform nonovertime work on a holiday are entitled to pay at their rate of basic pay plus premium pay at a rate equal to their rate of basic pay for holiday work that is not in excess of 8 hours (or the number of nonovertime hours under a compressed work schedule on the holiday). Employees who are assigned to duty on a holiday are entitled to pay for at least 2 hours of holiday work. Additional information on holidays can be found at <http://www.opm.gov/oca/worksch/HTML/HOLIDAY.HTM>. (5 U.S.C. 5546(b), 6103, 6104, 6124 and 6128(d); 5 CFR 550.103, 550.131 and 550.132, 610.201, 610.202 , and 610.405-407)

## 6. Types of Annual Premium Pay

An agency may pay premium pay on an annual basis to employees in positions that involve substantial amounts of overtime work. Annual premium pay cannot exceed 25 percent of basic pay.

- **Standby Duty Pay.** May be paid to employees who remain at their duty station in a standby status for hours beyond 40 per week on a regular basis. (5 U.S.C. 5545(c)(1); 5 CFR 550.141-144, 550.161-163)
- **Administratively Uncontrollable Overtime Pay.** May be paid to employees whose hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. (5 U.S.C. 5545(c)(2); 5 CFR 550.151-154, 550.161-164)
- **Availability Pay for Law Enforcement Officers.** Paid to criminal investigators who are required to work, or be available to work, substantial amounts of "unscheduled duty." (5 U.S.C. 5542(d) and 5545a; 5 CFR 550.181-187)

## **7. Hazardous Duty Pay**

General Schedule employees may receive additional pay for the performance of hazardous duty or duty involving physical hardship. (5 U.S.C. 5545(d); 5 CFR part 550, subpart I)

## **8. Environmental Differential Pay**

Prevailing rate (wage) employees may receive an environmental differential when exposed to a working condition, physical hardship, or hazard of an unusually severe nature. (5 U.S.C. 5343; 5 CFR 532.511)

## **9. Pay for Federal Firefighters**

Most Federal firefighters are subject to special pay computation rules that take into account their unusual work schedules. These rules deal with both basic pay and premium pay. (5 U.S.C. 5545b and 5542(f); 5 CFR 550.1301-1308)

## **10. Cost-of-living Allowance and/or Post Differential in a Nonforeign Area**

White-collar civilian employees receive a cost-of-living allowance when stationed in certain areas outside the continental United States (i.e., Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands). The allowance is based on living costs substantially higher than in the District of Columbia. Some employees in certain nonforeign areas receive a post differential based on environmental conditions that differ substantially from those in the continental United States and which warrant the differential as a recruitment incentive. The post differential is available only to employees recruited from outside the differential area. The maximum amount of the allowance or differential, or their combined total, cannot exceed 25 percent of the hourly rate of basic pay. (5 U.S.C. 5941; 5 CFR part 591, subpart B)

## 11. Other Payments and Allowances

When legal and regulatory requirements are met, General Schedule and other specified categories of employees may receive allowances for working in remote worksites or for the expense of a uniform. In addition, civilian employees may receive advance payments and evacuation payments in the event of an agency order to evacuate a nonforeign area due to natural disasters or other reasons that create imminent danger to the lives of the employees and their family members. (5 U.S.C. 5942, 5 CFR Part 591, subpart C (Remote Worksite Allowance); 5 U.S.C. 5901-5903, 5 CFR Part 591, subpart A (Uniform Allowance); and 5 U.S.C. 5522-5524; 5 CFR Part 550 subpart D (Evacuation Payments))"

## H. WORK DESIGN & CLASSIFICATION

Contact: Classification Programs Division at 202-606-2950 or email [fedclass@opm.gov](mailto:fedclass@opm.gov)

Agency managers are responsible and accountable for organizing work in an efficient, effective manner, and for optimizing resources to carry out the missions of their organizations. With very few exceptions, the way managers organize and assign work is subject to no particular laws or regulations. Rather it is an area of enormous flexibility that is guided by more general concepts and practices associated with modern organizational and business management.

### 1. Work Design

In today's environment of limited resources, managers cannot afford to design work in a haphazard manner. Recent trends in work design indicate a growing shift away from the multi-layered, steeply hierarchical organizations that were necessary and relevant in the era that predated technological advances that permit instant, efficient electronic communications. Consequently, organizations are increasingly using more flexible and flatter organizational structures where teams are accountable for accomplishing the work. These concepts of work or organizational

design, also known as "position management," are closely related to classification; i.e., they go hand in hand.

## **2. Classification**

Under title 5, United States Code (U.S.C.), OPM has the authority and responsibility to develop classification and job grading standards for placing positions in their proper classes and grades. OPM, after consulting with agencies, issues the occupational information and grading criteria that permit agencies to make classification determinations of proper occupational series, position title, and grade. Agencies have the authority and responsibility under title 5 to place their positions in the proper occupational series and grades. Classification is closely related to compensation in the Federal Government because, under the General Schedule, which covers white-collar occupations, and the Federal Wage System, which covers trades, crafts, and labor (i.e., blue-collar) occupations, the determination of a position's correct grade directly translates to a prescribed schedule of rates of basic pay.

Increasingly, due to numerous changes in the way agencies conduct human resources business, the people who make these classification determinations are not "full-time classification specialists." Today, agencies assign these duties to various positions, including human resources specialists, management analysts, and line managers. Consequently, OPM is taking care to make sure our products and tools are easy to follow and use and provide sufficient flexibility to extend to future needs.

Although under title 5 there is a single statutory classification system for General Schedule employees, and a separate one for Federal Wage System employees, agencies may use various administrative flexibilities to increase the systems' effectiveness in responding to organizational changes and workload shifts. OPM provides the following modernized policies, concepts, and related tools to help agencies meet their mission needs, as well as assist agency managers in effectively designing work and classifying positions.

OPM also issues manuals and handbooks that contain related policies and guidance for agencies to follow in carrying out their authority to classify

positions. These materials are available on OPM's Web site (<http://www.opm.gov/fedclass/index.htm>) and on a CD\_ROM. They include:

- **Guidance for General Schedule Positions:**
  - *Handbook of Occupational Groups and Families (Part I)*
  - *Introduction to the Position Classification Standards*
  - *The Classifier's Handbook*
  
- **Guidance for Federal Wage System Positions:**
  - *Handbook of Occupational Groups and Families (Part II)*
  - *Introduction to the Federal Wage System Job Grading Standards*
  
- **Generic or Job Family Standards for General Schedule Positions.**

Job family standards (JFSs) use a broader approach to job evaluation by consolidating an entire family of work into one position classification standard, with one set of job family grading criteria. JFSs acknowledge distinctions among the work within the family, as appropriate. They sometimes consolidate occupational series, if the occupation changes to that extent, and sometimes describe individual series, depending upon the results of the occupational research. JFSs also provide increased simplification for the user since one standard covers several series, i.e., the user no longer needs to refer to several individual standards to evaluate related work. They also enable managers to more quickly determine levels of work within their organizations and develop shortened position descriptions; e.g., the illustrations included in the JFS appendices help focus the user on a decision about where the grade level matches exist. (5 U.S.C. 5105; 5 CFR part 511)

Recently developed JFSs provide agencies with up-to-date occupational information and grading criteria agency managers can use to help organize and design work, establish positions, and facilitate recruitment actions. These new standards also incorporate hypertext linking and embedded file features to improve the user's navigation through the JFSs. These links allow the user to move quickly back and forth from factor level descriptions that distinguish levels of

difficulty to illustrations of work that further define the kinds of typical assignments at specific levels, etc.

New **parenthetical specialty titles** authorized for Information Technology Specialists, Human Resources Specialists, Human Resources Assistants and others facilitate targeted recruitment and self-identification, thus leading to more efficient recruiting and selection.

Examples of JFSs include:

- JFS for Administrative Work in the Information Technology Group, GS-2200 <http://www.opm.gov/fedclass/gS2200a.pdf>
- JFS for Administrative Work in the Human Resources Management Group, GS-0200 <http://www.opm.gov/fedclass/gS0200a.pdf>
- JFS for Assistance Work in the Human Resources Management Group, GS-0200 <http://www.opm.gov/fedclass/gS0200c.pdf>
- JFS for Professional and Administrative Work in the Accounting and Budget Group, GS-0500 <http://www.opm.gov/fedclass/gS0500pa.pdf>

All position classification standards and functional classification guides (including our most recent JFSs and Federal Wage System job grading standards) are available on the Internet. We will continue to release additional new General Schedule standards in the new JFS format as we develop them. Users may access both current, existing standards and draft standards that are under development at the Federal Classification Systems Web page

<http://www.opm.gov/fedclass>.

- **On-Line Technical Assistance.** Agency managers, employees, and specifically classification staffs, have also found OPM's on-line technical assistance inquiry system to be of tremendous help in getting quick answers to questions, particularly about their specific work design or classification situations. It has proven to be an excellent management tool. We have provided a vast amount of informal advice and technical assistance since the inception of our new

system, "Fedclass." Contact us at the following address for online technical assistance: [fedclass@opm.gov](mailto:fedclass@opm.gov)

### 3. Automated Procedures

Use of automated procedures has streamlined the development of position descriptions and the evaluation of positions. Many agencies have purchased commercial automated classification systems, e.g., COHO. Others are using internally developed systems, (e.g., an automated system developed by the Department of Defense called COREDOC). Like COHO, COREDOC facilitates and enhances not only agency classification efforts, but also staffing, performance management, human resource development, employee relations, and labor relations.

### 4. Delaying Support

The revised guidance for determining a supervisory position's proper grade - the *General Schedule Supervisory Guide (GSSG)* - deleted the number of people supervised as a factor in setting grade levels. In collaboration with agencies, we have also developed guidelines for Team Leader positions as a tool to facilitate delaying. Like the *GSSG*, the team leader guidance provides flexibility. It does not specify a required number of team members; therefore, agency managers have the flexibility to staff teams in whatever manner they deem appropriate.

- *General Schedule Supervisory Guide*, TS 123, April 1998, <http://www.opm.gov/fedclass/gssg.pdf>
- *General Schedule Leader Grade Evaluation Guide*, April 1998, <http://www.opm.gov/fedclass/qslead.pdf>

### 5. Job Redesign

Sometimes positions are difficult to fill because the pool of available candidates lacks a particular qualification for the job or has higher-level

skills that pay more in the private sector. Agency managers have the authority and discretion to redesign the duties of these positions by eliminating a higher level skill so that more candidates may qualify for the position or by adding higher level skills and restructuring the position so that they may offer higher starting salaries. Agencies may also redesign jobs to make them more appealing to candidates by adding desirable duties and eliminating undesirable duties.

## **6. Upward Mobility Positions**

Upward mobility positions may be increasingly important in an era where competition for talent is keen. Managers can structure new and vacant positions to allow entry at lower levels from the current workforce thereby encouraging high performance and rewarding excellence with greater opportunity. Structured training and experience features must be developed and carefully monitored to ensure success of employees selected for upward mobility positions.

## **7. Work Design Concepts or "Rules of Thumb"**

- Assign responsibility to line managers at appropriate levels and accountability in the organization.
- Determine the "right" span of control for supervisors in the organization; e.g., the number and grade levels of employees one supervisor can effectively manage.
- Use team leaders rather than supervisors when practical to facilitate work.
- Plan positions so that there are logical entrance levels, and logical career patterns for progression to more skilled and higher-grade positions as employees gain skill and ability to assume greater responsibility.



## I. PERFORMANCE MANAGEMENT

Contact: Performance Management and Incentive Awards Division at 202-606-2720 or email [perform-mgmt@opm.gov](mailto:perform-mgmt@opm.gov)

OPM performance management regulations establish a broad framework for [designing performance appraisal and awards programs](#). This broad framework allows agencies to develop performance management programs that help them achieve their goals, improve organizational performance, and create a high-performance climate that [attracts and retains top performers](#). A number of agencies have developed successful performance management programs. OPM describes many of those programs in its [Performance Management Clearinghouse](#), an online database that includes descriptions of effective Federal performance management programs, processes, and practices.

"Performance management" in the context of human resources authorities relates to the [management of employee performance](#) (i.e., planning, monitoring, developing, rating, and rewarding employee contributions), rather than performance-oriented approaches to managing, measuring, and accounting for agency program performance. Organizational performance management should link to employee performance management. For example, agencies should ensure that they [align employee performance](#) with their strategic and annual performance plans required by the Government Performance and Results Act of 1993. Although agencies should link and integrate organizational and employee performance management, the two remain distinct in some respects, particularly regarding establishing individual accountability and dealing with [poor performers](#).

For general questions, visit OPM's **Performance Management Technical Assistance Center** at <http://www.opm.gov/perform>.

### 1. Performance Planning and Appraisal

Within a broad framework, the performance management regulations give agencies the freedom to choose the design of their [appraisal systems and programs](#). Design issues include the following:

- An agency can establish an overarching performance appraisal system that allows its components to design a variety of appraisal programs, or requires one program for all its employees, or is some variation of these options.
- Appraisal programs can use as few as two and as many as five summary rating levels in official ratings of record.
- OPM's regulations require that each [employee's performance plan](#) include at least one critical element, which, by definition, measures individual performance and establishes individual accountability. However, appraisal programs can also include non-critical and additional performance elements, which can measure individual, group, or organizational performance.
- Agencies can take group and organizational performance into account when assigning ratings of record above *Unacceptable*. (5 CFR part 430, subpart B)

## 2. Incentive Awards and Recognition

Agencies have authority to design extensive awards programs that include cash awards, honorary awards, informal recognition awards, and time-off awards. Agencies can give these awards to Federal employees to recognize employee and group performance, and can design incentive programs with awards granted because an individual or a group achieved pre-established goals. OPM award regulations allow the following:

- **Rating-Based Cash Awards.** Agencies have discretionary authority to grant an employee a lump-sum cash award based on a "Fully Successful" or better rating of record. Cash awards do not increase an employee's basic pay. Awards based on the rating of record can be up to 10 percent of salary, or up to 20 percent for exceptional performance. (5 U.S.C. 4302, 4503, 4505a; 5 CFR 451.104)
- **Other Cash Awards.** Agencies may grant a cash award to an employee, individually or as a member of a group, in recognition of accomplishments that contribute to the efficiency, economy, or other

improvement of Government operations. Agencies may grant up to \$10,000 without external approval, up to \$25,000 with OPM approval, and in excess of \$25,000 with Presidential approval. (The Department of Defense and the Internal Revenue Service do not require OPM approval for awards up to \$25,000, but the President must approve awards over \$25,000 after review and approval by OPM.) Award payments are subject to the aggregate limitation on total pay equal to the rate of pay for Executive Level I. (5 U.S.C. 45; 5 CFR part 451)

- **Referral Bonuses in Government.** Federal agencies can use the incentive awards authority under chapter 451, title 5, U.S.C. to provide incentives or recognition to employees who bring new talent into the agency, usually by establishing a specific award such as a referral bonus. Each agency must determine whether the use of referral bonuses is appropriate and establish criteria for giving them to employees.
- **Quality Step Increases.** Agencies have discretionary authority to accelerate an employee's pay by granting a [quality step increase](#). A quality step increase is an additional step increase that agencies may grant to an employee who has received the highest rating of record available under the applicable performance appraisal program, which would be "Outstanding" or Level 5 if such a level is available, and has met the agency-developed additional criteria required for programs that don't use a Level 5 summary. Quality step increases are basic pay increases for all purposes. Agencies can grant no more than one quality step increase to an employee within a 52-week period, and such an increase may not cause the employee's pay to exceed the maximum rate of the grade. There is no authority to grant quality step increases to Federal Wage System employees. (5 U.S.C. 5336; 5 CFR part 531, subpart E)
- **Honorary and Informal Recognition Awards.** Agencies can develop [honorary and informal recognition](#) programs that use recognition items as awards to recognize individual and group performance. Recognition items must meet certain criteria. For honorary awards:  
a) items must be something that the recipient could reasonably be

expected to value, but not something that conveys a sense of monetary value; b) the item must have a lasting trophy value; c) the item must clearly symbolize the employer-employee relationship in some fashion; and d) the item must take an appropriate form to be used in the public sector and to be purchased with public funds. For informal recognition awards: a) the item must be of nominal value; and b) the item must take an appropriate form to be used in the public sector and to be purchased with public funds. (5 U.S.C. 4503; 5 CFR 451.104(a))

- **Time-Off Awards.** Agencies may grant [time off](#) from duty without charge to leave or loss of pay as an award to individuals or groups of employees. (5 U.S.C. 4502; 5 CFR part 451)

## J. PERFORMANCE DEVELOPMENT & TRAINING

Contact: Office of Human Resource Development at 202-606-2721 or email [hrdleadership@opm.gov](mailto:hrdleadership@opm.gov)

Federal law and regulations provide many ways to support title 5 employees training and development. Agencies are encouraged to use these flexibilities to meet agency needs and to support employee self-development and learning. This section describes flexibilities and authorities in current Federal training law and regulations.

### 1. Establishment of Training Programs

To assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the law prescribes that "the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency by, in and through Government facilities and non-Government facilities." (5 U.S.C. 4103(a))

- **Tuition Assistance Programs.** Agencies may offer employees financial assistance to attend academic courses that are job related.

- **Targeted Career Training.** In the case of an HR Career Program, a centralized effort is used to provide effective and consistent HR training at grades 5-15, which combines formal coursework with rotations, and is based upon defined competencies. The program design provides professional, technical and leadership training for all aspects of workforce management recruitment, retention and development.
- **Professional Development.** Another professional development program for career employees is designed to provide technical and general knowledge and experience. The program includes well-rounded orientation consisting of formal coursework and on-the-job training assignments throughout the agency.

## 2. Individual Learning Accounts

Use of the Individual Learning Account is a strategy that can complement current agency development, recruitment and retention activities in some very positive ways. The objectives of agency ILAs are many. Sample objectives included such issues as:

- Improving organizational performance.
- Meeting specific agency performance goals;
- Increasing employee access to and use of emerging learning technology;
- Supporting employee efforts to acquire skills and learning needed to succeed in specific occupations and professions; and
- Providing employees with flexible learning opportunities and putting the responsibility for learning in the hands of the learner.

The use of ILAs is a way of improving overall Federal employee performance, increasing productivity, and improving customer service skills. It is also an opportunity to give Federal employees an additional chance to develop themselves. These issues are important in order to remain competitive in the global job market and to attract the very best candidates for Federal positions.

Detailed information about results of the Federal ILA Pilot and how to implement agency ILAs can be found at <http://www.opm.gov/hrd/lead/ILA/ilarpind.htm>.

### 3. Training and Education Related to an Employee's Official Duties

- **Development Opportunities.** Assigning employees to state and local governments, colleges and universities, Indian tribal organizations, and other not-for-profit organizations under the Intergovernmental Personnel Act (IPA) Mobility Program. Such assignments should be for the mutual benefit of the Federal Government and the non-Federal entity, and can be used to provide program and developmental experience that will enhance the assignee's performance in his or her permanent Federal job. They are for 2 years duration; however, they can be extended for an additional 2 years, allowing for a maximum term of 4 consecutive years. Cost-sharing arrangements for mobility assignments are negotiated between the participating organizations. The Federal agency may agree to pay all, some, or none of the costs associated with the assignment. Such costs may include basic pay, supplemental pay, benefits, and travel and relocation expenses. (5 U.S.C. 3371-3375; 5 CFR 334)
- **Paying Costs of Training and Education From Program Funds.** Agencies may pay training and education expenses from appropriated funds or other available funds. Program funds may be used to pay for training needed to support program functions. (5 U.S.C. 4112)
- **Paying Costs of Training and Education In Advance.** Agencies may pay a vendor the costs of training or education in advance. They may also advance an employee all or part of the costs of approved training and education. Expenses of training include the cost of tuition; purchase or rental of books, materials and supplies; library and laboratory fees; and travel, per diem and relocation expenses. (5 U.S.C. 4109(a)(2))
- **Reimbursing Employees for Training and Education Costs.** An agency may reimburse employees for all or part of the costs training or education. Expenses of training include the cost of tuition; purchase or

rental of books, materials, and supplies; library and laboratory fees; and travel, per diem, and relocation expenses. (5 U.S.C. 4109(a)(2))

- **Sharing the Costs of Training and Education with Employees.**

Agencies may share training and education costs with employees. This authority allows agencies to support training and education that benefits both the agency and the employee. (5 U.S.C. 4109(a)(2))

The following table illustrates the variety of arrangements that agencies and employees may use to share training costs and accommodate schedules as well as the organization's and the employee's needs.

<i>Paying Training Costs</i>	<i>Training on Duty or Non-Duty Hours</i>
Agency pays the costs of training	Employee attends during duty hours
Agency pays the costs of training	Employee attends during non-duty hours
Agency pays some of the training costs Employee pays the balance	Employee attends during duty hours
Agency pays some of the training costs Employee pays the balance	Employee attends during non-duty hours
Employee pays all the training costs Agency reimburses part or all of costs when course successfully completed	Employee attends during duty hours
Employee pays all the training costs Agency reimburses part or all of costs when course successfully completed	Employee attends during non-duty hours
Employee pays all the training costs	Employee attends during duty hours

- **Paying for Professional Credentials.** Public Law 107-107 allows agencies to use appropriated funds or funds otherwise available to the agency to pay for—
  - expenses for employees to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and
  - examinations to obtain such credentials.

This authority may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-

determining, policy-making, or policy-advocating character of the position.

This authority is discretionary on the part of the agencies and is not an entitlement or benefit of employment.

- **Paying for Academic Degrees.** In most circumstances, an agency may not pay for an employee's academic degree. However, to develop an employee's knowledge and skill, an agency may pay for academic courses related to an employee's official duties. If in accomplishing this training, an employee earns an academic degree, the degree is an incidental by-product of the training. (5 U.S.C. 4107(b))

However, to recruit or retain employees in shortage or critical skill occupations, agencies may pay for education that leads to an academic degree. A shortage or critical skill occupation is an occupation for which an agency has authority to pay recruitment bonuses or retention allowances in order to attract or retain qualified people. Merit system principles apply to announcing academic degree programs and selecting candidates for them.

Department of Defense (DOD) agencies are exempt from the prohibition concerning paying for academic degrees. They may establish programs to provide training to obtain academic degrees in accordance with DOD regulations. (See Public Law 106-398, amending 5 U.S.C. 4107 and DOD Directive 5124.7 "Office of the Chancellor for Education and Professional Development," September 27, 1999.)

- **Allowing Employees To Accept Training or Reimbursement of Training Expenses from a Non-Profit Organization.** A special provision of training law allows agencies to establish procedures where employees may accept reimbursement or waiver of tuition fees from non-profit organizations. Accepting free tuition or reimbursement of training expenses must not compromise the integrity of the employee or represent a payment for services rendered to the non-profit organization prior to the training. Prior approval from a designated high-level agency official is required, often following a consultation with, or review by, the designated agency ethics official. (5 U.S.C. 4111)



#### 4. Training- and Education-Related Travel Expenses

Travel, per diem, and transportation are training expenses governed by 5 U.S.C. 4109(a)(2)(A) and (B). The provisions in law that pertain to paying all or some of the costs of tuition and other training expenses apply to paying travel expenses. This means that the agency decides which travel expenses it will pay for employees assigned to training. For example:

- An agency may pay the costs of training-related travel and per diem from program funds. (5 U.S.C. 4112)
- An agency may:
  - pay the costs of travel to a carrier in advance or advance an employee some or all of the cost of travel;
  - reimburse an employee for training related travel expenses; and/or
  - share the costs of travel with an employee. (5 U.S.C. 4109(a)(2))
- An agency may pay a reduced per diem rate to an employee in training status.
- An agency, at its discretion, may pay limited relocation expenses for an employee assigned to training for lengthy periods of time.

The following table illustrates the variety of arrangements that agencies and employees may use to share training-related travel expenses and accommodate schedules as well as the organization's and the employee's needs.

<i>Paying Training-Related Travel Expenses</i>	<i>Training During Duty or Non-Duty Hours</i>
Agency pays all the costs of travel	Employee attends during duty hours
Agency pays all the costs of travel	Employee attends during non-duty hours
Agency pays some of the travel costs Employee pays balance	Employee attends during duty hours
Agency pays some of the travel costs Employee pays balance	Employee attends during non-duty hours

Employee pays all the travel costs Agency reimburses part or all of costs when training successfully completed	Employee attends during non-duty hours
Employee pays all the travel costs Agency reimburses part or all of costs when training successfully completed	Employee attends during duty hours
Employee pays all the travel costs	Employee attends during duty hours

#### **5. Training and Education Unrelated to an Employee's Official Duties; Adjusting Employees' Work Schedules for Educational Purposes**

Agencies may adjust an employee's normal work schedule for educational purposes. This authority allows the employee to take courses not related to his or her official duties. A special tour of duty is permissible if the following conditions are all met:

- It will not appreciably interfere with work accomplishment.
- The agency incurs no additional personal services costs.
- Course completion will equip employee to more effectively work in the agency.
- The employee receives no premium pay while on the special tour of duty, even though premium pay would be otherwise payable. (5 CFR 610.122)

#### **6. Meetings Related to Agency Functions or To Improve Conduct of Agency Activities**

The meeting authority in 5 U.S.C. 4110 is separate from the training authority elsewhere in 5 U.S.C. 41. The meeting authority is not subject to the other provisions of training law.

- **Paying Meeting Expenses to Attend Meetings from Appropriated Funds.** Professional meetings and conferences are valuable sources of information about innovative practices and current trends in various fields. Training law provides an exception to the prohibition in 5 U.S.C.

5946(1) on using appropriated funds to pay employee expenses for attending professional meetings. 5 U.S.C. 4110 allows an agency to use funds appropriated for travel expenses to pay for employees' expenses to attend meetings, if the meetings:

- concern functions or activities for which the appropriation is made, or
  - will contribute to improved conduct, supervision, or management of the functions or activities. (5 U.S.C. 4110)
- **Allowing Employees to Accept Reimbursement of Meeting Expenses from a Non-Profit Organization.** A special provision of training law allows agencies to establish procedures under which employees may accept payment, or reimbursement, of travel, subsistence and other expenses incident to attending meetings from a non-profit organization. Accepting meeting expenses must not compromise the integrity of the employee or represent a payment for services rendered to the non-profit organization prior to the meeting. Prior approval from a designated high-level agency official is required, often following a consultation with, or review by, the designated agency ethics official. (5 U.S.C. 4111)

## **7. Paying for Memberships in Professional Organizations**

5 U.S.C. 5946(1) prohibits using appropriated funds to pay for individual employee memberships in professional associations and societies. However, there are several ways for an agency to obtain the professional, scientific, and technological information those associations provide their members. For example, association membership is often included in registration fees for a conference or meeting. If the agency pays the registration fees, the employee's membership in the association is an incidental by-product of meeting attendance. In addition, agencies may purchase an organizational membership in the association or society. They may also purchase a membership for a specific agency position, such as the position of Medical Director. The incumbent in that position uses membership to improve the conduct, supervision, or management of his or her function.

## **8. Continued Service Agreements to Protect the Government's Interest**

A continued service agreement is an agreement an employee makes to continue to work for the Government for a pre-established length of time in exchange for Government sponsored training or education. The service obligation begins when the training is completed. If the employee voluntarily leaves Government service before completing the service obligation, he or she must repay the Government all or some of the costs of the training (excluding salary).

Agencies may require service agreements for training of long duration or of high cost. With this authority, agencies protect their investment and secure a period of service from an employee once the employee completes the training.

## **K. LABOR-MANAGEMENT RELATIONS**

Contact: Labor-Management Relations Division at 202-606-2920 or email at [lmr@opm.gov](mailto:lmr@opm.gov)

The Office of Labor and Employee Relations' Labor-Management Relations Division supports the Director of the Office of Personnel Management in its role as principal policy advisor on labor-management relations. We assist agencies in working effectively with Federal labor organizations that represent over 1.1 million Federal employees. We enhance Federal agencies' abilities to deal effectively with labor-management relations matters by conducting liaison activities with administration and agency officials.

The Office supports effective labor-management relations that promote improved agency performance, better service to the public, and employee involvement. We are available to assist agency representatives in understanding their obligations, rights, and responsibilities under the Federal Labor Relations Statute and preparing strategies for engaging the unionized workforce.

## **L. POOR PERFORMANCE**

Contact: Employee Relations Division at 202-606-2920 or email at [er@opm.gov](mailto:er@opm.gov)

Agencies may take performance-based removal or demotion actions under 5 U.S.C. chapter 43, Performance Appraisal. Additionally, agencies have the authority to take performance-based removal, demotion, or suspension under 5 U.S.C. chapter 75, Adverse Actions. Each method has specific procedural and evidentiary requirements that must be met. (5 U.S.C. 4303 and 7513; 5 CFR parts 432 and 752)

Once an agency has issued a decision to remove an employee based solely on unacceptable performance, the employee may file a request for discontinued service retirement if the age and years-of-service requirements are met. However, an employee is not eligible for discontinued service retirement if the underlying reason for the removal is misconduct or delinquency, including willful refusal to perform. (5 U.S.C. 8336 and 8414)

When it is determined that an employee is unable to perform his or her duties (including situations where the agency has issued a decision to remove the employee for poor performance) and a medical condition is causing the performance deficiency, the employee may seek OPM approval of disability retirement. (5 U.S.C. 8337 and 8451)

## **M. DISPUTE RESOLUTION**

Contact: Employee Relations Division at 202-606-2920 or email at [er@opm.gov](mailto:er@opm.gov)

OPM has abolished the regulations prescribing features of an agency's administrative grievance system (AGS). This allows agencies greater flexibility in designing an AGS. (The AGS is used to resolve disputes with non-bargaining unit employees that do not require use of a statutory grievance, complaint, or appeal process, e.g., grievances about merit promotion or performance appraisals.) (5 CFR part 771; 771.101)

The **negotiated grievance procedure** (NGP), used by bargaining unit employees, may be structured through collective bargaining to meet agency and employee interests. (5 U.S.C. 7121)

In resolution of any dispute, agencies may use a variety of dispute resolution techniques to resolve employee disputes at the lowest possible level, thereby preventing costly and time-consuming formal processes and litigation.

Such techniques can include various forms of **alternative dispute resolution** or **ADR**. Examples of ADR techniques are mediation, interest-based problem solving, binding arbitration, and facilitation. Use of ADR at the earliest possible stages of a workplace conflict can lead to early resolution that avoids costly litigation, conserves resources and contributes to a positive workplace environment. Agencies have considerable discretion in establishing ADR programs.

Information on agency ADR programs can be obtained from the Employee Relations Division at 202-606-2920 or through email at [er@opm.gov](mailto:er@opm.gov).

## **PART III: HUMAN RESOURCES AUTHORITIES AND FLEXIBILITIES FOR THE SENIOR EXECUTIVE SERVICE**

When the Civil Service Reform Act established the Senior Executive Service (SES) in 1978, a corporate SES culture was envisioned, and a distinct personnel system was mandated. The SES was designed to balance overall system uniformity with considerable agency flexibility for individual actions. Agency managers may exercise these authorities in accordance with law, regulations, and agency delegations. Contact the Office of Executive Resources Management at 202-606-1274 or email [SESstaff@opm.gov](mailto:SESstaff@opm.gov).

### **A. POSITION MANAGEMENT**

Within the overall allocation authorized by the Office of Personnel Management (OPM), agencies have full responsibility for determining their executive resource priorities and establishing SES positions to meet these priorities. The number of positions established may exceed the number allocated, as long as the number filled does not exceed the allocation.

Agencies may:

- Establish SES positions within their allocation. (5 U.S.C. 3133, 5 CFR 214.202)
- Designate positions as *General* or *Career Reserved*. (5 U.S.C. 3132(b)(1), 5 CFR 214.402)

### **B. STAFFING**

The SES offers agency managers considerable flexibility in filling executive vacancies and for resolving executive staffing problems.

## 1. Recruitment and Appointment

Agencies may:

- Decide how positions will be filled (i.e., competitively or noncompetitively) and what recruitment methods will be used. (5 U.S.C. 3132, 3134, 3393)
- Decide whether appointees to *General* positions should be career, noncareer, or limited. (5 U.S.C. 3132, 3133, 3393, 3394)
- Establish qualification standards for SES positions. (5 U.S.C. 3392(a); 5 CFR Part 317, subpart D)
- Establish Executive Resources Boards (ERBs) to conduct the merit staffing process leading to career SES appointments, including determining the area of consideration, establishing recruitment programs to locate highly qualified candidates, conducting the merit staffing process, evaluating qualifications, rating and ranking applicants, and making selection recommendations to the appointing authority. (5 U.S.C. 3393; 5 CFR Part 317, subpart E)
- Determine whether candidates meet the qualifications for positions to be filled. (Qualifications Review Boards, established by OPM, certify that appointees meet executive qualifications for initial career appointment to the SES.) (5 U.S.C. 3393; 5 CFR 317.501)
- Make noncareer appointments without competition, after receiving a noncareer appointment authority from OPM. (5 U.S.C. 3134, 3394)
- Use commercial recruiting firms and nonprofit employment services to recruit for vacancies. (5 CFR Part 300, subpart D)



## 2. Short-Term Staffing Needs

Agencies may:

- Make limited term appointments (up to 3 years) to *SES General* positions established for temporary project-type work, without competition, using an authority from the limited appointment pool allocated by OPM, or using a specific limited appointment authority from OPM. (5 U.S.C. 3132, 3394; 5 CFR 317.601)
- Make limited emergency appointments (up to 18 months) to *SES General* positions established to meet unanticipated temporary staffing needs, without competition, using an authority from the limited appointment pool allocated by OPM, or using a specific limited authority from OPM. (5 U.S.C. 3132, 3394; 5 CFR 317.601)
- Detail *SES* members to other *SES* positions in increments of 120 days; detail *SES* members to non-*SES* positions or to unclassified duties for up to 240 days. (5 CFR 317.903)

## 3. Lateral Movement

Agencies may:

- Reassign career appointees to any *SES* position in the same agency for which qualified, with advance written notice. (5 U.S.C.3395(a); 5 CFR 317.901)
- Reassign noncareer appointees to any *SES General* position in the same agency for which qualified, after receiving OPM approval. (5 U.S.C. 3395(d)(1); 5 CFR 317.901)
- Reassign limited appointees to any *SES General* position in the same agency that meets the same criteria under which the original appointment was made, without prior OPM approval. (5 U.S.C. 3395; 5 CFR 317.604)

- Transfer career appointees to an SES position for which qualified in another agency, with the consent of the gaining agency and the employee. (5 U.S.C. 3395(a)(1); 5 CFR 317.902)
- Transfer noncareer appointees to any SES General position for which qualified in another agency, with approval of the gaining agency and OPM. (5 U.S.C. 3395(d)(2); 5 CFR 317.902)

**Exception:** A career appointee may not be involuntarily reassigned within 120 days of appointment of new agency head or new noncareer supervisor who has authority to make an initial appraisal of the appointee's performance. (5 U.S.C. 3395(e), 5 CFR 317.901)

## **C. COMPENSATION**

Agencies have discretionary authority to set basic SES pay and to provide additional compensation to meet recruitment, relocation, and retention needs. Under 5 U.S.C. 5307, most additional payments are subject to the limitation that aggregate pay may not exceed the rate for Executive Level I.

### **1. Agency-Based Compensation Flexibilities**

Agencies may:

- Set a senior executive's pay at any of the six SES basic pay rates and adjust that rate upward or downward once in any 12-month period. (Basic pay may be raised any number of rates, but reduced only one rate. Pay for career appointees may be reduced only for performance or disciplinary reasons. Pay for all SES members may be reduced at the executive's request.) (5 U.S.C. 5383(a), (c) and (d); 5 CFR 534.401)
- Pay recruitment bonuses for new appointees and relocation bonuses for current employees who move to a different commuting area of up

- to 25% of basic pay for difficult to fill positions. (5 U.S.C. 5753; 5 CFR Part 575, subparts A and B)
- Pay retention allowances up to 25% of basic pay to an employee, when unusually high or unique qualifications of the individual or a special need of the agency makes it essential to retain an individual who would likely leave the Government in the absence of an allowance. (5 U.S.C. 5754; 5 CFR Part 575, subpart C)
  - Pay travel expenses of candidates for SES positions for pre-employment interviews requested by the agency. (5 U.S.C. 5752; 5 CFR part 572)
  - Pay travel and transportation expenses for new appointees to the first post of duty. (The General Services Administration (GSA) issues implementation regulations as part of Federal Travel Regulations.) (5 U.S.C. 5723; 5 CFR part 572)
  - Provide an advance in pay up to two pay periods to any individual newly appointed in the agency. (5 U.S.C. 5524a; 5 CFR part 550, subpart B)
  - Pay travel and transportation expenses for career appointees for "last move home." If reassigned or transferred geographically (when eligible for optional or discontinued service retirement or within 5 years of eligibility for optional retirement), they are entitled to moving expenses at retirement. (GSA issues implementation regulations as part of Federal Travel Regulations.) (5 U.S.C. 5724)
  - Authorize flexible or compressed work schedules under an alternative work schedule (AWS) for SES members. (SES members may not accumulate credit hours under AWS.) (5 U.S.C. chapter 61, subchapter II; 5 CFR part 610, subchapter D)

## **2. Compensation Flexibilities Available with OPM and/or OMB Approval**

Agencies may:

- Increase the rate of basic pay up to the rate for Executive Level I, after receiving authorization from OMB in consultation with OPM, for positions that require expertise of an extremely high level in a scientific, technical, professional, or administrative field and are critical to the accomplishment of an important agency mission. Critical pay may be granted only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position. (5 U.S.C. 5377 and OMB Bulletin No. 91-09)
- Request OPM to waive dual compensation requirements for civilian and military retirees, on a case-by-case basis, for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee, or to meet an emergency hiring need as specified in law. (5 U.S.C. 8344 and 8468; 5 CFR part 553, subpart B)

## **D. PERFORMANCE MANAGEMENT**

Performance management in the SES provides for systematically assessing individual and organizational performance against agency goals and objectives, establishing accountability for achieving results, and linking performance with decisions about pay, awards, and other personnel actions.

### **1. Performance Planning and Appraisal**

Agencies must:

- Establish performance management policies and systems to plan for and appraise individual and organizational performance of senior executives. Once OPM approves an agency performance management plan, the agency has full responsibility for SES performance management. (5 U.S.C. 4312; 5 CFR part 430, subpart C)

- Implement performance appraisal including:
  - identifying, establishing, and communicating performance elements and requirements for individual executives;
  - monitoring progress and providing feedback to executives;
  - appraising performance against requirements annually (with provision for shortening an executive's appraisal period when appropriate); and
  - establishing Performance Review Boards to review initial summary ratings and make recommendations to the agency head on annual summary ratings and bonuses. (5 U.S.C. 4312; 5 CFR part 430, subpart C)

Agency head decisions on ratings, bonuses, or removals based on ratings are not subject to appeal to a third party such as the Merit Systems Protection Board. (5 U.S.C. 3592(a)(2), 4312(d), and 5384(b)(2))

***Exception:*** Performance ratings for career appointees may not be made within 120 days after beginning of a new Presidential administration. (5 U.S.C. 4314(b))

## **2. Awards and Recognition**

Agencies may:

- Pay annual lump sum performance awards (bonuses) to SES career members, after considering the agency Performance Review Board recommendations. Awards may be between 5% and 20% of basic pay. (5 U.S.C. 5384; 5 CFR 534.403)
- Pay awards for suggestions, inventions, superior accomplishment, productivity gain, or special acts or service. Gain sharing programs may also be used where organizational characteristics permit. (5 U.S.C. Chapter 45; 5 CFR Part 451)

- Nominate career executives for Presidential Rank Awards for sustained accomplishment over an extended period. Distinguished Executives receive 35% of basic pay; Meritorious Executives receive 20% of basic pay. (5 U.S.C. 4507; 5 CFR 451.201(c))
- Grant time off without charge to leave or loss of pay as an incentive. (5 U.S.C. 4502; 5 CFR 451.104(a))

### **3. Performance Development and Training**

Agencies are responsible for:

- Establishing programs for the systematic development of candidates for the SES and for the continuing development of senior executives. (5 U.S.C. 3396; 5 CFR part 412)
- Providing any training that will assist in achieving the agency's mission and performance goals, with no requirement that training be directly related to "official duties." (5 U.S.C. 4103)
- Retraining employees for placement in another agency when such training is in the interest of the Government. (5 U.S.C. 4103)
- Taking full advantage of available training sources with no distinction made between Government and non-Government sources. (5 U.S.C. 4105)
- Determining when a "continued service agreement" with an employee is appropriate and apply it to any training to protect the Government's investment. (5 U.S.C. 4108)
- Granting sabbaticals to career SES members of up to 11 months during any 10-year period for study or uncompensated work experience contributing to the employee's development and effectiveness. The employee retains salary and benefits, and the agency may grant travel and per diem costs. (5 U.S.C. 3396(c))

#### 4. Poor Performance

Agencies have the authority to

- Take performance-based reassignment or removal actions under 5 U.S.C. Chapter 43, Subchapter II, *Performance Appraisal in the SES*. Removal actions have specific procedural and documentation requirements that must be met. After removal, most career appointees will have placement rights to positions at grade 15.
- Reassign appointees to other SES positions and provide assistance in improving performance (e.g., counseling, training, or closer supervision). (5 U.S.C. 4314; 5 CFR 430.306(a) and 430.309)
- Remove probationary career appointees from the SES for unacceptable performance, with a one-day advance written notice. (5 U.S.C. 3592, 4314; 5 CFR 359.402)
- Remove non-probationary career appointees from the SES for unacceptable performance, with a 30-day advance written notice. (5 U.S.C. 3592, 4314; 5 CFR 359, subpart E)
- Remove noncareer and limited appointees from the SES for unacceptable performance, with a one-day advance written notice. (5 U.S.C. 3592, 4314; 5 CFR 359, Subpart I)

#### E. OTHER SES REMOVAL ACTIONS

Agencies have the authority to remove executives from the SES for a variety of reasons in addition to unacceptable performance, such as misconduct and reduction-in-force. Each method has specific procedural and evidentiary requirements that must be met. Some executives will have placement rights to grade 15 positions.

Agencies may:

- Remove career appointees at any time during the probationary period, with a one-day written notice. The procedural protections and placement rights to which the probationer is entitled are determined by the basis for the removal action and the individual's appointment status just before entering the SES. (5 U.S.C. 3592; 5 CFR part 359, subpart D)
- Remove career appointees for disciplinary reasons (misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function), with a 30-day advance written notice. (5 U.S.C. 7543; 5 CFR part 752, subpart F)
- Remove career executives through reduction in force based on competitive procedures. Non-probationers can be removed if there are no vacant SES positions in the agency for which the executive is qualified and if OPM has been unable to place the executive in another agency during the 45-day priority placement period. (5 U.S.C. 3595; 5 CFR part 359, subpart F)
- Remove noncareer and limited appointees at any time, with a one-day written notice. (Some limited appointees require additional notice, depending on position held before receiving the limited appointment.) (5 U.S.C. 3592(c); 5 CFR Part 359, subpart I, and part 752, subpart F)
- Remove re-employed annuitants at any time, with a one-day written notice. (5 CFR part 359, subpart I)

**Exception:** Career appointees may not be removed during probation, for performance reasons, or for failure to be re-certified during 120 days after appointment of new agency head or new noncareer supervisor with removal authority, except where removal is based on an unsatisfactory rating given before appointment. (5 U.S.C. 3592; 5 CFR 359.503)