

**VOLUME 6: ADMINISTRATIVE POLICIES**

**CHAPTER 6-1: ADMINISTRATIVE DELEGATIONS**

6-1.1 **DELEGATIONS OF AUTHORITY** ..... 1

**CHAPTER 6-2: STAFFING THE UNITED STATES TRUSTEE PROGRAM**

6-2.1 **OVERVIEW OF MAJOR PERSONNEL SYSTEMS** ..... 3

6-2.2 **SENIOR EXECUTIVE SERVICE/EQUIVALENT POSITIONS** ..... 4

6-2.3 **EXCEPTED SERVICE** ..... 4

6-2.4 **COMPETITIVE SERVICE** ..... 5

6-2.4.1 **Reinstatement Eligibility for Excepted Service Positions** ..... 5

6-2.5 **POSITION DESIGNATIONS WITHIN THE PROGRAM** ..... 5

6-2.6 **RECRUITMENT AND HIRING FOR ATTORNEY POSITIONS** ..... 6

6-2.6.1 **Attorney General's Honor Program** ..... 7

6-2.6.2 **Experienced Attorney Program** ..... 7

6-2.7 **RECRUITMENT AND HIRING FOR COMPETITIVE SERVICE POSITIONS** ..... 7

6-2.7.1 **Selection Priority Programs** ..... 8

6-2.8 **RECRUITMENT AND HIRING FOR SCHEDULE B POSITIONS** ..... 8

6-2.9 **THE SELECTION PROCESS** ..... 9

6-2.10     ENTRY LEVEL GRADES ..... 10

6-2.11     SALARY SETTING ..... 10

6-2.11.1   Appointments At or Below the GS-15 Level ..... 10

6-2.11.2   Assistant United States Trustees ..... 11

6-2.12     NEPOTISM ..... 11

6-2.13     EFFECTUATION OF PERSONNEL ACTIONS ..... 11

6-2.14     ORIENTATION FOR NEW EMPLOYEES ..... 11

6-2.15     CREDENTIALS AND IDENTIFICATION CARDS ..... 12

6-2.16     PERSONNEL FILE TRANSFER ..... 12

6-2.17     STUDENT EMPLOYMENT PROGRAMS ..... 12

6-2.17.1   Student Educational Employment Program ..... 12

6-2.17.2   College Work Study Program ..... 13

6-2.17.3   Volunteer Student Employment ..... 13

6-2.18     USE OF PRIVATE SECTOR TEMPORARY EMPLOYEES ..... 14

6-2.19     FLEXIBLE WORK SCHEDULE PROGRAMS ..... 15

6-2.19.1   5/4/9 Flexitime Program ..... 15

6-2.19.2   Flexiplace Program ..... 15

**CHAPTER 6-3: EQUAL EMPLOYMENT OPPORTUNITY**

6-3.1     POLICY STATEMENT ON EQUAL EMPLOYMENT OPPORTUNITY ..... 16

6-3.1.1	<u>EEO Complaint Process</u> .....	16
6-3.2	<u>POLICY STATEMENT ON SEXUAL HARASSMENT</u> .....	17
6-3.2.1	<u>Sexual Harassment Complaint Process</u> .....	17
<b>CHAPTER 6-4: <u>PERFORMANCE MANAGEMENT SYSTEM</u></b>		
6-4.1	<u>BACKGROUND</u> .....	18
6-4.2	<u>PERFORMANCE WORK PLANS</u> .....	19
6-4.2.1	<u>Performance Rating System</u> .....	19
6-4.2.2	<u>Required Elements</u> .....	20
6-4.3	<u>RATING AND REVIEWING OFFICIALS</u> .....	20
6-4.4	<u>THE PERFORMANCE APPRAISAL PROCESS</u> .....	21
6-4.4.1	<u>Rating Periods</u> .....	21
6-4.4.2	<u>Progress Reviews</u> .....	21
6-4.4.3	<u>Ratings</u> .....	21
6-4.4.3.1	<u>Reassignment During a Rating Period</u> .....	23
6-4.5	<u>PERFORMANCE RATING GRIEVANCES</u> .....	23
6-4.6	<u>ACTIONS BASED ON LESS THAN SUCCESSFUL PERFORMANCE</u> .....	24
6-4.7	<u>PROMOTIONS</u> .....	24
6-4.8	<u>REASSIGNMENTS</u> .....	25
6-4.9	<u>WITHIN-GRADE PAY INCREASES</u> .....	26

6-4.10 **PROBATIONARY PERIODS** ..... 26

6-4.11 **INCENTIVE AWARDS PROGRAM** ..... 27

6-4.11.1 **Policy** ..... 27

6-4.11.2 **Award Categories** ..... 27

6-4.11.3 **Approval Levels** ..... 28

6-4.11.4 **Director's Awards** ..... 29

6-4.11.5 **Attorney General and Non-Justice Awards** ..... 29

6-4.11.6 **Regional Awards Budget** ..... 30

**CHAPTER 6-5: DISCIPLINARY ACTIONS**

6-5.1 **POLICY** ..... 30

6-5.2 **CONDUCT ISSUES** ..... 30

6-5.3 **PERFORMANCE ISSUES** ..... 31

6-5.3.1 **Withholding Within-Grade Increases** ..... 31

6-5.3.2 **Actions Based on Unacceptable Performance** ..... 32

6-5.3.2.1 **Employees in the Competitive Service and Preference Eligibles in the Excepted Service More than One Year** ..... 32

6-5.3.2.2 **Employees in the Competitive Service Less than One Year and Non-Preference Employees or Employees in the Excepted Service Less than Two Years** ..... 32

6-5.3.2.3 **Temporary Employees** ..... 33

## **CHAPTER 6-6: GRIEVANCES**

6-6.1	<b><u>INTRODUCTION</u></b> .....	33
6-6.2	<b><u>PROCEDURES FOR RESOLVING PERFORMANCE RELATED GRIEVANCES</u></b> .....	33
6-6.3	<b><u>PROCEDURES FOR RESOLVING NON-PERFORMANCE RELATED GRIEVANCES</u></b> .....	34
6-6.4	<b><u>USE OF OFFICIAL TIME</u></b> .....	34

## **CHAPTER 6-7: PAY**

6-7.1	<b><u>OVERTIME AND COMPENSATORY TIME</u></b> .....	35
6-7.1.1	<b><u>Fair Labor Standards Act</u></b> .....	35

## **CHAPTER 6-8: PAYROLL**

6-8.1	<b><u>REQUIREMENTS</u></b> .....	36
6-8.2	<b><u>RESPONSIBILITIES</u></b> .....	36
6-8.2.1	<b><u>National Finance Center</u></b> .....	36
6-8.2.2	<b><u>Executive Office</u></b> .....	36
6-8.2.3	<b><u>Administrative Officers/Staff Assistants</u></b> .....	36
6-8.2.4	<b><u>Timekeepers</u></b> .....	37
6-8.2.5	<b><u>Case Managers</u></b> .....	37
6-8.3	<b><u>ELECTRONIC TIME AND ATTENDANCE REPORTING</u></b> .....	37

6-8.4      PAY COMPUTATION ..... 37

6-8.5      RECEIPT OF SALARY CHECKS ..... 37

6-8.6      ADVANCES IN PAY ..... 38

6-8.7      LAPSE OF APPROPRIATION ..... 38

**CHAPTER 6-9: EMPLOYEE BENEFITS**

6-9.1      FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM ..... 38

6-9.1.1    Opportunities to Enroll and Change Enrollment ..... 39

6-9.2      LIFE INSURANCE ..... 39

6-9.2.1    Waivers ..... 40

6-9.3      WORKER'S COMPENSATION ..... 40

6-9.3.1    Continuation of Pay for a Traumatic Injury ..... 40

6-9.3.2    Controversion of Continuation of Pay ..... 41

6-9.3.3    Permanent Disability ..... 41

6-9.3.4    For Death ..... 41

6-9.3.5    Compensation by OWCP ..... 42

6-9.3.6    Decisions and Notifications ..... 42

6-9.3.6.1 Reconsideration ..... 42

6-9.3.6.2 Hearing ..... 43

6-9.3.6.3 Review by Employees' Compensation Appeals Board (ECAB) ..... 43

**CHAPTER 6-10: LEAVE**

6-10.1 **POLICY** ..... 43

6-10.2 **ANNUAL LEAVE** ..... 44

6-10.2.1 **Accrual** ..... 44

6-10.2.2 **Emergencies** ..... 45

6-10.2.3 **Advanced Annual Leave** ..... 45

6-10.2.4 **Restoration of Forfeited Annual Leave** ..... 46

6-10.2.5 **Terminal Leave** ..... 46

6-10.2.6 **Voluntary Leave Transfer Program (VLTP)** ..... 46

6-10.2.7 **Voluntary Leave Bank Program (VLBP)** ..... 46

6-10.3 **SICK LEAVE** ..... 47

6-10.3.1 **Accrual** ..... 47

6-10.3.2 **Emergencies** ..... 47

6-10.3.3 **Advanced Sick Leave** ..... 48

6-10.3.3.1 **Repayment of Advanced Sick Leave** ..... 48

6-10.3.4 **Federal Employees Family Friendly Leave Act** ..... 49

6-10.4 **LEAVE WITHOUT PAY** ..... 49

6-10.5 **ABSENCE WITHOUT OFFICIAL LEAVE** ..... 51

6-10.6 **FAMILY AND MEDICAL LEAVE** ..... 51

6-10.7 **EXCUSED ABSENCES (ADMINISTRATIVE LEAVE)** ..... 51

6-10.7.1	<b><u>Emergency Conditions</u></b> .....	52
6-10.8	<b><u>LEAVE FOR RELIGIOUS OBSERVANCES</u></b> .....	52
6-10.9	<b><u>MILITARY LEAVE</u></b> .....	53
6-10.10	<b><u>COURT LEAVE</u></b> .....	53
6-10.11	<b><u>HOLIDAYS</u></b> .....	53

**CHAPTER 6-11: RETIREMENT**

6-11.1	<b><u>INTRODUCTION</u></b> .....	54
6-11.2	<b><u>CIVIL SERVICE RETIREMENT SYSTEM (CSRS)</u></b> .....	54
6-11.3	<b><u>FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS)</u></b> .....	55
6-11.3.1	<b><u>Social Security Benefits</u></b> .....	56
6-11.3.2	<b><u>Basic Benefits Plan</u></b> .....	56
6-11.3.3	<b><u>Thrift Savings Plan</u></b> .....	57
6-11.3.3.1	<b><u>Extension to CSRS/CSRS Offset Employees</u></b> .....	57
6-11.3.3.2	<b><u>Investment Options</u></b> .....	57
6-11.3.3.3	<b><u>Tax Advantages</u></b> .....	57
6-11.4	<b><u>DISABILITY RETIREMENT</u></b> .....	58

**CHAPTER 6-12: BUDGET AND FINANCE**

6-12.1	<b><u>INTERNAL CONTROLS</u></b> .....	59
6-12.1.1	<b><u>Policy</u></b> .....	59



6-12.1.2	<u>Internal Control Systems</u> .....	59
6-12.1.3	<u>Specific Standards</u> .....	60
6-12.2	<u>BUDGET FORMULATION AND EXECUTION</u> .....	61
6-12.2.1	<u>Budget Formulation</u> .....	61
6-12.2.2	<u>Budget Execution</u> .....	61
6-12.2.2.1	<u>Administrative Control of Funds</u> .....	61
6-12.3	<u>FINANCIAL CLASSIFICATIONS</u> .....	62
6-12.3.1	<u>Accounting Classification Codes</u> .....	62
6-12.4	<u>UNITED STATES TRUSTEE SYSTEM FUND</u> .....	62
6-12.4.1	<u>Revenue Sources</u> .....	62
6-12.4.2	<u>Fund Administration</u> .....	63
6-12.5	<u>REGIONAL BUDGET ALLOCATIONS</u> .....	63

**CHAPTER 6-13: TRAINING**

6-13.1	<u>POLICY</u> .....	64
6-13.2	<u>DELEGATIONS OF AUTHORITY</u> .....	64
6-13.3	<u>REGIONAL TRAINING BUDGET</u> .....	64
6-13.4	<u>REQUIRED TRAINING</u> .....	65
6-13.4.1	<u>Ethics</u> .....	65
6-13.4.2	<u>Computer Security</u> .....	65

6-13.5	<b><u>IDENTIFYING EMPLOYEE TRAINING NEEDS</u></b> .....	65
6-13.6	<b><u>IDENTIFYING TRAINING SOURCES</u></b> .....	66
6-13.7	<b><u>AUTHORIZATION OF TRAINING EXPENSES</u></b> .....	66
6-13.7.1	<b><u>Limit of Three</u></b> .....	67
6-13.7.2	<b><u>ADP Training</u></b> .....	67
6-13.8	<b><u>TRAVEL ASSOCIATED WITH TRAINING</u></b> .....	67
6-13.9	<b><u>ADMINISTRATIVE LEAVE</u></b> .....	67
6-13.9.1	<b><u>Redelegation</u></b> .....	68
6-13.10	<b><u>TRAINING INVOICES/REIMBURSEMENT</u></b> .....	68
6-13.11	<b><u>CANCELLATIONS</u></b> .....	68

#### CHAPTER 6-14: **TRAVEL**

6-14.1	<b><u>POLICY</u></b> .....	69
6-14.2	<b><u>DELEGATIONS OF AUTHORITY</u></b> .....	69
6-14.3	<b><u>REGIONAL TRAVEL BUDGET</u></b> .....	70
6-14.4	<b><u>CITY-PAIR AIR/RAIL CONTRACTS</u></b> .....	71
6-14.5	<b><u>GOVERNMENT CREDIT CARD</u></b> .....	71
6-14.5.1	<b><u>Issuance</u></b> .....	71
6-14.5.2	<b><u>Billing Agreement</u></b> .....	71
6-14.5.3	<b><u>Liability</u></b> .....	72

6-14.5.3.1 Lost or Stolen Cards ..... 73

6-14.5.4 Use of the American Express Card ..... 73

6-14.5.4.1 Cash Advances ..... 73

6-14.6 TRAVEL AWARDS AND UPGRADES ..... 74

6-14.6.1 Travel Savings Awards Program ..... 74

**CHAPTER 6-15: PROCUREMENT**

6-15.1 SMALL PURCHASE AUTHORITY ..... 74

6-15.1.1 Methods of Purchasing ..... 75

6-15.1.1.1 Governmentwide Commercial Credit Card ..... 75

6-15.1.1.2 SF-44 Authority ..... 75

6-15.1.1.3 Blanket Purchase Agreements (BPAs) ..... 75

6-15.1.1.4 Purchase Order Authority, OF-347 ..... 76

6-15.1.2 Purchasing Procedures ..... 76

6-15.1.2.1 Budget Allocations ..... 76

6-15.1.2.2 Competition ..... 76

6-15.1.2.3 Supply Purchases ..... 77

6-15.1.2.4 Service Purchases ..... 77

6-15.1.2.5 Furniture Purchases ..... 78

6-15.1.2.6 Equipment Purchases ..... 79

6-15.1.2.7 Delivery ..... 79

6-15.2 ADVERTISING ..... 80

6-15.2.1 Employment Advertising ..... 81

6-15.2.2 Panel or Standing Trustee Advertising ..... 81

6-15.2.3 Advertising Effectiveness ..... 82

6-15.3 COURT REPORTING AND TRANSCRIPTION SERVICES ..... 82

6-15.4 FACT AND EXPERT WITNESSES ..... 82

  

**CHAPTER 6-16: ACCOUNTS PAYABLE AND INVOICING**

6-16.1 RESPONSIBILITIES ..... 83

6-16.2 SUPPORTING DOCUMENTATION ..... 83

6-16.2.1 Receiving Reports ..... 83

6-16.2.2 Packing Slips and Work Orders ..... 83

6-16.2.3 Monthly BPA Logs ..... 84

6-16.2.4 Receipts or Other Proofs of Payment ..... 84

6-16.3 INVOICE PROCESSING PROCEDURES ..... 84

6-16.3.1 Invoices Received Directly in a Field Office ..... 85

6-16.3.2 Invoices Received Directly in the Executive Office ..... 85

**CHAPTER 6-17: PHOTOCOPYING, PRINTING, AND GRAPHICS**

6-17.1	<b><u>REGULATIONS</u></b> .....	86
6-17.2	<b><u>PHOTOCOPYING</u></b> .....	86
6-17.3	<b><u>PRINTING AND GRAPHICS</u></b> .....	87
6-17.3.1	<b><u>Graphics</u></b> .....	87
6-17.3.2	<b><u>Forms</u></b> .....	88
6-17.4	<b><u>PERIODICALS AND PAMPHLETS</u></b> .....	88

**CHAPTER 6-18: LIBRARY MATERIALS AND PUBLICATIONS**

6-18.1	<b><u>POLICY</u></b> .....	88
6-18.2	<b><u>REGIONAL LIBRARY BUDGET</u></b> .....	89
6-18.3	<b><u>ACQUISITION PROCEDURES</u></b> .....	89
6-18.3.1	<b><u>Visa Credit Card Purchases</u></b> .....	89
6-18.3.2	<b><u>Requesting New Materials</u></b> .....	89
6-18.3.3	<b><u>Subscription Renewals</u></b> .....	90
6-18.3.4	<b><u>Cancellations</u></b> .....	90
6-18.3.4.1	<b><u>Subscription Orders</u></b> .....	90
6-18.3.4.2	<b><u>Book or Supplement Orders</u></b> .....	90
6-18.3.5	<b><u>Changes in Recipient Address</u></b> .....	91

6-18.3.6 Non-Receipt of Materials ..... 91

6-18.4 INVOICES ..... 91

**CHAPTER 6-19: COMMUNICATIONS**

6-19.1 FEDERAL TELECOMMUNICATIONS SYSTEM (FTS) ..... 91

6-19.1.1 Authorized Uses ..... 92

6-19.1.2 Unauthorized Uses ..... 92

6-19.1.3 Collect or Third Party Telephone Calls ..... 92

6-19.2 TELEPHONES FOR § 341 MEETING ROOMS ..... 92

6-19.3 TELEPHONE PROCUREMENT ..... 93

6-19.4 TELEPHONE MAINTENANCE ..... 93

6-19.5 TELEPHONE CALLING CARDS ..... 93

6-19.6 FACSIMILE MACHINES ..... 94

**CHAPTER 6-20: MAIL SERVICES**

6-20.1 UNITED STATES POSTAL SERVICE MAIL ..... 94

6-20.1.1 Designation of Meter Operators ..... 95

6-20.1.2 Adding and Maintaining Postage ..... 95

6-20.1.3 Equipment Maintenance ..... 95

6-20.2 OVERNIGHT MAIL SERVICE ..... 95

**CHAPTER 6-21: SECURITY PROGRAMS**

6-21.1	<b><u>OVERVIEW</u></b> .....	96
6-21.2	<b><u>DELEGATIONS OF AUTHORITY</u></b> .....	96
6-21.2.1	<b><u>Assistant Director for Administration</u></b> .....	96
6-21.2.2	<b><u>United States Trustees</u></b> .....	96
6-21.2.3	<b><u>All Employees</u></b> .....	96
6-21.3	<b><u>PERSONNEL SECURITY</u></b> .....	97
6-21.3.1	<b><u>Policy</u></b> .....	97
6-21.3.2	<b><u>Position Designation</u></b> .....	97
6-21.3.2.1	<b><u>Sensitive Positions</u></b> .....	97
6-21.3.2.2	<b><u>Non-Sensitive Positions</u></b> .....	98
6-21.3.2.3	<b><u>Contract Temporaries</u></b> .....	98
6-21.3.3	<b><u>Promotion From a Non-Sensitive to Sensitive Position</u></b> .....	98
6-21.3.4	<b><u>Reinvestigations</u></b> .....	98
6-21.3.5	<b><u>Drug Free Workplace Program</u></b> .....	99
6-21.4	<b><u>DOCUMENT/INFORMATION SECURITY</u></b> .....	99
6-21.4.1	<b><u>"Limited Official Use" Information</u></b> .....	100
6-21.4.2	<b><u>Responsibilities</u></b> .....	100
6-21.4.3	<b><u>Authorized Access</u></b> .....	101
6-21.4.4	<b><u>Protection of Limited Official Use Information</u></b> .....	102

6-21.4.5 **Custody and Storage of Limited Official Use (LOU) Information** ..... 103

6-21.4.5.1 **Use of LOU Materials** ..... 103

6-21.4.5.2 **Storage of LOU Materials** ..... 103

6-21.4.5.3 **Special Requirements** ..... 103

6-21.4.6 **Dissemination and Transmission** ..... 103

6-21.4.7 **Disposition of Materials** ..... 104

6-21.5 **PHYSICAL SECURITY** ..... 104

6-21.5.1 **Office Space Access Controls** ..... 105

6-21.5.2 **Control of Government Equipment and Other Property** ..... 106

6-21.5.3 **Telephone Procedures/Call Lists** ..... 107

6-21.5.4 **Evacuation Plans/Occupant Emergency Program** ..... 107

6-21.5.5 **Occupational Safety and Health Program** ..... 108

6-21.5.5.1 **Occupational Safety and Health Coordinator** ..... 108

6-21.5.5.2 **Responsibilities** ..... 108

6-21.5.5.3 **Other Federal Agency Standards Affecting Occupational Safety and Health** ..... 110

6-21.5.5.4 **Inspections** ..... 110

6-21.5.5.5 **Employee Reports of Unsafe or Unhealthful Working Conditions** ..... 110

6-21.5.5.6 **Accident Investigations** ..... 111

6-21.5.5.7 **Abatement Plan** ..... 111



6-21.6     **ADP/TELECOMMUNICATIONS SECURITY** ..... 112

6-21.6.1   **Responsibilities** ..... 112

6-21.6.1.1 **Security Programs Manager/Deputy Assistant Director for Information Systems** ..... 112

6-21.6.1.2 **United States Trustees/Security Officers** ..... 113

6-21.6.1.3 **Case Managers** ..... 113

6-21.6.1.4 **Users** ..... 113

6-21.6.2   **Equipment Control** ..... 113

6-21.6.2.1 **Password Access** ..... 114

6-21.6.2.2 **Menu Access** ..... 114

6-21.6.3   **Equipment Removal** ..... 114

6-21.6.4   **Loss/Theft** ..... 115

6-21.6.5   **Data Security** ..... 115

6-21.6.5.1 **Back-ups** ..... 115

6-21.6.5.2 **Index Listings** ..... 116

6-21.6.5.3 **Limited Official Use Data** ..... 116

6-21.6.5.4 **Computer Security Incident Reporting** ..... 117

6-21.6.6   **Computer Security Training** ..... 117

6-21.6.6.1 **New Employees** ..... 117

6-21.6.6.2 **Existing Employees** ..... 117

6-21.7     **DISASTER RECOVERY/CONTINGENCY PLAN** ..... 118

**CHAPTER 6-22: FACILITIES MANAGEMENT**

6-22.1	<b><u>SPACE MANAGEMENT</u></b> .....	118
6-22.2	<b><u>SPACE ACQUISITION</u></b> .....	119
6-22.3	<b><u>SPACE PLANNING</u></b> .....	119
6-22.4	<b><u>APPROVAL TO ESTABLISH OR RELOCATE AN OFFICE</u></b> .....	120
6-22.5	<b><u>OFFICE RENOVATIONS</u></b> .....	120
6-22.6	<b><u>PARKING</u></b> .....	120
6-22.7	<b><u>SMOKEFREE WORK ENVIRONMENT</u></b> .....	120

**CHAPTER 6-23: PROPERTY MANAGEMENT**

6-23.1	<b><u>OVERVIEW</u></b> .....	121
6-23.2	<b><u>RESPONSIBILITIES</u></b> .....	121
6-23.2.1	<b><u>Executive Office</u></b> .....	121
6-23.2.2	<b><u>Field Offices</u></b> .....	122
6-23.3	<b><u>PROPERTY ACCOUNTABILITY</u></b> .....	122
6-23.3.1	<b><u>Physical Inventories</u></b> .....	123
6-23.3.2	<b><u>Property Control</u></b> .....	123
6-23.3.2.1	<b><u>Receipt of Accountable Personal Property</u></b> .....	123
6-23.3.2.2	<b><u>Service or Repair of Personal Property</u></b> .....	123
6-23.3.2.3	<b><u>Replacement of Personal Property</u></b> .....	124

6-23.3.3 Reporting Lost or Stolen Property . . . . . 124

6-23.3.4 Disposition of Personal Property . . . . . 125

6-23.3.4.1 Transfer of Property Between Offices . . . . . 125

6-23.3.4.2 Excess Property . . . . . 125

**CHAPTER 6-24: RECORDS MANAGEMENT**

6-24.1 OVERVIEW . . . . . 126

6-24.2 FILE DESCRIPTION AND MAINTENANCE . . . . . 126

6-24.3 FILE DISPOSITION . . . . . 130

6-24.4 FILE DESTRUCTION . . . . . 134

**CHAPTER 6-25: COMPUTER SYSTEMS MANAGEMENT**

6-25.1 OVERVIEW . . . . . 137

6-25.2 POLICY . . . . . 137

6-25.3 COMPUTER SYSTEM LIFE CYCLE MANAGEMENT . . . . . 138

6-25.3.1 Acquisitions Management . . . . . 138

6-25.4 REQUESTS FOR EQUIPMENT AND SERVICES . . . . . 138

6-25.4.1 Inventory Management . . . . . 139

6-25.4.2 Operational Services . . . . . 139

6-25.4.2.1 Automated Case Management System (ACMS) Maintenance . . . . . 139

6-25.4.2.2 **Liaison with the Court Interface Project Teams** ..... 139

6-25.4.2.3 **Data Communications Management** ..... 139

6-25.4.2.4 **Office Relocations** ..... 139

6-25.4.2.5 **Legal Research Services** ..... 140

6-25.4.2.6 **Internet Access** ..... 140

6-25.5 **OFFICE RELOCATIONS** ..... 140

6-25.5.1 **Design and Layout and Cabling and Telecommunications Planning** ..... 140

6-25.5.2 **Preparing Equipment for Relocation** ..... 141

**VOLUME 6: ADMINISTRATIVE POLICIES****CHAPTER 6-1: ADMINISTRATIVE DELEGATIONS**

6-1.1

**DELEGATIONS OF AUTHORITY**

To provide for the efficient, effective, and economical accomplishment of the Program's mission and functions, the Director has delegated to each United States Trustee a number of administrative authorities as outlined on the following chart. Delegations relating to travel and procurement are renewed annually.

	<b>Executive Office for U.S. Trustees</b>	<b>United States Trustee</b>	<b>Assistant U.S. Trustee (if redelegated from U.S. Trustee)</b>
SF-52: Request for Personnel Action	Authorize	Request	May not be redelegated.
DOJ UST-7: Award Nomination Form	Authorize: Special Achievement Awards Over \$500	Authorize: Special Achievement Awards Under \$500, Time Off Awards, and On-the-Spot Awards	Request: Time Off Awards and On-the-Spot Awards
SF-182: Request, Authorization, Agreement and Certification of Training		Authorize	Request
Leave Without Pay (LWOP)	Authorize LWOP in excess of 79 hours	Authorize LWOP up to 79 hours	Request

	Executive Office for U.S. Trustees	United States Trustee	Assistant U.S. Trustee (if redelegated from U.S. Trustee)
Advanced Annual and Sick Leave		Authorize	Authorize
UST-13: Overtime and Compensatory Time Request and Approval		Authorize	Authorize
OBD-186: Requisition for Equipment, Supplies or Services	Authorize initiation of contract actions and large procurements	Request	Request
OF-347: Order for Supplies or Services	Authorize	(Request issuance of OF-347 on UST-6)	(Request issuance of OF-347 on UST-6)
UST-6: Procurement or Services Request	Review	Authorize	Authorize
DOJ-2: Request for Printing and Design	Authorize	Request	Request
DOJ-182: Stocked Printed Item Requisition	Authorize	Request	Request
SF-44: Purchase Order--Invoice-- Voucher	Authorize over \$2,500	Authorize under \$2,500	Authorize under \$2,500

	Executive Office for U.S. Trustees	United States Trustee	Assistant U.S. Trustee (if redelegated from U.S. Trustee)
DOJ-501: Official Travel Request and Authorization	Authorize out-of- region travel and actual subsistence for travel not related to training	Authorize within region travel and out-of-region travel associated with training (including requests for actual subsistence)  Request out-of- region travel not associated with training	Authorize within district travel at the per diem rate
DOJ-534: Travel Voucher		Approve	Approve for within district travel only
SF-1164: Claim for Reimbursement for Expenditures on Official Business	Authorize	Approve	Approve for within district travel only
Budget Allocations		Authorize transfer of money between accounts	Request transfer of money between accounts

**CHAPTER 6-2: STAFFING THE UNITED STATES TRUSTEE PROGRAM**

6-2.1

**OVERVIEW OF MAJOR PERSONNEL SYSTEMS**

In the federal government, positions fall into three broad categories: the Senior Executive Service, a mobile cadre of executive managers; the Excepted Service, entry into which is controlled by agencies or

governed by statute; and the Competitive Service, entry into which requires competition through an open examination process.

The authority to make appointments to the Senior Executive Service and positions at an equivalent pay level, like United States Trustees, is delegated to the Deputy Attorney General. The authority to appoint Assistant United States Trustees and attorneys is delegated to the Office of Attorney Personnel Management. All other appointments are made under the Director's delegated authority.

The authority to make selections for competitive and excepted service positions within the Program has been delegated to the lowest possible level consistent with sound management practice. While selection procedures may vary, it is customary for at least two levels of management to approve a selection, which must then undergo final review in the Executive Office for consistency with the statutes and regulations governing federal personnel practices.

6-2.2

**SENIOR EXECUTIVE SERVICE/EQUIVALENT POSITIONS**

The Senior Executive Service (SES) was created to provide the Government with a highly qualified corps of senior managers who would, in theory, be interchangeable and mobile. The Director, Deputy Director, Associate Director, and General Counsel positions are in the SES. United States Trustee and some Assistant United States Trustee positions are paid at an SES-equivalent salary level, although they are not part of the SES.

6-2.3

**EXCEPTED SERVICE**

The Office of Personnel Management has the authority to except positions from the competitive service under a number of circumstances. Those exceptions may apply Government-wide or may apply to only a specific class of positions within an agency. Some of the more common excepted service positions in the Department of Justice are:

1. Attorneys. Government-wide, attorneys (other than Assistant U.S. Attorneys, who are excepted by statute) are excepted from the competitive service by 5 C.F.R. § 213.3102(d).



2. United States Trustee Program. Most employees in the Program are excepted from the competitive service by 5 C.F.R. § 213.3210(e).
3. Other Positions. Various positions such as student employees, handicapped employees, and positions of a confidential and policymaking nature.

6-2.4

**COMPETITIVE SERVICE**

Positions in the competitive service are filled through the appointment of individuals who have competed in examinations and/or had their education and experience rated through processes that are open to the public at large. These open examinations are administered by the Office of Personnel Management (OPM) or, in some cases, by agencies (including the Department) which have been delegated examining authority by OPM. Appointees are selected from among the best qualified as determined by the examination and in accordance with applicable laws and regulations.

6-2.4.1

**Reinstatement Eligibility for Excepted Service Positions**

An employee who previously held a career-conditional appointment in the competitive service and did not complete the three-year requirement for a career appointment before converting to an excepted service position can be reinstated into the competitive service without competing in an Office of Personnel Management examination.

6-2.5

**POSITION DESIGNATIONS WITHIN THE PROGRAM**

Positions within the Program are in the excepted and competitive services as follows:

1. Excepted Service Positions

United States Trustees  
Assistant United States Trustees  
Attorneys (Schedule A)  
Bankruptcy Analysts (Schedule B)

Paralegal Specialists (GS-7, 9, and 11) (Schedule B)  
Legal Clerks (GS-6 and 7) (Schedule B)  
Legal Data Technicians (GS-6 and 7) (Schedule B)  
Case Administration Support Specialists (Schedule B)  
Case Management Specialists (Schedule B)  
Students

2. Competitive Service

Computer Specialists  
Administrative Officers/Staff Assistants  
Secretaries  
Paralegal Specialists (GS-5)  
Legal Data Technicians (Below GS-6)  
Legal Clerks (Below GS-6)  
Office Automation Clerks/Assistants  
Clerk Typists  
Positions in the Executive Office

6-2.6

**RECRUITMENT AND HIRING FOR ATTORNEY POSITIONS**

Policy concerning the hiring and recruitment of law students, recent law graduates, and experienced attorneys is set by the Department. Attorneys are hired through two mutually exclusive processes--the Attorney General's Honor Program and the Experienced Attorney Program. Both programs are coordinated by the Office of Attorney Personnel Management (OAPM).

All attorney hires are subject to review by the Personnel Management Branch of the Executive Office, as well as approval by the Associate Director and OAPM.

Department regulations prohibit the hiring of an attorney in a permanent position until an FBI full-field background investigation has been conducted. Attorneys may, however, be hired under a 14-month temporary appointment after clearance of name and fingerprint checks, while the full-field background investigation is being conducted.

6-2.6.1

**Attorney General's Honor Program**

The Honor Program is restricted to graduating law school students and those who are completing judicial clerkships. Significant recruitment is also done through a Summer Law Intern Program which is restricted to second year law students and follows a schedule similar to the Honor Program.

6-2.6.2

**Experienced Attorney Program**

Candidates must have at least one year of experience practicing law after law school graduation.

6-2.7

**RECRUITMENT AND HIRING FOR COMPETITIVE SERVICE POSITIONS**

The principle underlying the competitive service is that initial appointment to government service must result from competition in examinations open to the public at large. Whether through a written test or a paper review of qualifications, candidates are rated and ranked based on certain objective criteria related to the type of position to be filled.

Recruitment for competitive service positions is coordinated by the Personnel Management Branch of the Executive Office, in conjunction with the United States Trustee and the Administrative Officer/Staff Assistant.

The "merit promotion" process, which extends the concept of open competition to certain competitive service promotions (i.e., not career ladder promotions) and reassignments, is another means of hiring in the competitive service. Through an adaptation of the examination process, applications of interested candidates are solicited and reviewed and a list of candidates eligible to fill the vacant position is created. Applicants must either be already in the competitive service or be "reinstatable." In very limited circumstances, candidates may be certified who are neither.

The selection of one means of filling a vacancy over another is driven by a number of factors, including the type and grade level of the position to be filled and past experience with recruitment for the occupation.

After competitive appointment, an employee must serve a one-year probationary period to determine fitness for federal service. During that time, the employee may be dismissed without significant procedural protection. After three years, an employee acquires "career tenure."

6-2.7.1

Selection Priority Programs

The Department of Justice Career Transition Assistance Program (CTAP) is designed to help Department of Justice employees in the competitive service who are affected by downsizing and restructuring. Under the plan, well-qualified surplus or soon-to-be displaced Department employees must be selected for vacancies in a local commuting area before any other candidate from either within or outside the Department may be considered. CTAP preferences apply to the filling of all competitive service vacancies through most means, including merit promotion, reassignment, or a change to a lower graded position with more promotion potential than the position last held.

If no eligible CTAP employees are found, qualified former Department employees registered on the Reemployment Priority List (RPL) must then be considered. After clearing the RPL, selection priority must then be given to well-qualified employees from other agencies who are eligible under the Interagency Career Transition Assistance Program. Only when all three selection priority programs disclose no qualified candidates may an outside selection be made.

6-2.8

RECRUITMENT AND HIRING FOR SCHEDULE B POSITIONS

The Program has been granted excepted service hiring authority under Schedule B from the Office of Personnel Management (OPM) for positions other than those providing routine clerical and administrative support. Individuals must have at least six months of experience that provides a knowledge of bankruptcy processes and procedures.

Recruitment for Schedule B positions is generally handled directly by the United States Trustee's regional office. When a Schedule B position becomes vacant (with the exception of legal clerk and attorney positions) and there is more than one employee within the office eligible for consideration, the position must be advertised internally. Although not required, it may also be simultaneously advertised externally to ensure the broadest possible pool of qualified applicants.

If there are no employees within the office eligible for the vacant position, recruitment efforts may begin after approval from the Executive Office. It is particularly important to consider qualified minority, female, and disabled candidates. Recruitment efforts should include word-of-mouth communication with day-to-day contacts, and the forwarding of Notice of Vacancy announcements to local federal agencies, colleges and business schools, local Office of Personnel Management job information centers, state employment services, and local trustees' offices, law firms, and companies where qualified individuals can be located. Newspaper advertising should be used only after these sources have been exhausted and no viable candidates have been identified.

6-2.9

### THE SELECTION PROCESS

After a candidate has been selected for a position, a completed pre-appointment package must be submitted to the Personnel Management Branch of the Executive Office.

An individual being considered for an excepted service position should be informed by the selecting official that the offer of employment is tentative, pending qualifications approval by the Personnel Management Branch, clearance of name and fingerprint checks, and satisfactory results of a drug test. Similarly, the individual being considered from a certificate for a competitive service position should be informed that the offer of employment is tentative pending approval by the Personnel Management Branch, clearance of name and fingerprint checks, and, if required, satisfactory results of a drug test. In no instance should any applicant be told to give notice, nor be given a date to report to work, before all clearances have been completed and official notification has been received from the Executive Office.

After name and fingerprint checks have been favorably adjudicated, an Enter on Duty (EOD) date can be established. If the person is currently employed by the Department or another federal agency, an EOD date must be set for the beginning of a pay period. If extenuating circumstances preclude the employee from starting at the beginning of a pay period, the Personnel Management Branch should be contacted so an official starting date can be negotiated with the losing agency's Personnel Office.

**NOTE:** Obtaining name and fingerprint clearance is the most time-consuming part of the employment process. The basic clearance process takes a minimum of three weeks and can take as long as six weeks.

## 6-2.10

**ENTRY LEVEL GRADES**

In recruiting for vacancies, the general rule is to hire at the lowest grade level possible. This allows maximum growth potential for the individual who is hired, as well as for individuals already in the office who may be promoted into higher graded positions as vacancies occur. A request to hire externally an individual for a senior or supervisory position, in lieu of personnel already on board, is discouraged and requires a memorandum of justification to the Director.

## 6-2.11

**SALARY SETTING**

## 6-2.11.1

**Appointments At or Below the GS-15 Level**

All new appointments will be at the minimum rate of grade (step 1), unless the employee is eligible for a higher step based on previous federal employment or if a request is made for an appointment above the minimum rate. Appointments may be made above the minimum rate of the grade based on the superior qualifications of a candidate. Salary requests for above the minimum may not exceed a candidate's existing pay by more than 20 percent.

6-2.11.2            Assistant United States Trustees

The entry salary for an Assistant United States Trustees is set at a level that reflects a candidate's background, the size of the office, and comparable Assistant United States Trustee salaries.

6-2.12              NEPOTISM

Section 3110 of title 5 of the United States Code restricts the employment of relatives on a temporary or permanent basis in the same agency. Specifically, any person who has authority to appoint or promote, or to recommend the appointment or promotion of employees supervised by him/her, may not advocate a relative's appointment or promotion. While this does not mean that relatives cannot work in the same office or in other offices of the Program, care must be taken to ensure that the provisions of the law are met. The Personnel Management Branch of the Executive Office should be consulted if a relative of an employee is being considered for employment.

6-2.13              EFFECTUATION OF PERSONNEL ACTIONS

Completion and submission of the SF-52, Request for Personnel Action, is required for all official personnel activities. The SF-52 must be submitted to the Personnel Management Branch of the Executive Office for final approval prior to the proposed effective date of any action.

After an SF-52 is approved, the form will be processed and an automated Notification of Personnel Action (SF-50) generated. The SF-50 serves as the official notification that a personnel action has been effected. The original SF-50 is provided to the employee and a copy is placed in the employee's Official Personnel Folder.

6-2.14              ORIENTATION FOR NEW EMPLOYEES

Many new employees have never worked for the federal government and are not familiar with its regulations or benefits. Orientation is the initial induction process to inform an employee of important matters

concerning conditions of employment, rights, job and work environment, and available services.

The United States Trustee must establish an orientation procedure for all employees joining the Program in his/her region.

6-2.15

**CREDENTIALS AND IDENTIFICATION CARDS**

Credentials will be issued to United States Trustees, Assistant United States Trustees, Attorneys, Bankruptcy Analysts, Case Management Specialists, Paralegal Specialists, and Administrative Officers on permanent appointments. Identification cards will be issued to all other permanent employees of the Program. Temporary employees will not receive identification documents. Department of Justice credentials and identification cards may be used only for official purposes.

Instructions for requesting credentials and identification cards may be found in Department of Justice Order 2610.1A, Department of Justice Identification Documents.

6-2.16

**PERSONNEL FILE TRANSFER**

For employees transferring from another federal agency to the Program, approximately 30 days after the transfer, the employee's Official Personnel Folder and Performance Appraisal File will be requested from the losing agency by the Personnel Management Branch of the Executive Office. The employee's leave balances from the losing agency will be transferred to the Department's payroll records based on the last leave and earnings statement or, if available, an SF-1150, Record of Leave Data.

6-2.17

**STUDENT EMPLOYMENT PROGRAMS**

6-2.17.1

**Student Educational Employment Program**

The Program participates to a limited extent in the Student Educational Employment Program. This flexible program was established to provide students with exposure to public service; enhance their educational experience; provide financial assistance to students to encourage and



support their educational goals; encourage the development of partnerships between federal agencies and educational institutions; and to assist agencies in attracting and recruiting well-educated graduates into the work force.

Requests for the employment of students under this program are considered on a case-by-case basis, since consideration must be given to approved staffing levels.

6-2.17.2

**College Work Study Program**

The College Work Study Program (CWS) is a federally-funded program designed to provide part-time and vacation employment for college and graduate students, including law students, who need the earnings to continue their studies. Colleges and universities receive grants which are used to pay part or all of the salaries of students employed on-campus and off-campus in government agencies and non-profit organizations. Some schools only authorize on-campus employment.

The CWS is an excellent way to augment the staffing of offices with no charge against personnel allocations, and offices are encouraged to participate. Interested offices may initiate contact with local colleges and universities to determine if the CWS is an option and if there would be any interest.

To participate in the CWS, the contract outlining the terms of the employment agreement and the conditions to hire students must be reviewed by the Personnel Management Branch of the Executive Office. Only contracts where the salary is covered completely by the CWS will be considered. Once approved, the contract may be signed by the United States Trustee. Students hired under the CWS Program must successfully complete name and fingerprint checks and a drug test. A copy of each contract must be maintained by the employing office.

6-2.17.3

**Volunteer Student Employment**

The Civil Service Reform Act of 1978 provides specific authority for accepting services from students without providing monetary

compensation. This authority supplements, but does not replace, employment programs in which students are paid. This is the only volunteer program authorized for offices of the Program.

Volunteer services may be accepted only when the following conditions are met:

1. Such services cannot be used to displace any employee or to staff a vacancy that is normally a part of the work force.
2. The educational institution in which the student volunteer is enrolled must give its permission.
3. The student volunteer must be enrolled not less than half-time in an accredited high school, trade school, technical or vocational institute, junior college, college, university, law school, or comparable institution. Students are deemed to be enrolled during interims of up to five months between school years if they plan to continue their education during the next school year.
4. Such services cannot be accepted for periods of more than six months on a full-time basis, unless the student is simultaneously attending school on at least a half-time basis.

A written agreement signed by the United States Trustee and a responsible school official is required. All volunteers must also undergo name and fingerprint checks and drug testing.

6-2.18

#### USE OF PRIVATE SECTOR TEMPORARY EMPLOYEES

Regulations permit federal agencies to use private sector temporary employment agencies for short-term temporary work only under two circumstances: (1) extended absence by an employee from an office due to illness, accident, parental or family responsibilities, or mandatory jury service; or (2) to carry out work for a temporary period due to a sudden or unexpected occurrence, an emergency, a pressing necessity, or an exigency.

Contract temporary employees may be used in a single situation initially no more than 120 workdays. If the situation continues to exist beyond that time, use of the temporary services may be extended up to a maximum of 240 workdays. An individual employee of a temporary service is limited to working up to 120 workdays in a 24-month period, although an exception may be made to permit the individual to work up to the maximum of 240 workdays if it is determined that using the services of the same individual for the same situation will prevent significant delay.

The use of private sector temporary employees must be requested in writing by the United States Trustee to the Assistant Director for Administration. Requests must include a complete justification and must meet OPM standards.

6-2.19

**FLEXIBLE WORK SCHEDULE PROGRAMS**

6-2.19.1

**5/4/9 Flexitime Program**

The United States Trustee has the delegated authority to approve 5/4/9 flexitime schedules for any non-managerial employees within the region. Managerial employees are not eligible for flexitime.

It is at the discretion of the United States Trustee whether flexitime is appropriate for an office, based on a consideration of such factors as staff size, court scheduling practices, and/or remote meeting sites.

6-2.19.2

**Flexiplace Program**

The flexiplace program permits employees to perform some of their work away from the work site. A flexiplace work schedule must be consistent with the needs of an office, as agreed between an employee, the supervisor, and the United States Trustee, and as approved by the Executive Office. A flexiplace arrangement will be considered only in non-permanent, exigent circumstances to accommodate illness, maternity, injury, handicap, or other similarly compelling rationales.

The Executive Office must approve all flexiplace arrangements. Requests for approval should be made in writing by the United States Trustee to the Assistant Director for Administration.

**CHAPTER 6-3: EQUAL EMPLOYMENT OPPORTUNITY**

6-3.1

**POLICY STATEMENT ON EQUAL EMPLOYMENT OPPORTUNITY**

Federal regulations prohibit the discrimination of employees based on race, color, religion, sex, age, national origin, physical or mental handicap, marital status, or political affiliation in all hiring and employment practices.

6-3.1.1

**EEO Complaint Process**

If an employee feels he/she has been discriminated against, there are avenues available to seek remedies. An attempt should be made to resolve an employee complaint at the lowest possible level in the chain of command. Should this avenue fail, an employee may register a complaint with one of the Department's EEO Counselors, who will also attempt to resolve the matter informally. If a resolution cannot be reached and a determination is made by the EEO Counselor that there is sufficient basis for the complaint, the employee may then file a formal, written complaint with the Department's EEO Officer.

An investigation by an impartial examiner will be conducted and a decision rendered by the Department's Complaint Adjudication Officer. An employee may appeal this decision to the Equal Employment Opportunity Commission, and finally to the United States District Court.

Whenever an EEO complaint is anticipated or filed, the Personnel Management Branch of the Executive Office should be notified immediately.

**NOTE:** An EEO complaint and an administrative grievance cannot be filed simultaneously. A complaint can only be adjudicated in one forum at a time.

6-3.2

**POLICY STATEMENT ON SEXUAL HARASSMENT**

Sexual harassment is defined as deliberate, unsolicited, and unwelcome verbal comments, gestures, or physical contact of a sexual nature. Any employee engaging in such conduct or any supervisor condoning or failing to act to correct such inappropriate conduct may be subject to disciplinary action. Managers should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. All employees have a responsibility for maintaining high standards of conduct and ethical behavior.

6-3.2.1

**Sexual Harassment Complaint Process**

The Program has established a system that provides an expedited approach to stop sexually harassing behavior and to correct the conditions that led to its occurrence. It is a procedure that is distinct from the EEO and grievance processes.

The United States Trustee must designate and make known to all employees at least one individual per office to serve as a contact for complaints of harassment. In addition, all managers should make themselves available to employees to hear complaints and concerns.

An individual may bring an allegation of harassment to either a manager or a contact person. If the complaint is against a United States Trustee, the complaint may be brought to the Associate Director. While all charges will be kept confidential from non-involved parties, the contact person is obligated to inform the United States Trustee of the situation (or, in the case of a complaint against a United States Trustee, the Director).

Based on a review of the allegations, the United States Trustee will determine how and when an inquiry should proceed. The United States Trustee will have 30 days to complete an investigation and inform the manager or contact person of the results. With the written concurrence of the complainant, the inquiry may be extended for an additional 15 calendar days.

Managers and contact persons are to maintain an accurate system of record keeping on the number of contacts made by employees and the number of inquiries conducted for reporting to the Executive Office.

Use of this internal procedure does not preclude an employee from also pursuing his/her concern through other avenues of redress, such as Equal Employment Opportunity, Office of the Inspector General, or the Office of Professional Responsibility.

## **CHAPTER 6-4: PERFORMANCE MANAGEMENT SYSTEM**

### **6-4.1**

#### **BACKGROUND**

The Performance Management System is based on the following fundamental concept:

Performance management is a continuous process. It is an integral part of a sound employee/supervisor relationship involving communication between employee and supervisor concerning job expectations, performance necessary to achieve them, and progress in terms of meeting stated objectives.

The performance appraisal is a management tool designed to ensure that the mission of the Program is met by measuring, tracking, improving, and rewarding employee productivity.

The success of the performance management system and the appraisal process depends greatly on a manager's ability to develop performance work plans that accurately reflect organizational objectives, goals,

program plans, work schedules, or other similar means that account for program results.

6-4.2

**PERFORMANCE WORK PLANS**

Development of a Performance Work Plan (PWP) is the first step in the performance management process for a manager and an employee. The PWP describes the major elements on which an individual will be rated. Those elements should be consistent with the principal duties and responsibilities set forth in the employee's official position description.

Managers and employees are encouraged to participate together in the development of performance elements and standards. PWPs developed mutually will be more objective and realistic and more likely to evoke employee support. A supervisor knows the accomplishments necessary to meet the overall mission; an employee knows the operation of the job and is familiar with the details, time, and effort necessary to accomplish identified tasks.

A PWP is required to have at least two, but generally no more than seven, critical performance elements tailored specifically to the major tasks listed in the employee's position description. Non-critical performance elements should not be included in the PWP. The Personnel Management Branch of the Executive Office maintains sample elements for each position type. These sample work elements are not all-inclusive and should be modified as appropriate. PWPs must be in place for all employees, with the exception of the United States Trustee. United States Trustees do not serve under written PWPs; rather, their performance is regularly reviewed without use of a written plan.

6-4.2.1

**Performance Rating System**

With the exception of Assistant U.S. Trustees and employees in the Senior Executive Service, all employees are covered under a two-level or pass/fail performance rating system: Successful and Unacceptable. Each critical performance element must include the written standard that defines the rating official's expectations for successful performance in such terms as quality of work, quantity of work, timeliness, individual

or group goals and objectives, or such other terms that are appropriate to a position.

Assistant U.S. Trustees and employees in the Senior Executive Service are covered under a five-level performance rating system: Outstanding, Excellent, Fully Successful, Minimally Satisfactory, and Unacceptable.

#### 6-4.2.2

#### Required Elements

Performance Work Plans (PWP) for Assistant United States Trustees must include specific critical elements relating to diversity, trustee oversight, and A-123 (internal controls). PWP for supervisors must include an element covering personnel management, equal employment opportunity, and A-123. PWP for those responsible for ACMS security data integrity have a required element, as do employees serving as Occupational Safety and Health Coordinators.

#### 6-4.3

#### RATING AND REVIEWING OFFICIALS

The rating official should be an individual who has the most direct knowledge of an employee's work assignments to evaluate performance. The reviewing official is usually one level higher in the organization, and is responsible for ensuring the consistency of the work plans and for serving as the final reviewer for rating purposes.

For most employees, the Assistant U.S. Trustee serves as the rating official and the United States Trustee serves as the reviewing official. In those regions staffed with a Regional Assistant U.S. Trustee, this individual serves as the rating official and the United States Trustee serves as the reviewing official for all Assistant U.S. Trustees and senior regional employees (e.g., Regional Bankruptcy Analyst, Administrative Officer/Staff Assistant, Case Manager). The United States Trustee will serve as the rating official and the Associate Director as the reviewing official for all Regional Assistant U.S. Trustees and those Assistant U.S. Trustees reporting directly to the United States Trustee. Likewise, the Deputy Assistant Director for Resources will serve as the reviewing official for non-attorney employees reporting directly to the United States Trustee.



6-4.4                    **THE PERFORMANCE APPRAISAL PROCESS**

6-4.4.1                **Rating Periods**

The rating period for all permanent and temporary non-SES and non-attorney employees ends on March 31st of each year. The rating period for Assistant United States Trustees and attorneys ends on June 30th of each year.

An employee who has been in his/her current position for at least 120 days and under the same supervisor should be given a rating within 30 days after the end of the rating period.

6-4.4.2                **Progress Reviews**

At least one formal progress review should be held during a rating period, normally at the mid-way point. At the progress review, an employee's performance relative to each critical performance element should be discussed. Performance deficiencies should be brought to an employee's attention at any time performance falls below the successful level (fully successful level for Assistant U.S. Trustees).

The progress review is not a formal determination of an employee's overall performance and, therefore, is not grievable.

6-4.4.3                **Ratings**

Careful consideration should be given to ratings as they are an important management tool used to promote, award, or discipline an employee. Ratings become part of an employee's permanent file.

At the end of an appraisal cycle, the rating official must evaluate actual employee performance in comparison with defined expectations for successful performance for each critical performance element and assign a rating level.

For all employees (others than Assistant U.S. Trustees), the rating levels are:

**Successful (Pass):** Employee meets and/or exceeds the established performance standard.

**Unacceptable (Fail):** Employee's performance falls substantially below the expectations for acceptable performance.

A summary narrative assessing an employee's overall performance and contributions to achieving the goals and objectives of the organization during the rating period is required if the overall rating is "Successful." If the overall rating is "Unacceptable," each element rated such must be supported by a detailed narrative. The Personnel Management Branch of the Executive Office should be contacted if a supervisor is contemplating issuance of an "Unacceptable" rating.

For Assistant U.S. Trustees, the rating levels are:

**Outstanding:** Employee consistently performs in an exceptional manner.

**Excellent:** Employee's performance markedly exceeds the performance standards for fully successful performance.

**Fully Successful:** Employee's performance completely meets the established performance standards.

**Minimally Satisfactory:** Employee's performance shows significant deficiencies that require correction.

**Unacceptable:** Employee's performance shows serious deficiencies in terms of quantity, quality, timeliness of work, or manner of performance.

A detailed narrative is required for all elements rated either at the "Outstanding" level or at any level below "Fully Successful."

Rating and reviewing officials should discuss an employee's rating, concur, and sign the performance evaluation prior to meeting with the employee. The rating official should then discuss the rating with the employee and obtain the employee's signature. The employee's signature only acknowledges receipt of the rating, not agreement with the rating. (See USTM 6-4.5 and 6-6.2 for information on performance rating grievances.)

Original ratings for attorneys and non-attorneys should be forwarded to the Personnel Management Branch of the Executive Office. The rating official and employee should also receive copies. Office copies of performance appraisals should be retained for four years.

6-4.4.3.1

Reassignment During a Rating Period

When an employee changes from one position to another during an rating period and has served under written elements and standards for 120 days or more in the previous position, an interim rating under the original PWP must be rendered. This interim rating must be forwarded to the new supervisor for inclusion in the rating of record due at the end of the rating period. Additionally, if an employee transfers from another agency into the Program, any summary ratings forwarded from the losing agency during the performance appraisal cycle must be considered in deriving the rating of record.

If an employee has not completed the 120 day minimum appraisal period by the end of the rating cycle because of reassignment, a change in supervisors, or other legitimate management reason, the employee's appraisal period shall be extended for the amount of time necessary to meet the 120 day period, at which time a rating of record should be rendered.

6-4.5

PERFORMANCE RATING GRIEVANCES

As a general rule, an individual performance standard can not be grieved unless the employee or his/her representative asserts that the application of the standard constitutes a violation, misinterpretation, or misapplication of any law, rule, or regulation controlling such standard. Ratings of record (performance appraisals), however, can be grieved

under the Department's grievance system. Additional information on performance grievances may be found at USTM 6-6.2 and Department of Justice Order 1771.1B, Employee Grievance Procedures.

6-4.6

**ACTIONS BASED ON LESS THAN SUCCESSFUL PERFORMANCE**

At any time during a year when a supervisor concludes that an employee's performance falls below successful, the supervisor must: advise the employee of specific performance deficiencies in the critical element(s) of the performance standard; provide the employee with an opportunity period and the means to correct the deficient performance; and prepare a memorandum for the file summarizing the above discussions, with a copy to the employee.

For unacceptable performance, the supervisor should take immediate steps to issue a notice of deficiency or a performance improvement plan (PIP). The notice of deficiency or PIP should outline the problem and the steps which will be taken to correct the deficient performance including training, counseling, closer supervision, and any reasonable accommodation or assistance.

Any employee who receives an overall rating of "Unacceptable" can be reassigned, reduced in grade, or removed from federal service, but only after being afforded a reasonable opportunity to demonstrate acceptable performance. In addition, unacceptable performance constitutes grounds to deny an employee's within-grade increase.

Issues of performance should be addressed on a case-by-case basis with the Personnel Management Branch of the Executive Office.

6-4.7

**PROMOTIONS**

Generally, an employee must serve one year in each grade before being eligible for promotion and must meet the requirements outlined in the X-118 Qualifications Handbook under general and specialized experience and quality of experience in each job series.

Promotions are not automatic when time-in-grade requirements are met. There must be a higher level of work to be performed and an employee must demonstrate the ability to perform work at that higher level. Simply being eligible for promotion does not guarantee a promotion unless the supervisor recommends it and justifies the recommendation in writing. Attorney promotions and Assistant United States Trustee salary increases must be approved by the Department's Office of Attorney Personnel Management.

An Assistant United States Trustee is eligible for a salary increase after one year based on a percentage increase depending on his/her level of performance. Bankruptcy analysts, attorneys, and others in positions above the GS-11 level have various time-in-grade requirements that must be met as follows:

<u>For Promotion to GS</u>	<u>Minimum Time in Next Lowest Grade</u>
11	Entry Level
12	1 Year
13	1 1/2 Years
14 or 15	2 Years

After serving the minimum time-in-grade, promotions may be recommended based upon an employee's performance. A waiver of the minimum time-in-grade of up to six months for a GS-13 and one year for a GS-14 or GS-15 may be granted if there are compelling circumstances. Waiver requests will be considered on a case-by-case basis.

6-4.8

**REASSIGNMENTS**

A reassignment is a change from one position to another without promotion or demotion of an employee, while serving continuously within the Program. Before a reassignment may be effected, consideration must be given to all employees in the office eligible for reassignment to a position with a higher promotion potential.

6-4.9

**WITHIN-GRADE PAY INCREASES**

All employees serving under the General Schedule (GS) pay plan, except those serving under a temporary appointment of one year or less, are eligible for within-grade pay increases. An employee becomes eligible for an increase to the next higher pay step within his/her grade and pay plan, provided: (1) that the employee's performance rating of record is successful or above; and (2) after a prescribed waiting period as follows: Steps 1-3, one year; steps 4-6, two years; and steps 7-10, three years.

The within-grade increase is designed to motivate employees to work up to their maximum capabilities and should not be given to those who do not demonstrate an acceptable level of work. The United States Trustee will receive a computer notice approximately three months prior to the eligibility date of an employee's within-grade increase. The employee will receive the within-grade increase unless the Personnel Management Branch of the Executive Office has entered a denial with the National Finance Center.

A within-grade increase can be withheld if an employee's performance is below the successful level, although written notification must be provided to the employee. A performance work plan must have been established and adequate documentation maintained to support the withholding of a within-grade increase.

If withholding a within-grade increase is being considered, the Deputy Assistant Director for Resources should be contacted immediately for procedural guidance.

6-4.10

**PROBATIONARY PERIODS**

All newly-appointed, permanent employees in the competitive service and preference eligibles (veterans) in the excepted service serve a one-year probationary or trial period in their appointed positions. All newly-appointed, permanent non-preference eligibles (non-veterans) in the excepted service serve a two-year probationary period. All new supervisors and managers serve a one-year probationary period.

Continuous performance feedback should be provided during an employee's probationary period. An employee may be dismissed at any time while in probationary status for failure to perform duties properly or for any other good and sufficient cause. Dismissal of a probationary employee is final and not subject to review. An evaluation at the completion of the probationary period will determine whether performance is satisfactory for continued employment.

If dismissal is being considered during a probationary period, the Deputy Assistant Director for Resources should be contacted immediately for procedural guidance.

6-4.11

**INCENTIVE AWARDS PROGRAM**

The primary objective of the Incentive Awards Program is to improve the economy and efficiency of operations by making full use of employees' skills and resourcefulness. It provides a means of demonstrating, through cash or honorary awards, the high value management places on excellence of performance; exceptional achievement; and constructive ideas and suggestions that conserve manhours or supplies, reduce operating costs, or increase effectiveness.

6-4.11.1

**Policy**

It is the policy of the Program to recognize and reward promptly and equitably employees who perform in an exemplary manner or make significant contributions to the efficiency and effectiveness of operations, and to honor those who have served faithfully and well. Recognition is also given to supervisors for success in motivating the interest and participation of employees. The number and significance of awards received is a factor in considering both supervisory and nonsupervisory employees for promotion.

6-4.11.2

**Award Categories**

1. **Quality Step Increase.** Raises an employee to the next higher step of his/her grade. Performance that substantially exceeds that of a typical employee in all major critical elements is required.

2. Special Achievement Award for Sustained Superior Performance. A lump sum cash award that may be made only on an individual basis.
3. Special Achievement Award for Special Act of Service. A lump sum cash award that may be granted to an individual or a group, based on a specific contribution of a one-time, nonrecurring nature related to an employee's official duties.
4. On the Spot/Time Off Award. Special award intended to give immediate recognition for exceptional performance that benefits the local workplace. This award may be given for:
  - a. making a high-quality contribution to a difficult or important project or assignment;
  - b. producing exceptionally high quality work under a tight deadline;
  - c. performing added or emergency assignments in addition to regular duties;
  - d. demonstrating exceptional courtesy or responsiveness in dealing with the public, client agencies, or colleagues; and
  - e. exercising extraordinary initiative or creativity in addressing a critical need or difficult problem.

6-4.11.3

Approval Levels

A written justification that meets specific eligibility requirements must be submitted for all awards. Quality step increases, as well as special achievement awards for sustained superior performance and special achievement awards for special act of service which exceed \$500, must be recommended by the United States Trustee and approved by the Executive Office. The United States Trustee has the delegated authority to approve special achievement awards for sustained superior performance and special achievement awards for special act of service



under \$500. Depending on the employee, on the spot and time off awards must be recommended and approved as follows.

1. For regional employees (excluding Assistant U.S. Trustees), the award must be recommended by the Assistant U.S. Trustee and approved by the United States Trustee.
2. For Assistant U.S. Trustees, the award must be recommended by the United States Trustee and approved by the Director.
3. For United States Trustees, the award must be recommended by the Deputy Director and approved by the Director.
4. For Executive Office employees, the award must be recommended at the Deputy level and approved at the Assistant Director level.

6-4.11.4

**Director's Awards**

The Program's national incentive awards program recognizes exemplary accomplishments by employees in 10 categories, as well as one category that recognizes an individual or group outside the Program whose work supports our mission. The awards are presented in conjunction with the Managers' Conference. Nominations will be solicited and reviewed by a committee consisting of three members of the Advisory Committee and two other United States Trustees. At least three members of the committee will change annually. More than one employee is eligible to receive an award in a particular category.

6-4.11.5

**Attorney General and Non-Justice Awards**

Department of Justice Order 1451.1A, Incentive Awards Program, establishes Departmental policy and guidance on award recognition. The order also details the Attorney General's Awards which are given once a year in various categories. The Executive Office will coordinate the submission of nominees for these awards each year.

The Department of Justice is afforded the opportunity at various times throughout a year to nominate outstanding employees for awards

granted by organizations outside the Department. Nominations for these awards are requested annually by the sponsoring organization, and the Executive Office will coordinate the submission of nominees.

6-4.11.6

**Regional Awards Budget**

A budget allocation for awards has been established for each region. The gross amount of each award given from the above discussed categories is deductible from the allocation. However, time-off awards, Director's Awards, Attorney General Awards, and non-Justice awards are not deductible from the awards allocation.

Logs documenting expenditures from the allocation must be submitted to the Budget Execution Branch of the Executive Office at least quarterly.

**CHAPTER 6-5: DISCIPLINARY ACTIONS**

6-5.1

**POLICY**

The Program promotes a practice of using progressive disciplinary action when addressing issues relative to an employee's misconduct or unacceptable performance.

6-5.2

**CONDUCT ISSUES**

Many conduct issues can be resolved informally when addressed promptly by the immediate supervisor by providing counseling and/or verbal or written admonishment, as necessary, to the employee when the violation occurs. A written admonishment is not considered a formal disciplinary action and is not filed in an employee's Official Personnel Folder (OPF). The purpose of a verbal or written admonishment is to quickly address a conduct issue in the hope of avoiding a reoccurrence.

Formal disciplinary action consists of reprimands, suspensions, reductions in grade/pay, and removals from the federal service. These actions are intended to promote the efficiency of the service (i.e., to

correct offending employees and/or to maintain good order and morale among all employees). All such actions become a matter of temporary or permanent record in an individual's OPF.

The Standard Schedule of Disciplinary Offenses and Penalties, Form DOJ-373, provides guidance on the selection of an appropriate penalty based on specific offenses. A range of discipline is provided for each offense, giving managers latitude in determining the appropriate discipline to impose based on the specific misconduct and aggravating circumstances.

There are three separate levels of penalties which can be used depending on the severity of an offense: (1) official reprimand; (2) suspension of 14 days or less, which can not be appealed to the Merit Systems Protection Board (MSPB); and (3) suspension in excess of 14 days, reduction in grade/pay, or removal from federal service, all of which are considered adverse actions and can be appealed to the MSPB. While level 1 and 2 penalties are not appealable, employees may grieve these actions through the employee grievance process. (See USTM 6-6).

The United States Trustee is authorized to issue official reprimands in accordance with the Standard Schedule, although coordination with the Personnel Management Branch of the Executive Office is strongly encouraged. Coordination with the Personnel Management Branch is mandatory for all other formal disciplinary actions (other than reprimands).

6-5.3

**PERFORMANCE ISSUES**

6-5.3.1

**Withholding Within-Grade Increases**

A within-grade increase may be withheld if an employee has served under a performance work plan for at least 120 days and it has been determined that his/her performance falls below the successful level in at least one critical element of the plan. Within-grade increases will occur automatically unless management takes affirmative action.

All denials of within-grade increases require the prior approval of the Personnel Management Branch of the Executive Office. Action to obtain approval should begin at least four weeks before the proposed effective date of the within-grade increase.

**6-5.3.2****Actions Based on Unacceptable Performance**

If an employee's performance in one or more critical elements of a performance work plan continues to be unacceptable following an opportunity period to improve, action must be taken to either reassign, reduce in grade, or remove the employee. It is not necessary to wait until the end of the rating period to initiate action, provided the employee has been under a performance work plan for a period of 120 days and has been afforded an opportunity to improve the performance.

**6-5.3.2.1****Employees in the Competitive Service and Preference Eligibles in the Excepted Service More than One Year**

When it has been determined that an employee is performing at an unacceptable level, the supervisor should immediately communicate the unacceptable performance to the employee. The supervisor must always: (1) identify the critical element(s) where performance is unacceptable; (2) design a plan of action to help the employee reach the acceptable level of competence; (3) afford the employee a reasonable opportunity period (normally 90 days) to demonstrate acceptable performance; (4) provide appropriate assistance and regular feedback, as necessary, to the employee; and (5) inform the employee of the consequences of failure to improve to an acceptable level.

**6-5.3.2.2****Employees in the Competitive Service Less than One Year and Non-Preference Employees or Employees in the Excepted Service Less than Two Years**

Unacceptable performance or conduct is grounds for the termination of probationary/trial period employees and requires a written recommendation from the United States Trustee to the Personnel Management Branch of the Executive Office. The Personnel Management Branch will prepare a written statement to the employee

prior to the effective date, outlining the reasons for the termination and detailing the employee's appeal rights.

6-5.3.2.3

Temporary Employees

Temporary employees may be terminated at any time for conduct, performance, or workload reasons. All such terminations must be coordinated with the Personnel Management Branch of the Executive Office.

**CHAPTER 6-6: GRIEVANCES**

6-6.1

INTRODUCTION

Every employee has the right and obligation to consult freely, beginning at the lowest chain of command, concerning any problems or issues related to their duties, working conditions, employment status, or other matters involved in daily work performance that are subject to the control of management. Informal resolution is the first step of the grievance process. In the event an informal resolution that is satisfactory to the employee cannot be accomplished, the Department has established specific formal grievance procedures. Department of Justice Order 1771.1B establishes the policy and procedures governing employee grievances.

6-6.2

PROCEDURES FOR RESOLVING PERFORMANCE RELATED GRIEVANCES

An employee grieving a performance rating must file a formal, written grievance with the Director, outlining the details and basis for the grievance, within 30 days of receipt of the rating. A copy of the grievance must also be supplied to the rating official by the employee.

A deciding official will be selected by the Director to review the grievance and the issues surrounding it. The rating official may furnish a written reply to the employee's grievance to the deciding official and the employee. This must be done within 20 days of receipt of the

employee's grievance. The employee may then respond to the rating official's reply within 10 days of receipt.

The deciding official will conduct an inquiry into the circumstances surrounding the grievance and will issue a written decision, usually within 30 days. This decision is final.

6-6.3

**PROCEDURES FOR RESOLVING NON-PERFORMANCE RELATED GRIEVANCES**

An employee may file a formal, written grievance with the Director on any non-performance matter at any time. It must provide the details and basis for the grievance.

A deciding official will be selected by the Director to review the grievance and the issues surrounding it. If in the initial investigation the deciding official finds that there is no dispute of facts between the parties involved, the deciding official will issue a decision that will be final and binding on all concerned parties. If, however, the deciding official finds that the facts of the grievance are in dispute among the parties involved, the matter will be referred to the Personnel Management Branch of the Executive Office for appointment of a fact-finder. The fact-finder will conduct an inquiry and/or hearing with the persons involved and shall make a recommendation to the deciding official for resolution of the grievance. Based on a review of the facts, the deciding official will issue a decision that will be final and binding on all concerned parties.

6-6.4

**USE OF OFFICIAL TIME**

An employee is entitled to a reasonable amount of official time to present a grievance. Time for presentation of the grievance shall include time for the review of appropriate records and regulations to the extent they cannot be secured or reviewed during non-duty hours, and for discussions with officials and witnesses of the Department involved with the grievance. What is a reasonable amount of time is to be determined by management and will vary with each case, but shall not exceed eight hours. Appropriate arrangements for the use of official time should be coordinated with the grievant's supervisor.

**CHAPTER 6-7: PAY****6-7.1****OVERTIME AND COMPENSATORY TIME**

It is the responsibility of all managers to utilize resources and plan workload requirements to the maximum extent possible so that the need for overtime or compensatory time is kept to a minimum. Each region and the Executive Office have a budget allocation for overtime.

Authorization of pay for overtime is limited to employees at or below the GS-11 level. For employees above the GS-11 level, only compensatory time will be approved. Overtime is paid at an amount equal to one and one-half times the employee's hourly rate of pay up to the GS-10, Step 1 pay level. Compensatory time must be used within two years of being earned or it will be forfeited. Both overtime and compensatory time are earned on an hour per hour worked basis (e.g., if an employee works two hours of overtime, only two hours should be reflected on the time and attendance report).

**6-7.1.1****Fair Labor Standards Act**

Employees fall into one of two categories under the Fair Labor Standards Act (FLSA) of 1974. Program employees in grades GS-7 and below are considered nonexempt under the FLSA. Nonexempt employees are covered by the "suffer or permit" rule. That is, any work performed prior to or after the established shift hours or during the prescribed 30-minute lunch period by a nonexempt employee for the benefit of the agency, whether requested or not, is considered time worked and subject to overtime (or compensatory time if elected in lieu of) if the manager or supervisor knows or has reason to believe the work is being performed. Although this does not relieve an employee of his/her responsibility to advise the supervisor of the need for overtime/compensatory time work, it does place a burden on managers to ensure that overtime/compensatory time is not worked without receiving approval.

FLSA exempt employees are covered under title 5 of the United States Code and are not covered by the "suffer or permit" rule. Time worked





that time and attendance reports are accurately prepared, that supervisors and timekeepers possess a knowledge of leave regulations, and that time and attendance reports are submitted timely to the NFC for all employees.

6-8.2.4 **Timekeepers**

Designated timekeepers are responsible for having a working knowledge of time and attendance reporting regulations (including Department of Justice Order 2120.6C, Reporting and Certifying Time and Attendance) and ensuring the accurate and timely processing and submission of time and attendance reports to the NFC.

6-8.2.5 **Case Managers**

The Case Manager serves as the security officer for the computer based time and attendance system, and is responsible for the overall security of the system within the region.

6-8.3 **ELECTRONIC TIME AND ATTENDANCE REPORTING**

Time and attendance reporting is done electronically. Timekeepers must transmit time and attendance reporting information via communications software to the National Finance Center (NFC) on the Friday of each pay week for all employees within their office.

6-8.4 **PAY COMPUTATION**

Salaries are computed by dividing the annual salary by 2087 hours (number of hours in a work year). This hourly rate is rounded to the nearest cent and multiplied by the number of paid hours worked in the pay period. This figure represents gross salary for each pay period.

6-8.5 **RECEIPT OF SALARY CHECKS**

There are currently two avenues available for the receipt of salary checks--direct deposit/electronic funds transfer of funds to a savings or checking account, or mailing of a check to an employee's home or other location. The most economical and expedient of these is direct deposit,

and its use is required, unless an employee was using the mail service method prior to 1995.

6-8.6

**ADVANCES IN PAY**

In limited circumstances, an employee may receive an advance on his/her first paycheck. This will be authorized only when significant hardship would occur by waiting until the first payday. Requests for advances in pay must be made in writing to the Deputy Assistant Director for Resources.

6-8.7

**LAPSE OF APPROPRIATION**

In the event a situation arises in which an appropriation of funds may not be available for operation of the Department of Justice, the United States Trustee should proceed under the guidelines set forth in compliance with the Antideficiency Act, as construed by the Attorney General, which provides that in the absence of an appropriation no obligation can be incurred except for the protection of life and property, the orderly suspension of operations, or as otherwise authorized by law. The United States Trustee will receive guidance concerning ongoing litigation and investigations, phase down of non-essential activities, and the pay status of personnel should a lapse of appropriations occur.

**CHAPTER 6-9: EMPLOYEE BENEFITS**

6-9.1

**FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

The Federal Employees Health Benefits Program (FEHBP) offers employees, not excluded by law or regulation, a practical way to help protect against the rising costs of medical care. Employees hired permanently, and temporary employees who have completed one year of continuous employment without a break in service exceeding three days, are eligible to enroll in the FEHBP.

For permanent employees, the government pays a portion of the insurance premium. Eligible temporary employees are responsible for

paying the entire premium. All premiums are paid through automatic payroll deduction.

6-9.1.1

**Opportunities to Enroll and Change Enrollment**

Participation in the FEHBP must be elected within 31 days of becoming eligible. A follow-up system to ensure employees meet the 31-day deadline for submitting appropriate paperwork must be established by the United States Trustee.

Eligible employees electing not to enroll during the first 31 days of employment may enroll during an annual open season period, normally held in November. During the open season, an employee who has been enrolled may change from one plan or option to another, from self only to self and family, or may make any combination of these changes. The Personnel Management Branch of the Executive Office will distribute information concerning open season each year.

While, ordinarily, changes in enrollment may be made only during the open season, there are some changes that are permitted at any time and others that are permitted based on specific occurrences. Questions on eligibility may be directed to either the Personnel Management Branch of the Executive Office or the regional Administrative Officer/Staff Assistant.

Enrollments may be voluntarily canceled at any time.

6-9.2

**LIFE INSURANCE**

The Federal Employees' Group Life Insurance (FEGLI) program allows eligible employees the opportunity to obtain reasonable term life insurance coverage in a group plan offering low rates and the convenience of payment through payroll deductions. Most employees, with the exception of those on appointments limited to one year or less or those on intermittent appointments, are eligible to participate. The government pays one-third of the cost of Basic Life insurance for employees.

Basic Life coverage is automatically effective the first day an eligible employee enters on duty in a pay status. Deductions are withheld from pay unless an election form waiving coverage is completed.

The Personnel Management Branch of the Executive Office will formally notify eligible employees of their coverage under the FEGLI program.

6-9.2.1

Waivers

The decision to elect or waive life insurance coverage should be based on an employee's personal status and needs. However, if the decision is made to waive the Basic Life insurance or to decline optional coverage, the employee is ineligible to enroll later unless certain requirements are met.

6-9.3

WORKER'S COMPENSATION

The Office of Worker's Compensation (OWCP) of the Department of Labor administers the Federal Employees' Compensation Act. This Act provides compensation benefits to an employee for disabilities due to employment-related disease/illness or personal injuries sustained while in the performance of official duties. Also, it provides for the payment of benefits to dependents if an injury or disease causes death to an employee. If an injury or death is caused by the willful misconduct of an employee or by an employee's intention to bring about his/her own injury or death, or that of another, or if intoxication is the cause of the injury or death, benefits cannot be paid.

6-9.3.1

Continuation of Pay for a Traumatic Injury

An employee who sustains a disabling, job-related traumatic injury may use sick leave or annual leave or request continuation of pay (COP) for the period of disability, not to exceed 45 calendar days. If the disability continues beyond 45 days, regular pay shall be terminated and compensation is payable by the OWCP. An employee may choose to use sick leave or annual leave or enter a leave without pay status and claim compensation from the OWCP. The pay received during the period of COP is considered salary and is taxable.

In order to qualify for COP, an employee must file a written notice of his/her claim on a CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay Compensation, within two (2) days of the date of the injury. Full-time, part-time, and temporary employees are treated alike in instances of COP. Time limitations are very important. Failure to promptly file a claim may be excused only where notice could not be given because of exceptional circumstances.

Employees and their supervisors should consult the Personnel Management Branch of the Executive Office concerning the reporting of injuries and the placement of employees in a continuation of pay status.

**6-9.3.2****Controversion of Continuation of Pay (COP)**

Controversion of COP is the option of the employee's supervisor. The supervisor can only oppose COP; the OWCP makes the final determination of eligibility for COP. Reasons to controvert COP include disability resulting from misconduct, injury during non-duty hours, injury caused by intoxication, non-citizenship/residency, or failure to promptly report the injury.

**6-9.3.3****Permanent Disability**

For an employee suffering permanent disability, the law provides both scheduled benefits and payments based upon loss of earning capacity. Scheduled benefits are awards for permanent impairment of certain members or functions of the body.

**6-9.3.4****For Death**

Compensation, as established by law, is paid to the decedent's survivors who may include the widow/widower, eligible children and, under certain circumstances, siblings and grandchildren. The total monthly compensation may not exceed 75 percent of an employee's monthly wages.

Burial expenses not to exceed \$800 are payable in any individual case. Transportation of the body to its former residence in the United States is provided when an employee dies away from his/her home station. In

addition, a \$200 allowance may be made for the administrative costs of termination of an employee's status with the federal government. Examples of these administrative costs would be the purchase of certified copies of death certificates, long distance phone calls, and postage.

6-9.3.5

Compensation by OWCP

Monetary compensation benefits for the loss of wages begins at the conclusion of the 45-day COP period, if the employee is still disabled. Compensation generally is payable at the rate of 66 percent of an employee's salary if there are no dependents or 75 percent of the salary if there are one or more dependents. No compensation is payable for the first three days of wage loss unless the disability exceeds 14 days or the injury results in permanent disability.

An employee is entitled to hospital services and supplies needed for treatment of an injury or illness; medical, surgical, transportation, and incidental expenses in the treatment of injury or illness; medical care for the effects of the injury; rehabilitation services; attendant where required for serious injuries; and compensation for anatomical and functional loss of certain parts of the body and for serious disfigurement.

6-9.3.6

Decisions and Notifications

An employee will be notified by letter from the Department of Labor of the acceptance of his/her case if disability is expected to ensue or continue. The letter will state the condition for which the claim is accepted and advise how to claim compensation benefits and payments and/or the reimbursement of medical bills. In case of an adverse decision involving a denial of continuing benefits, three avenues of appeal are available to an employee--reconsideration, hearing, and review by an appeals board. An agency is not entitled to appeal. An employee may request only one form of appeal at a time.

6-9.3.6.1

Reconsideration

An employee may ask OWCP to reconsider any formal decision made by a district office. The request should be addressed to the district

office handling the claim and should clearly state the grounds on which the request for consideration is based.

6-9.3.6.2 Hearing

An employee may request a hearing before an OWCP representative. The request must be made within 30 days of the formal decision and submitted to the Branch of Hearings and Review listed on the formal decision.

6-9.3.6.3 Review by Employees' Compensation Appeals Board (ECAB)

An employee may request review by the ECAB. Additional forms may be requested of the employee depending on the nature of the injury. Forms should be submitted to the Personnel Management Branch of the Executive Office.

**CHAPTER 6-10: LEAVE**

6-10.1 POLICY

Leave is to be administered in accordance with Department of Justice Order 1630.1B and the Handbook of Leave Administration issued by the Executive Office in October, 1995.

All employees are entitled to leave benefits, except those on intermittent appointment, those paid on a fee basis, and volunteers.

The United States Trustee should ensure that employees are made aware of leave policies, including information on who is authorized to approve leave, what documentation is required and acceptable, timeframes for requesting leave, and how leave abuse will be addressed.

Authority to approve leave requests should be delegated to an employee's immediate supervisor or other designated official having knowledge of an office's work requirements and an employee's leave record. Individuals who approve leave are responsible for verifying

leave actions to ensure that leave granted is legal and justifiable under appropriate laws and regulations. It is a good practice to designate a primary and alternate leave approving official.

The United States Trustee is encouraged to designate an Acting United States Trustee if he/she plans to be absent from the office on leave for an extended period of time.

Employees are required to submit leave requests as far in advance as possible to the appropriate approving official on a SF-71, Application for Leave. For unplanned or emergency leave, an SF-71 should be submitted upon return from leave status.

Denial or cancellation of leave must not be disciplinary in nature or used as a punitive measure.

6-10.2

ANNUAL LEAVE

Employees and supervisors should work together to plan, schedule, and use sufficient annual leave during the course of a year so as to preclude the need to take excessive amounts of annual leave at the end of the leave year to avoid the forfeiture of such leave. In the event a supervisor must deny a request for annual leave, an alternative period of time should be offered to the employee.

The United States Trustee is authorized to approve his/her own leave, up to five days, although the Associate Director should be notified of leave plans of more than eight hours. Requests for leave in excess of five days must be approved by the Associate Director.

6-10.2.1

Accrual

The accrual of annual leave is determined by the number of years of accumulated, creditable federal service, which includes both active



military and civilian service. The rate of accrual for full-time employees is as follows:

<u>Years of Federal Service</u>	<u>Annual Leave Accumulation</u>	
	<u>Bi-weekly</u>	<u>Per Year</u>
less than 3	4 hours	13 days
3 to 15	6 hours	20 days
15 or more	8 hours	26 days

## 6-10.2.2

Emergencies

Normally, one should plan and request annual leave as far in advance of its proposed use as possible. However, if an emergency situation occurs and an employee is unable to report for duty, he/she must notify a supervisor and request leave at or before the beginning of the regularly scheduled tour of duty.

## 6-10.2.3

Advanced Annual Leave

Annual leave may be advanced at any time during a year not to exceed the amount an employee will accrue during the remainder of the leave year. All requests for advanced annual leave must be made in writing by an employee's immediate supervisor to the United States Trustee. (The United States Trustee may redelegate the authority to approve requests for advanced leave to the Assistant United States Trustee.) The request must document the reason for the advance and include a statement from the employee acknowledging the debt incurred to the Government. Advanced annual leave may be granted only if there is reasonable assurance that an employee will be returning to duty and will be in a duty status long enough to liquidate the advanced leave granted. The request, with a written indication of the United States Trustee's approval, must be maintained with the employee's time and attendance record. If an employee resigns before leave is earned, the employee will be required to pay back the debt.

6-10.2.4            **Restoration of Forfeited Annual Leave**

Normally, an employee is entitled to maintain up to 240 hours of annual leave from one leave year to the next. Annual leave in excess of 240 hours at the end of a leave year is forfeited; however, it may be restored because of illness or exigencies of the public business, administrative error, or an unjustified or unwarranted personnel action. Specific guidance and procedures on restoration requests with applicable deadlines will be distributed towards the end of each leave year. Approval authority for restoration requests rests with the Deputy Assistant Director for Resources.

6-10.2.5            **Terminal Leave**

An employee resigning from federal service must be present for duty on the last day of his/her employment with the office and may not be authorized annual leave. If an employee takes unauthorized leave on his/her last day, that day, along with any annual leave taken on the day immediately proceeding that day, should be charged as AWOL.

An employee transferring to another federal agency may be approved for annual leave for his/her last day with the office.

6-10.2.6            **Voluntary Leave Transfer Program (VLTP)**

The VLTP permits employees to donate accrued annual leave to approved leave recipients who have experienced medical hardships. When an employee or an employee's family member has experienced a medical emergency that requires the employee's absence from the office for a prolonged period of time and all annual and sick leave has been exhausted, the employee may apply for consideration under the VLTP.

6-10.2.7            **Voluntary Leave Bank Program (VLBP)**

The VLBP is a shared leave program whereby employees can donate annual leave for the use of co-workers (or themselves) who require leave for personal or family medical emergencies. The VLBP supplements other leave sharing programs and provides a return on contributions to those who donate leave. VLBP donors may, when

approved as a leave recipient, draw upon the leave bank provided their contribution was made during the annual 30-day open season, which begins on March 15th of each year. Leave from the VLBP is available to employees who have exhausted their own leave, as well as any leave donated to them through the VLTP.

6-10.3

**SICK LEAVE**

Sick leave may be used for periods of incapacitation due to illness, injury, pregnancy, or medical confinement, as well as for medical examination or treatment; for routine medical, dental, or optical appointments; for adoption purposes; and to serve as a bone-marrow or organ donor. The Family Friendly Leave Act also permits full-time employees to use up to 104 hours of accrued sick leave (for part-time employees, up to the number of hours of sick leave accrued within a year) to provide care to a family member, take a family member for medical appointments, and for bereavement purposes.

It is wise to conserve sick leave to be available in the event of a long or serious illness. Sick leave for incidents such as a scheduled medical examination must be requested in advance on an SF-71, Application for Leave.

Approving officials may consider an employee's certification as to the reason for his/her absence as evidence which is administratively acceptable for sick leave; however, absences in excess of three workdays must be supported by a medical certificate or other written documentation.

6-10.3.1

**Accrual**

All full-time employees accrue sick leave at the rate of four hours each pay period (13 days per year) with no limitations on accumulation.

6-10.3.2

**Emergencies**

If an employee will be absent due to illness or injury, he/she must notify a supervisor at or before the beginning of the regularly scheduled tour of duty. Extenuating circumstances of a highly unusual nature may

prevent timely notification and such circumstances should be carefully considered when evaluating leave requests.

An employee must request sick leave personally (unless unusual circumstances exist) for each day the personal emergency continues, unless a supervisor has approved other arrangements.

6-10.3.3

Advanced Sick Leave

A permanent employee may request up to 240 hours of advanced sick leave during a calendar year in cases of serious illness or disability. (For permanent employees serving a probationary period, there is a limit of 104 hours.) Temporary employees may only be advanced sick leave equal to the amount they will accrue during the remainder of their appointment. For part-time employees, the amount that may be advanced is the pro rata portion of the full-time allowance.

All requests for advanced sick leave must be made in writing by the employee's immediate supervisor to the United States Trustee. (The United States Trustee may redelegate the authority to approve requests for advanced leave to the Assistant United States Trustee.) The request must be accompanied by a statement from the employee indicating the reason for the advanced sick leave, a leave audit and current leave balances, and a statement that the employee plans to return to duty following the illness. Each request must be supported by a written statement signed by a practicing physician certifying to the incapacitation, examination, or treatment; the period of disability anticipated for professional treatment; and when the employee may return to work. The employee must also sign a statement acknowledging the debt incurred to the Government.

6-10.3.3.1

Repayment of Advanced Sick Leave

In the event an employee is advanced sick leave and fails to return to duty (retirement or resignation) due to an illness or disability, acceptable medical evidence must be requested to determine if the failure to return to work is in fact due to the illness or disability.

In the event an employee fails to return to work for a reason other than illness or disability, the employee is responsible for the indebtedness. Payment may be taken from an employee's retirement fund or annual leave account at the request of the employee if he/she elects not to make a lump-sum cash payment. In the event voluntary arrangements cannot be established to resolve the indebtedness, a claim may be filed against the employee.

6-10.3.4

**Federal Employees Family Friendly Leave Act**

All full-time employees may use up to 40 hours (5 workdays) of sick leave each leave year for one or more of the following reasons:

1. to provide care for a family member as a result of physical or mental illness, injury, pregnancy, or childbirth;
2. medical, dental, or optical examination or treatment;
3. to make arrangements necessitated by the death of a family member; or
4. to attend the funeral of a family member.

In addition, full-time employees who maintain a balance of at least 80 hours of sick leave are able to use an additional 64 hours (8 workdays) of sick leave per year, bringing the total amount of sick leave available for the above reasons to a maximum of 104 hours (13 workdays). Part-time employees are entitled to use the number of hours of sick leave normally accrued during a leave year.

Requests for leave under this Act should be made in advance and must clearly indicate entitlement. Documentation of the entitlement may be required.

6-10.4

**LEAVE WITHOUT PAY**

Leave without pay (LWOP) is an approved, temporary absence in a non-pay status granted at an employee's request. The United States Trustee may approve LWOP of less than 80 hours. Requests for LWOP

of 80 hours or more must be made in writing to the Deputy Assistant Director for Resources. The maximum initial period for which LWOP may be authorized is 12 months.

The authorization of LWOP is a matter of administrative discretion and may not be demanded by an employee, except if he/she is:

1. a disabled veteran seeking medical treatment;
2. a reservist or national guardsman ordered to military training duties and the absence is not covered by military leave; or
3. collecting worker's compensation benefits.

All requests for LWOP must have the approval of the employee's supervisor, and should be examined to assure that the value to the Government or the serious need of the employee are sufficient to offset the cost and inconvenience that result from retaining an employee in a LWOP status.

Approving officials should consider such factors as whether there is a reasonable expectation that an employee will return to government service at the end of the period, whether an individual's health will substantially improve, and whether his/her employment record is commendable. Consideration should also be given to the fact that, except in the case of an employee on LWOP pending approval of disability retirement, the position remains "filled" while the employee is on LWOP. This will prevent employment of a replacement which may result in additional burdens on remaining staff.

An employee who enters a non-pay status such as LWOP should be advised (1) that he/she must pay his/her share of the cost of federal employee health benefits, if enrolled, for each pay period during which their salary is insufficient to cover the required premium; and (2) that leave does not accrue for every 80 hours of time in a LWOP status.

6-10.5

**ABSENCE WITHOUT OFFICIAL LEAVE**

Any unauthorized and/or unscheduled leave from the workplace can be charged to absence without official leave (AWOL). An employee charged AWOL may be subject to disciplinary action up to removal from the federal service. The Personnel Management Branch of the Executive Office must be consulted when proposing AWOL disciplinary actions.

6-10.6

**FAMILY AND MEDICAL LEAVE**

Permanent employees with more than one year of federal service are entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

1. birth of a child or care of a newborn (within 1 year of birth);
2. placement of a child with the employee for adoption or foster care (within 1 year of placement);
3. care for spouse, child, or parent with a serious health condition; and/or
4. serious health condition of the employee.

As practicable, requests for leave under this entitlement should be made at least 30 days in advance.

An employee may elect proactively to substitute annual leave or sick leave, as appropriate, for any part of the 12-week entitlement. Substitutions may not be made retroactively. When leave is being requested for a serious health condition, medical certification may be required.

6-10.7

**EXCUSED ABSENCES (ADMINISTRATIVE LEAVE)**

An excused absence is a period of administratively authorized absence from duty, without loss of pay and without charge to an employee's leave account. The United States Trustee may approve administrative

leave for any of the following activities within the limits provided in the Handbook of Leave Administration:

1. tardiness and brief absence;
2. state and local holidays;
3. absence for voting and registration;
4. blood donations;
5. absence for conventions and conferences;
6. absence to take examinations;
7. absence for medical examinations related to continued employment;
8. treatment of on the job injury;
9. treatment for illness occurring during working hours; and
10. emergency conditions.

6-10.7.1

**Emergency Conditions**

With the noted exception below, the United States Trustee may close an office and place employees on administrative leave when it is in the best interest of the government to do so or the personal safety of the office personnel requires it. Such conditions can include, but are not limited to, snow emergencies, severe icing conditions, floods, earthquakes, major fires, hurricanes, air pollution, power failures, or widespread interruption of public transportation. (NOTE: The dismissal of employees in the Washington, D.C. Metropolitan area due to weather conditions is governed by the Office of Personnel Management.)

In the event of a prolonged breakdown of essential building services, the United States Trustee, in conjunction with the Executive Office, may close an office or part of an office when it has been clearly established by reasonable standards of judgment that the conditions are such as to actually prevent working.

6-10.8

**LEAVE FOR RELIGIOUS OBSERVANCES**

The United States Trustee is authorized to grant an employee time off from his/her regular work schedule for religious observances, provided the lost work time is offset by uncompensated work performed on



weekends or on weekdays after the regular work schedule. This offset work must be performed within six pay periods following the period of absence.

6-10.9

**MILITARY LEAVE**

All full-time and part-time career employees who are members of the National Guard or reserve components of the Armed Forces are authorized an approved absence from official duty, with pay, for days that they are ordered to active duty or are engaged in field or coast defense training under 32 U.S.C. §§ 502-505 and 5 U.S.C. § 6323.

An employee must follow leave procedures and provide acceptable evidence of military duty.

6-10.10

**COURT LEAVE**

All employees, with the exception of those on intermittent appointments without a regular tour of duty, are entitled to court leave if they are summoned in connection with a judicial proceeding to:

1. perform jury duty in a federal, state, or municipal court; or
2. serve as a witness in a non-official capacity for the United States, the District of Columbia, or a state or local government.

6-10.11

**HOLIDAYS**

Employees are entitled to ten paid holidays each year, as well as any other days designated by the President. Those holidays are:

1. New Year's Day
2. Martin Luther King, Jr.'s Birthday
3. Presidents' Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Veterans' Day

- 9. Thanksgiving Day
- 10. Christmas Day

When a legal holiday occurs on a Saturday, the Friday before is the day off in lieu of the holiday. When a legal holiday occurs on a Sunday, the Monday after is the day off in lieu of the holiday.

If an employee is in a non-pay status (e.g., Leave Without Pay) the day before the holiday and the day after the holiday, the employee will not be paid for the holiday.

## **CHAPTER 6-11: RETIREMENT**

6-11.1

### **INTRODUCTION**

The Office of Personnel Management (OPM) administers the major programs that provide retirement, life insurance, and health benefits to federal employees and annuitants. OPM adjudicates all claims arising under the retirement laws. The Personnel Management Branch of the Executive Office is available to provide individual counseling to all employees. The counseling includes informing an employee of his/her rights and obligations under the law; providing assistance to claimants, including survivors of deceased employees; and promptly processing retirement applications.

Federal employees are covered under one of two retirement systems: the Civil Service Retirement System (CSRS), which includes CSRS Offset, or the Federal Employees Retirement System (FERS). Detailed information on both retirement systems may be found in the appropriate retirement handbook available to employees through the Personnel Management Branch of the Executive Office.

6-11.2

### **CIVIL SERVICE RETIREMENT SYSTEM (CSRS)**

CSRS entitles eligible employees to qualify for retirement benefits that are computed based on years of service and salary level. Mandatory

retirement contributions of 7 percent of pay plus 1.45 percent for Medicare are withheld bi-weekly via payroll deductions.

The CSRS is administered by OPM and is generally available only to employees who began federal service prior to 1984 who have not previously elected to join the FERS system. Under CSRS/CSRS Offset rules, employees can retire optionally with full benefits when they reach age 55 and have 30 years of service. In addition, employees may qualify to retire when age and years of federal service match the following:

- at least age 60 with 20 or more years of service
- at least age 62 with 5 or more years of service

An employee may be eligible to retire under the disability provision after five years of civilian service at any age. An employee must, however, be disabled for useful and efficient service in his/her current position or any other vacant position within the Department for which he/she is qualified at the same grade or pay level within the commuting area.

An employee may be eligible to retire under the discontinued service provision after 25 years (at any age) and 20 years at age 50; however, separation must be involuntary and not for misconduct or delinquency.

If an employee has received a refund of retirement deductions for previous federal service and is later reemployed in a position subject to this retirement law, the service covered by the refund is creditable for determining eligibility for retirement. However, that service will not be included in the computation of the annuity amount (except for purposes of computing "high-3" average salary) unless the refund is redeposited with interest prior to the final adjudication of the annuity by OPM.

6-11.3

**FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS)**

FERS is a three-tiered plan which includes Social Security, a basic retirement benefit, and the Thrift Savings Plan. A FERS/CSRS Offset covered employee will pay the full Social Security tax (FICA), in

addition to a small contribution of 0.80 percent of pay to the basic annuity component.

6-11.3.1

**Social Security Benefits**

To qualify for Social Security retirement benefits, an employee must have paid Social Security taxes for at least 10 years (or 40 quarters) over the course of his/her lifetime. An employee can receive full Social Security benefits if he/she waits until age 65. Starting in the year 2000, this age will gradually increase to 67. In the alternative, an employee can retire at age 62 and receive reduced benefits.

6-11.3.2

**Basic Benefits Plan**

Under FERS, an employee can retire with basic benefits as soon as he/she reaches the Minimum Retirement Age (MRA) and has just ten years of service. The MRA under FERS is the first year in which an employee can receive benefits and varies according to the date of birth. For anyone born before 1948, the MRA is age 55. It increases gradually, by months, to age 56 for those born after 1965 and goes up to 57 for those born in 1970 and after.

Employees can retire when age and years of federal service match one of the retirement combinations shown below:

<u>If employee leaves</u> <u>with this much service:</u>	<u>Employee gets basic</u> <u>benefits at this age:</u>
At least 5 years	62 years
At least 10 years	Employee's Minimum Retirement Age (optional, with reduced benefits)
At least 20 years	60 years
At least 30 years	Employee's Minimum Retirement Age

An employee may withdraw FERS contributions if he/she leaves federal employment; however, the employee will permanently forfeit all service covered by the refund. There is no provision in the law for the redeposit of FERS contributions that have been refunded.

### 6-11.3.3 Thrift Savings Plan

The third part of the FERS system is the Thrift Savings Plan (TSP), which allows an employee to contribute up to 10 percent of basic pay each pay period to the tax deferred TSP retirement savings and investment plan. The government will match contributions up to 5 percent. A choice of investments is available through either government securities, stock, or bond funds. Investments may be changed through an interfund transfer up to four times each year.

TSP is an important part of the retirement plan because the annuity received from TSP is based upon the amount contributed during working years and the earnings on those contributions.

#### 6-11.3.3.1 Extension to CSRS/CSRS Offset Employees

Employees covered by the CSRS/CSRS Offset may participate and may contribute up to 5 percent of their basic pay each pay period to the TSP; however, they do not receive any agency automatic or matching contributions.

#### 6-11.3.3.2 Investment Options

An employee may allocate any portion or all contributions to any of the three TSP investment funds--Government Securities Investment Fund; Fixed Income Index Investment Fund; and the Common Stock Index Investment Fund. This includes agency contributions, as well as individual contributions. Annuities from TSP for FERS participants are based upon individual contributions, agency matching contributions, and earnings accrued.

#### 6-11.3.3.3 Tax Advantages

There are two major tax advantages to the TSP. First, contributions withheld from an employee's salary are exempt from federal income tax withholdings, resulting in less taxes paid on earned salary. Second, an employee does not pay current federal income tax on earnings received on TSP account balances. The TSP tax advantages continue until an

employee withdraws account balances, usually at retirement when tax brackets may be lower.

6-11.4

**DISABILITY RETIREMENT**

Disability retirement is available to an employee who is deemed physically incapable of performing the duties of his/her position. The burden of substantiating a disability rests with the employee. OPM requires, however, that an agency attempt to reasonably accommodate an employee's medical condition in his/her current position or to reassign the employee to a position at the same grade or pay. Consideration may also be given to change to a lower-graded position, with retained pay, in order to keep the services of an experienced, trained employee.

The United States Trustee must determine whether there are any available positions within the region to which an employee can be reassigned. All vacant positions that are at the same grade or pay level within the commuting area should be reviewed to determine if the employee meets the minimum qualification standards. Reasonable efforts should be made to reassign the disabled employee to an available position; however, there is no obligation to create or vacate a position for an employee.

If the United States Trustee is able to reassign the employee, the disability retirement application and supporting documents must be returned to the employee. If the employee refuses to accept the offer of reassignment, the application for disability retirement will be denied by OPM.

**CHAPTER 6-12: BUDGET AND FINANCE**

**6-12.1 INTERNAL CONTROLS**

**6-12.1.1 Policy**

The United States Trustee shall establish and maintain management (internal) controls over all accounting and financial matters. All levels of management shall be involved in assuring the adequacy of controls, and all systems shall be evaluated on an ongoing basis.

Internal control systems must be established that address the approval, expenditure, and review of funds for all budget allocations, SF-44 and commercial credit card usage, property accountability, and physical security, as well as the processing of cash, checks, or other negotiable items received in an office.

**6-12.1.2 Internal Control Systems**

The governing regulation on internal controls is OMB Circular A-123, "Internal Control Systems." Internal control systems are required to ensure:

1. obligations of appropriated funds are in compliance with applicable laws;
2. funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and,
3. expenditures are properly recorded and accounted for to permit preparation of reliable financial and statistical reports and to maintain accountability over assets.

The lead responsibility for monitoring compliance with the provisions of A-123 lies with the Program's Internal Control Officer, who is the Associate Director. The United States Trustee is assigned these responsibilities in his/her jurisdiction. Any perceived weaknesses with regard to internal controls should be referred to the Associate Director.

6-12.1.3

Specific Standards

1. Documentation

Internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for examination.

2. Recording of Transactions and Events

Transactions and other significant events are to be recorded only by persons acting within the scope of their authority.

3. Execution of Transactions and Events

Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority.

4. Separation of Duties

Key duties and responsibilities in authorizing, processing, recording, and reviewing transactions should be separated among individuals.

5. Supervision

Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved.

6. Access to and Accountability for Resources

Access to resources and records is to be limited to authorized individuals, and accountability for the custody and use of resources is to be assigned and maintained. Periodic comparison shall be made of the resources with the recorded accountability to determine whether the two agree. The frequency of comparison shall be a function of the vulnerability of the asset.



6-12.2

**BUDGET FORMULATION AND EXECUTION**

The budget formulation and execution process is an integral part of the federal budget system. It provides the framework within which decisions on resource allocation and program management are made.

6-12.2.1

**Budget Formulation**

The Executive Office is responsible for formulating and submitting the Program's annual budget requests and estimates to the Department, the Office of Management and Budget, and the Congress. The required budget materials are submitted in four phases. In close coordination with the Director and other management officials, the Budget Formulation and Revenue Branch of the Executive Office administers this function. Input for budget formulation may be sought from the Advisory Committee and/or the United States Trustees.

6-12.2.2

**Budget Execution**

The Executive Office is responsible for the Program's overall budget execution function, and for establishing standards which comply with applicable regulations governing budget operations, accounting operations, and financial controls. In close coordination with the Director, other management officials, the Advisory Committee and/or United States Trustees, the Budget Execution Branch of the Executive Office administers this function.

6-12.2.2.1

**Administrative Control of Funds**

Federal statutory and administrative requirements governing the maintenance of fund control systems are: the Anti-deficiency Act; the Federal Managers' Financial Integrity Act; OMB Circular's A-123, A-127, and A-34; and Department of Justice Order 2030.4E, Control of Funds Under Apportionment.

The Program's primary accounting and financial management systems support is provided by the Justice Management Division. The Executive Office and its chapter 11 billing and collections contractor do, however, maintain subsidiary records that feed into the Department's

Financial Management Information System and the Legal and Administrative General Accounting System.

6-12.3

**FINANCIAL CLASSIFICATIONS**

6-12.3.1

**Accounting Classification Codes**

Generally, all expenses relating to a specific region and/or its employees are chargeable to that region's accounting classification. All funding documentation must display the appropriate accounting classification code.

Each office and the Executive Office are assigned distinct accounting classifications. The eight-digit code represents the following information:

- X .....Fiscal Year
- 744 .....U.S. Trustee Program Code
- XX .....U.S. Trustee Region Number
- XX .....U.S. Trustee Office Code

6-12.4

**UNITED STATES TRUSTEE SYSTEM FUND**

The "Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986" established a special fund in the Treasury of the United States known as the United States Trustee System Fund ("the Fund") for which the users of the bankruptcy system, namely the debtors, would finance the Program's operations through filing fees and chapter 11 quarterly fees.

6-12.4.1

**Revenue Sources**

The Fund's primary revenues are from chapters 7, 11, 12, and 13 filing fees and chapter 11 quarterly fees paid by debtors in bankruptcy cases. Additional sources of revenue are received through the chapter 7 or 13 private trustee fees, the chapter 12 and 13 surplus fees, and earned interest on investments.

6-12.4.2

Fund Administration

The Budget Formulation and Revenue Branch of the Executive Office is responsible for monitoring receipts to, appropriations from, and all investment activity of the Fund.

6-12.5

REGIONAL BUDGET ALLOCATIONS

Each fiscal year, the Executive Office will issue a regional budget allocation for specified categories of expenditures to the United States Trustee. Current categories of expenditures are awards, equipment, furniture, library books, miscellaneous services, overtime, repairs, supplies, training, and within-region travel. It is the responsibility of the United States Trustee to manage the budget allocation within approved resource levels.

The United States Trustee may distribute the allocation among the various categories of expenditures as he/she sees fit. The Executive Office will provide historical information on past utilization rates to assist in this process. Once category amounts are established, the United States Trustee may transfer monies among the various allocations as needed. Written notification of transfers should be made to the Budget Execution Branch of the Executive Office for recordkeeping purposes.

Requests for additional funding will be considered if special circumstances exist. The request must be made in writing by the United States Trustee to the Director. The specific dollar amount being requested and a complete justification, to include a discussion of utilization of the previous allocation, must be provided.

Complete and accurate records on all obligations/expenses incurred relative to the budget categories must be maintained in the region. An automated "Report of Obligations Log" for each expenditures category must be submitted to the Budget Execution Branch at the end of every quarter. Regional budget balances are not transferrable between fiscal years.

**CHAPTER 6-13: TRAINING**

**6-13.1 POLICY**

It is the policy of the United States Trustee Program to provide training needed to increase the efficiency and effectiveness of employees, and to develop, maintain, and enhance the skills required for the satisfactory performance of assigned duties.

Regulatory guidance on training is provided in chapter 41 of title 5, United States Code, and in 5 C.F.R., Part 410. In addition, specific guidelines on the training approval process are included in the Training Handbook issued in October 1994.

**6-13.2 DELEGATIONS OF AUTHORITY**

The Director is responsible for establishing and administering training programs and authorizing the payment of expenses incurred in connection with training. The United States Trustee is delegated authority to approve training requests and to authorize the payment of expenses incurred in connection with training, up to 80 hours in length, for all employees within the region, including the United States Trustee. This authority may not be redelegated, except as may subsequently be provided for by the Director.

**6-13.3 REGIONAL TRAINING BUDGET**

At the start of each fiscal year, the United States Trustee should determine the amount of money he/she will dedicate from his/her regional budget allocation for training. The training allocation is intended to cover all training requirements regionwide, and it is at the discretion of the United States Trustee how distribution of the funds is made among his/her offices. Only the cost of tuition and related materials are deductible from this allocation. Travel expenses associated with training are deducted from the travel allocation. It is the responsibility of the Administrative Officer/Staff Assistant to track the amounts spent and to report quarterly to the Budget Execution Branch of the Executive Office on all expenditures. Certain

Program-wide courses sponsored by the Executive Office are not charged against a region's allocation.

6-13.4

**REQUIRED TRAINING**

6-13.4.1

**Ethics**

New employees must be provided within 90 days of the date of their entrance on duty the ethics materials specified in 5 C.F.R. § 2638.703(a). New employees are to be provided with a minimum of one hour of duty time to either review these materials or receive ethics training.

In addition, all employees who file either public or confidential financial disclosure statements must receive at least one hour of ethics training each calendar year.

6-13.4.2

**Computer Security**

In compliance with the Computer Security Act of 1987, all employees are required to receive training on the importance of computer security, the employee's role and responsibility in computer security, and basic computer security policies and procedures. The Administrative Officer, in conjunction with the Case Manager, must ensure that new employees are provided with the necessary training within 60 days of the date of their entrance on duty. Thereafter, all employees must participate in an annual computer security briefing update.

6-13.5

**IDENTIFYING EMPLOYEE TRAINING NEEDS**

A supervisor should periodically, but not less than once every fiscal year, evaluate each employee in terms of the knowledge and skills required to perform the employee's current job, as well as other jobs which may be available within the Program. The review of training needs and opportunities should consider the skills and knowledge necessary to ensure the efficiency of operations; the availability of trained employees to address identified needs; and aspects of employee performance that may need to be enhanced through training and development. The results of an evaluation should be shared with an

employee at the time of the annual review of performance or such other time as might be opportune and appropriate.

6-13.6

### **IDENTIFYING TRAINING SOURCES**

If a particular knowledge, skill, or ability is identified that indicates a necessity for training, all available options should be considered in identifying and selecting training sources. If a training need exists, the following factors should be considered in formalizing a training agenda:

1. Cost, length of required training, and the degree of correlation between the content of the training and the training objective.
2. Identify training opportunities that improve both the immediate performance of an employee and the overall efficiency of the office.
3. Accommodate training to workload, scheduling training so as to avoid conflict with known periods of peak workload requirements.
4. Conduct post-training follow-up to determine the extent to which the training actually enhanced job performance and contributed to improvements in operational efficiency.

While the availability of training courses sponsored by a government agency should be considered first when selecting training, employees and supervisors may seek training opportunities offered by non-government vendors or colleges and universities. The law prohibits the use of a facility that discriminates because of race, color, sex, religion, or national origin, or that denies access through failure to provide reasonable accommodation for people with disabilities.

6-13.7

### **AUTHORIZATION OF TRAINING EXPENSES**

Authorization for training and its related payment are accomplished by execution of an SF-182, Request, Authorization, Agreement and Certification of Training. A completed SF-182 is required for each training course, and it must be approved in advance of the training.

All training information is maintained in an employee's Official Personnel Folder and is used for reports to the Office of Personnel Management and the Congress.

6-13.7.1

**Limit of Three**

Employee attendance at meetings, conferences, and seminars for representational purposes is limited to three attendees Programwide. Management officials attending a meeting, conference, or seminar for the purpose of serving as a presenter/speaker are not counted against the limit.

6-13.7.2

**ADP Training**

ADP training that will cost over \$500 requires the concurrence of the Information Systems Division of the Executive Office.

6-13.8

**TRAVEL ASSOCIATED WITH TRAINING**

A DOJ-501, Official Travel Request and Authorization, associated with a training course must be submitted, along with the training request, to the United States Trustee for approval. Travel expenses associated with training are deductible from the regional travel allocation.

For training and conferences sponsored by outside sources, employees are responsible for coordinating all associated travel arrangements, including transportation and hotels.

For Program-sponsored training and conferences, hotel accommodations will generally be made by the Executive Office and notice of the arrangements provided to the attending employee. All other arrangements (e.g., transportation, etc.) are the responsibility of the employee.

6-13.9

**ADMINISTRATIVE LEAVE**

The United States Trustee is delegated authority to authorize an employee up to 40 hours of administrative leave in any one-year period for formal classroom training that is related to an employee's duties and

that the employee attends at his/her own expense. Qualified training includes mandatory and non-mandatory continuing legal education for attorneys (including meeting requirements of a secondary bar membership), continuing professional education for certified public accountants, paralegal or secretarial certification or refresher courses, college or paralegal instructional courses, legal or bankruptcy courses, accounting and finance classes, computer and statistics courses, speed reading, and time or stress management. It does not include professional meetings or seminars (i.e., bar committee meetings, lunches with a speaker, discussion roundtables, etc.).

All time authorized for this purpose must be recorded on the time and attendance report as administrative leave and a cumulative balance of leave for training maintained so as not to exceed the yearly limit.

6-13.9.1

**Redelegation**

The authority to grant administrative leave for the purpose of attending employee paid training may be redelegated to an Assistant United States Trustee at the discretion of the United States Trustee.

6-13.10

**TRAINING INVOICES/REIMBURSEMENT**

Upon the authorization of training by the United States Trustee, payment arrangements should be coordinated with the training vendor. To the extent possible, arrangements should be made for the vendor to invoice for payment after completion of the training. If, however, the vendor will not agree to such terms and payment is required upon registration, the tuition may either be charged to the Government VISA card held by the Administrative Officer/Staff Assistant or the employee may provide payment using personal funds and request reimbursement.

Reimbursement and invoice payment procedures for training-related expenses are discussed at USTM 6-16.3.1.

6-13.11

**CANCELLATIONS**

Most training vendors have a cancellation policy. To preclude billings for non-attendance at an approved course, offices should make



reasonable efforts to avoid cancellations that will result in payment of a fee. When unusual circumstances exist that result in a no-show or cancellation charge and payment to the vendor is required, a memorandum providing a full explanation must be included with the request for payment.

## **CHAPTER 6-14: TRAVEL**

### **6-14.1**

#### **POLICY**

The Federal Travel Regulations (FTR) govern travel and transportation allowances. The Department has adopted the FTR in its entirety, and issues Departmental supplements as required. The FTR and the Department's supplements apply to all employees who travel and/or are involved in the authorization, preparation, or processing of travel documents. The DOJ Travel Regulations Manual, which includes the FTR and DOJ supplements, should be maintained in each office and made available to all employees.

### **6-14.2**

#### **DELEGATIONS OF AUTHORITY**

The Director has delegated specific signature authority with regard to travel to the United States Trustee. At the discretion of the United States Trustee, he/she may redelegate certain of those authorities to individuals at the Assistant United States Trustee level.

These delegations are a financial authority and must be carried out in accordance with applicable rules and regulations.

#### **1. Within-Region**

The United States Trustee may authorize (on the DOJ-501) his/her own within-region travel, as well as that of subordinate staff members, including all requests for actual subsistence (up to 150 percent) for lodging.

This authority may be redelegated to the Assistant United States Trustee level with the following limitations: within-district travel only and excluding requests for actual subsistence (up to 150 percent) for lodging.

2. Out-of-Region

The United States Trustee may authorize (on the DOJ-501) his/her own out-of-region travel related to training, as well as that of subordinate staff members, including all requests for actual subsistence (up to 150 percent) for lodging. (NOTE: All out-of-region travel not related to training must be authorized by the Executive Office.)

This authority may not be redelegated.

3. Travel Vouchers

The United States Trustee may approve employee vouchers (i.e., DOJ-534 and SF-1164) for all travel, regardless of the authorizing official on the DOJ-501.

This authority may be redelegated to the Assistant United States Trustee level.

All redelegations of authority must be in writing and be name-specific. In addition, a Signature Form, OBD-234, that documents these financial authorities, must be submitted to the Administrative Services Division of the Executive Office upon redelegation, as well as at the beginning of each fiscal year thereafter that the authority remains in effect.

6-14.3

REGIONAL TRAVEL BUDGET

At the start of each fiscal year, the United States Trustee should determine the amount of money he/she will dedicate from his/her regional budget allocation for travel. The travel allocation is intended to cover all within-region travel, as well as all travel associated with non-Program sponsored training attended either within the region or out of the region. It is at the discretion of the United States Trustee how

*Travel*

distribution of the funds is made among his/her offices. It is the responsibility of the Administrative Officer/Staff Assistant to track the amounts spent and to report quarterly to the Budget Execution Branch of the Executive Office on all expenditures.

6-14.4

**CITY-PAIR AIR/RAIL CONTRACTS**

The General Services Administration contracts annually with commercial carriers for reduced coach fares for Government employees traveling on official business. The use of contract airlines is mandatory between city-pairs for which contract coach service exists. Use of any other airline or class of service may be authorized only when specific, limited conditions exist. Government contract airline fares may be used for official business only.

6-14.5

**GOVERNMENT CREDIT CARD**

6-14.5.1

**Issuance**

The General Services Administration entered into an agreement with American Express to issue credit cards to Government employees for the purpose of paying for the majority of expenses associated with official travel. American Express cards may be obtained for those employees who are expected to travel at least twice a year.

The employee will receive the American Express card at his/her home address and is responsible for exercising the same care and responsibility for the security of the card and the number as he/she would with a personal credit card.

6-14.5.2

**Billing Agreement**

When an American Express card is issued to an employee, he/she must sign an agreement acknowledging the rules and regulations governing its use. That agreement is made directly between American Express and the employee.

If there has been activity on an account during a month, a billing statement will be sent directly to an employee at his/her home address.

Payment in full is due upon receipt of the bill. If a charge is disputed, it can be deducted from the amount due, but the remaining balance must be paid in full. Since employees are required to voucher within ten days after the completion of a trip, it is likely that any reimbursement will have been received prior to or within the 25-day period following receipt of a monthly billing statement and payment can be made.

Usage reports are provided by American Express to the Executive Office on a monthly basis. The Travel Branch of the Executive Office will review these reports and may request an employee to provide an explanation for questionable charges.

### 6-14.5.3

#### Liability

Although the employee is liable to American Express for payment of all charges incurred on the card, including those for ATM withdrawals, the employee shall be reimbursed by the Program for all authorized and allowable travel and transportation expenses. Employees are cautioned that charges in excess of authorized and allowable expenses (i.e., lodging and meal costs that exceed authorized amounts) are their financial responsibility and are not reimbursable.

The agreement of terms for issuance of the card is made solely between the employee and American Express, and the Government assumes no liability for charges incurred on employee charge cards. The Government, however, may enforce appropriate disciplinary action, ranging from an official reprimand to removal, when an employee fails to honor his/her just financial obligation to American Express or misuses the card.

American Express will suspend an employee's charging privileges when his/her account has not been paid in full within 60 calendar days of the date on the billing statement. Moreover, American Express may cancel an employee's card when the account has not been paid in full within 120 calendar days after the date on the billing statement.

All suspensions and cancellations are reported to the Executive Office by American Express. As the loss of charging privileges may greatly impact an employee's ability to travel, employees will be expected to

provide a full explanation for non-payment. Disciplinary action may be considered against an employee for failure to respond to the inquiry or if the explanation is inadequate or determined to be unacceptable.

6-14.5.3.1

Lost or Stolen Cards

An employee will not be held responsible for any charges incurred as a result of a lost or stolen card, provided the employee promptly reports loss of the card to American Express under the terms of the cardmember agreement. Employees may call American Express 24 hours a day at 1-800-492-4922 to report lost or stolen cards.

6-14.5.4

Use of the American Express Card

The American Express card may be used only to charge expenses incurred in conjunction with official travel and authorized ATM cash withdrawals. All travel expenses incurred incident to official travel must be charged on the American Express card whenever and wherever possible.

6-14.5.4.1

Cash Advances

When authorized, the charge card may be used to obtain travel advances through the American Express Automated Teller Machine Network. A surcharge will be assessed for all cash advances made using the card; that expense is reimbursable to the employee.

Cash advances may not exceed the amount stated on the employee's travel authorization. The maximum ATM cash advance amount that may be authorized is \$40 per day of travel, and withdrawals may not be made more than three days prior to departure or later than the last day of travel. American Express will bill the amount of the withdrawal and the applicable transaction charge to the employee. Cash advances using the American Express card are not to be shown on the travel voucher; only the surcharge is to be claimed. At no time can the card be used to withdraw cash for personal reasons.

6-14.6

**TRAVEL AWARDS AND UPGRADES**

Frequent flyer credits earned by federal employees while on official travel are the property of the Government. The Attorney General has issued a policy that frequent flyer benefits may be used only to acquire free trips or accommodations for official travel. Thus, frequent flyer benefits may not be used for premium class upgrades, except in extremely limited circumstances, since they could be applied towards a free ticket in the future.

6-14.6.1

**Travel Savings Awards Program**

The travel savings awards program offers travelers an incentive to exchange frequent flyer miles for free coach class airline tickets for official travel, and rewards travelers for not incurring the full daily amount allowable under GSA regulations for lodging expenses. Travelers are eligible for a cash award equal to 50 percent of the total savings realized by the government, up to \$2,000 per fiscal year. The cost savings must total at least \$200 during the fiscal year before an award may be considered.

**CHAPTER 6-15: PROCUREMENT**

6-15.1

**SMALL PURCHASE AUTHORITY**

Small purchases are those purchases that can be made using small purchase procedures as detailed in the Federal Acquisition Regulation, Part 13.

Limited procurement authority has been delegated to specific personnel in the regional offices, with the ability to redelegate certain authorities to individuals at the field office level. USTM 6-1.1 provides detailed information with regard to the limitations of various delegations and the re delegation authority.

6-15.1.1            **Methods of Purchasing**

6-15.1.1.1        **Governmentwide Commercial Credit Card**

Authority to use the Governmentwide Commercial Credit Card (hereafter referred to as the Government VISA card) is name specific and has been delegated only to certain personnel. This delegation of authority comes directly from the Director of the Procurement Services Staff, Justice Management Division, and it has definitive limitations. The regulations applicable to this delegation are the Federal Acquisition Regulation (FAR); 48 Code of Federal Regulations (C.F.R.), Parts 8 and 13; and the Justice Acquisition Regulations (J.A.R.).

Supplies, services, furniture, and equipment may be purchased consistent with the cardholders "Delegation of Procurement Authority for the Governmentwide Commercial Credit Card." All purchases must be made in accordance with applicable laws and regulations and are subject to the limitations of regional budget allocations.

The delegation does not waive appropriate approvals currently required, and it may not be redelegated. This delegation automatically terminates upon separation of the named individual from the Program or the Department of Justice.

6-15.1.1.2        **SF-44 Authority**

Authority to approve the use of an SF-44 has been delegated to the United States Trustee, with approval to redelegate to Assistant United States Trustees and the Administrative Officer/Staff Assistant. The SF-44 may be used to make supply purchases, to order court reporting and transcription services, and to make other service purchases. Although this authority is available, the SF-44 should be used only when the Government VISA card cannot be used.

6-15.1.1.3        **Blanket Purchase Agreements (BPAs)**

Blanket Purchase Agreements (BPAs) are purchasing agreements established at the start of each fiscal year by the Administrative Services Division of the Executive Office with supply companies that

are either nationally based or who will ship nationwide. The United States Trustee has been delegated the authority to approve the use of the BPA for supply and equipment purchases, with approval to redelegate to Assistant United States Trustees and the Administrative Officer/Staff Assistant. Specific individuals within a region are named as authorized callers against the BPAs.

6-15.1.1.4 Purchase Order Authority, OF-347

The Administrative Services Division of the Executive Office has been delegated procurement authority to make purchases within the limits of small purchase procedures using the Purchase Order, OF-347. Purchases in the amount of \$25,000 or less for open market purchases and up to the maximum order limitation of the GSA Federal Supply Schedule contracts are permitted. All purchases must be made in accordance with applicable laws and regulations, including but not limited to the FAR, JAR, and Appropriation Law. The delegation does not waive appropriate departmental level approvals currently required, and it may not be redelegated.

6-15.1.2 Purchasing Procedures

6-15.1.2.1 Budget Allocations

A regional budget allocation has been established for each of the major categories of purchases--supplies, services, equipment, and furniture. Expenditures must be made in consideration of these funding ceilings, and the Administrative Officer/Staff Assistant is responsible for tracking all expenditures and reporting regularly to the Executive Office. The Administrative Officer/Staff Assistant will be provided with listings of items which are chargeable to each category.

6-15.1.2.2 Competition

To minimize waste and maximize government funds, discretion and judgement must be demonstrated in all purchasing decisions, regardless of the amount. For purchases that exceed \$2,500, regulations require competitive quotes from three or more responsible sources. When requesting goods or services that exceed this limitation, at least three



price and delivery quotations should be included with a UST-6 request for purchase.

#### 6-15.1.2.3

##### Supply Purchases

The General Services Administration, Customer Supply Center (CSC), is to be the primary source for obtaining supplies for an office. When items are unavailable from the CSC, or when the items from the CSC have been found to be inferior in quality, the Government VISA card, a blanket purchase agreement (BPA) account, or the SF-44 may be used to obtain supplies from the open market. Written justification is required for all open market supply purchases. Open market supply purchases in the amount of \$2,500 or less per order can be made without regard to business size.

For supply needs which exceed \$2,500, a properly completed UST-6 must be submitted to the Administrative Services Division of the Executive Office for purchase action. The purchase will be made by purchase order and the requested items shipped to the designated location(s).

Supply purchases include administrative "consumable" supplies, copier and facsimile supplies, and ADP supplies and software (including 3812 page printer supplies). Standard software (i.e., WordPerfect, Lotus, PC Anywhere and dBase) may be purchased through appropriate channels without approval from the Information Systems Division of the Executive Office. For all other software purchases, the Information Systems Division must be contacted for approval prior to purchasing.

Regardless of the source, the total cost for the purchase of supplies, including shipping or delivery charges, surcharges, etc., is to be deducted from the regional budget allocation.

#### 6-15.1.2.4

##### Service Purchases

Services may be acquired by using a Government VISA card or an SF-44. The primary source for services required by offices will be the open market. For purchases in the amount of \$2,500 or less per order, services may be obtained without regard to business size.

For services expected to exceed \$2,500, a properly completed UST-6 must be submitted to the Administrative Services Division of the Executive Office for purchase action. The purchase will be made by purchase order and the requested service provided at the designated location(s).

Service purchases include, but are not limited to, equipment maintenance and repair (except IBM System 36, copiers, and telephone systems), post office box rentals, courier services, copying services, notary public, and photographs for identification cards.

If a vendor does not accept either the Government VISA card, the SF-44, or a purchase order, the above services may be authorized for purchase by an employee using personal funds. The employee will be reimbursed by completing an SF-1164, Claim for Reimbursement for Expenditures on Official Business, and submitting it to the Administrative Services Division of the Executive Office for processing.

Many service purchases are deductible from the regional budget allocation. The Administrative Officer will be provided with a listing of those services that are to be deducted.

6-15.1.2.5

Furniture Purchases

The mandatory sources of supply for furniture, in order of precedence, are: (1) existing inventories; (2) Federal Prison Industries (UNICOR); (3) General Services Administration (GSA) Federal Supply Schedules; and (4) the open market. Unless UNICOR and GSA do not carry an item (a fact which must be documented), a waiver must be obtained from each in order to purchase from the open market. Waivers must be in writing.

The Government VISA card may be used to purchase furniture when the total cost is \$2,500 or less. Items exceeding this amount must be submitted on a UST-6 for purchase action by the Administrative Services Division of the Executive Office. The purchase will be made by purchase order and the requested items shipped to the designated location(s).

Furniture that may be purchased includes office furniture and meeting room furniture. Regardless of the source, the total cost for the purchase of furniture, including shipping or delivery charges, surcharges, etc., is to be deducted from the regional budget allocation.

## 6-15.1.2.6

Equipment Purchases

The mandatory sources of supply for equipment, in order of precedence, are: (1) existing inventories; (2) General Services Administration (GSA) Mandatory Use Federal Supply Schedules; and (3) the open market. Unless GSA does not carry an item (a fact which must be documented), a waiver must be obtained from them in order to purchase from the open market. Waivers must be in writing.

The Government VISA card may be used to purchase certain equipment when the total cost is \$2,500 or less. Items exceeding this amount must be submitted on a UST-6 for purchase action by the Administrative Services Division of the Executive Office. The purchase will be made by purchase order and the requested items shipped to the designated location(s).

Equipment that may be purchased includes tape recorders, facsimile machines, paper shredders, time/date stamp machines, calculators, answering machines, dictator/transcriber machines, TV/VCRs, typewriters, and printers costing \$1,000 or less.

Regardless of the source, the total cost for the purchase of equipment, including shipping or delivery charges, surcharges, etc., is to be deducted from the regional budget allocation.

## 6-15.1.2.7

Delivery

Purchase orders issued by the Administrative Services Division of the Executive Office for the acquisition of furniture or large equipment (ADP equipment, copiers, etc.) will include funding for inside delivery (i.e., to the office space, not the loading dock). If a freight company refuses to deliver item(s) to the office space, the Administrative Services Division of the Executive Office should be notified immediately to resolve the matter. If, because of time differences,

contact with the Administrative Services Division is not possible, the shipment should be refused and contact made with that Division the following business day to make alternate arrangements.

It is the responsibility of the individual signing the receiving document for items ordered on a purchase order to verify that only the items described on the purchase order in the quantities indicated are being delivered. If the items are different than those listed on the purchase order, the delivery should be refused. If there is an overshipment, only the quantity ordered should be accepted and the remainder refused. If an insufficient quantity is delivered, the actual number received should be clearly marked on the delivery ticket and the appropriate personnel notified. If a delivery is attempted of items for which a purchase order has not been received or for which there is no request on record, the Administrative Services Division of the Executive Office should be contacted to verify if the order should be accepted. If, because of time differences, contact with the Administrative Services Division is not possible, the shipment should be refused and contact made with that Division the following business day for proper resolution.

6-15.2

### ADVERTISING

The Executive Office contracts with an outside contractor for advertising services. The contractor develops and places recruitment notices nationwide, ensures the payment of all advertising invoices, and develops recruitment literature when needed. All advertising must be coordinated through the Executive Office. Under the terms of the contract, the contractor will provide advertising estimates within five days of having received a request from the Executive Office.

Paid advertising can be very expensive and should be held to a minimum. It should not be used as a primary recruitment mechanism. Offices are encouraged to use publicity and other forms of unpaid advertising to attract applicants, e.g., local and state employment services, legal bulletins, public service announcements, etc. It may, however, occasionally be appropriate to use paid advertisements.

In addition to utilizing the more traditional, general sources of advertisement, in support of the Program's diversity efforts, full

consideration should be given to including advertising sources which target minority and women's groups.

Prior approval for all paid advertisements is required. In accordance with Volume 35 of the Decisions of the Comptroller General (7-67), Reference B-125630, pp. 235 to 237, the ratification of invoices "after the fact" is specifically prohibited and bills incurred without prior approval cannot be authorized for payment.

6-15.2.1

**Employment Advertising**

Requests to advertise positions within the Program are to be made in writing to the Resources Division of the Executive Office. The requesting memorandum must include information on the position to be advertised, the proposed source(s) for advertising, requested advertising date(s), the proposed advertising text, and where applications should be mailed. The request must also identify the free sources that have been used to advertise the position, as well as the volume of responses received from each source. Advertising requests must be submitted at least three weeks prior to the requested advertising date(s).

6-15.2.2

**Panel or Standing Trustee Advertising**

Requests to advertise panel and standing trustee positions are to be made in writing to the Office of Review and Oversight of the Executive Office. The requesting memorandum must include information on the position to be advertised, the proposed source(s) for advertising, the requested advertising date(s), the proposed advertising text if the standard text is not to be used, and where applications should be mailed. In addition, the request must also identify the free sources that have been used to advertise the position and the volume of responses received from each source, as well as a description of the outreach efforts proposed or taken, to ensure a diverse pool of applicants. Advertising requests must be submitted at least three weeks prior to the requested advertising date(s).

6-15.2.3            **Advertising Effectiveness**

To monitor the effectiveness of recruitment sources, each time a paid advertisement is run, the advertisement will be coded. The Administrative Officer/Staff Assistant of the requesting region must track the number of responses received under each code and report the results to the Resources Division of the Executive Office.

6-15.3            **COURT REPORTING AND TRANSCRIPTION SERVICES**

The Government VISA card or a SF-44 may be used to acquire court reporting and transcription services, not to exceed \$2,500 per order or day. For services that are expected to exceed \$2,500, an OBD-84, Pay Voucher for Special Services, must be completed and submitted to the Administrative Services Division of the Executive Office for approval prior to the services being rendered. A memorandum briefly describing the background and nature of the requirement should be provided as well. Upon approval, a copy of the form will be returned to the requestor so that final arrangements can be made for the service.

An OBD-84 serves as both the requesting document and the invoice for the service. When the service has been rendered, a separate invoice is not necessary. The provider and the authorizing/approving official must sign the form and forward it to the Administrative Services Division for payment processing. If an invoice is received, the authorizing/approving official must sign the form, attach it to the invoice, and forward them both to the Administrative Services Division for payment processing.

6-15.4            **FACT AND EXPERT WITNESSES**

All requests for the payment of expert and fact witnesses or other case related consultants must be coordinated with the Administrative Services Division of the Executive Office. A memorandum briefly outlining the witness requirement, the name and address of the witness, the date(s) the witness is required, and the distance of travel should be provided at least three weeks prior to the required service date.

**CHAPTER 6-16: ACCOUNTS PAYABLE AND INVOICING****6-16.1 RESPONSIBILITIES**

It is the responsibility of each office to ensure that procedures are in place for the timely review, certification, and forwarding of all invoices. The Prompt Payment Act of 1982 requires the payment of interest, accrued daily, on any outstanding balance after 30 days from receipt of a proper invoice. In order to comply with the 30-day payment mandate, all invoices and supporting documentation received in an office must generally be processed and forwarded by regular mail to the Administrative Services Division of the Executive Office within 48 hours of receipt.

**6-16.2 SUPPORTING DOCUMENTATION**

Before invoices may be certified for payment, documentation confirming that the goods or services being billed for were received and were satisfactory is required. Depending on the purchasing vehicle used, this documentation may vary.

**6-16.2.1 Receiving Reports**

A receiving report will be forwarded to the requesting office whenever an OF-347, Order for Supplies or Services, is issued. The receiving report is the green copy of the OF-347, or a similar form generated from the AIMS system, and it is used to link three critical areas-- procurement, accounts payable, and property management. The receiving report documents the satisfactory receipt of the goods or services ordered, and requires annotation of the signature of the person receiving/verifying the item(s), the date received and, for accountable property, the serial number and bar code number assigned.

**6-16.2.2 Packing Slips and Work Orders**

Goods or services received as a result of use of a blanket purchase agreement (BPA), issuance of an SF-44 (Purchase Order-Invoice-Voucher), or use of the Government VISA card generally are

accompanied by a packing slip or work order. The packing slip or work order details the quantity and description of the item(s) ordered, or the services rendered, and requires annotation of the signature of the person receiving/verifying the goods or services and the date.

6-16.2.3

**Monthly BPA Logs**

Blanket purchase agreement logs for each vendor must be submitted monthly by the Administrative Officer/Staff Assistant, regardless of whether there was any activity on the account. Where purchases have been made, signed and dated packing slips verifying the satisfactory receipt of the good(s) must be attached to the log.

6-16.2.4

**Receipts or Other Proofs of Payment**

The SF-1164, Claim for Reimbursement for Expenditures on Official Business, serves as an invoice to reimburse an employee who has incurred a personal expense on behalf of the Program. A full justification for claims is required on all SF-1164s and, with the exception of claims for local mileage, a receipt or other proof of payment must be provided. Generally, approval for the expenditure of personal funds should be received in advance. Absent advance approval, reimbursement is at the discretion of the Approving Official and the Authorized Certifying Officer based on a review of the circumstances.

6-16.3

**INVOICE PROCESSING PROCEDURES**

The payment of invoices is coordinated by the Administrative Services Division of the Executive Office. Upon receipt of the appropriate paperwork from a field office, an invoice is processed and forwarded to the Financial Operations Staff of the Justice Management Division for check issuance and calculation of interest, if appropriate.

The majority of invoices for items purchased for or by an office are received directly in the regional office, except for claims made on an SF-1164, Claim for Reimbursement for Expenditures on Official Business, which originate at the field office level. The Administrative Officer/Staff Assistant is responsible for coordinating invoice



certification (to include obtaining appropriate supporting documentation) and forwarding all invoices by regular mail to the Administrative Services Division of the Executive Office generally within 48 hours of receipt.

6-16.3.1

**Invoices Received Directly in a Field Office**

Every invoice should be time/date stamped at receipt; signed and dated upon verification; and the appropriate supporting documentation, as detailed below, attached.

1. OF-347: The invoice, along with an executed receiving report signed and dated packing slip or work order, and a completed fiscal payment request form.
2. SF-182: The invoice, along with the Agency (Finance) copy of the 10-part form signed by the Certifying Official and a completed fiscal payment request form.
3. SF-44: The invoice, along with the original executed SF-44, the signed and dated packing slip or work order, and a completed fiscal payment request form.
4. VISA Statement: The statement, along with a completed VISA I.M.P.A.C. Fiscal Payment Request and all associated packing slips, work orders, and authorizing paperwork.
5. SF-1164: The completed SF-1164 form signed by an approving official, along with receipt or other proof of personal payment.  
NOTE: Provisions of the Prompt Payment Act do not apply to claims for reimbursement by employees.

6-16.3.2

**Invoices Received Directly in the Executive Office**

Generally, invoices resulting from an order placed against a blanket purchase agreement or from issuance of an OF-347 (Order for Supplies or Services) for a bulk order covering more than one region will be received directly in the Administrative Services Division of the Executive Office. The monthly BPA logs and their supporting

documentation submitted by the Administrative Officer/Staff Assistant will be used to verify the BPA billing. For bulk order OF-347s, the executed receiving reports submitted by the offices who received the goods will be used to verify the billing.

## **CHAPTER 6-17: PHOTOCOPYING, PRINTING, AND GRAPHICS**

### **6-17.1**

#### **REGULATIONS**

The regulations governing photocopying, printing, and graphics-related services are:

- Title 44, United States Code
- Government Printing and Binding Regulations, No. 24, April 1977
- Federal Property Management Regulations (FPMR)
- Code of Federal Regulations, Title 41 (CFR)
- Department of Justice Order 2510.9, Justice Publications and Printing Regulations
- Department of Justice Order 2510.11A, Control System for Development and Approval of Periodicals and Pamphlets
- Department of Justice Order 2520.3C, Audiovisual Activities
- Justice Publications and Printing Guide, May 1977
- Graphic Standards Manual, March 1994

### **6-17.2**

#### **PHOTOCOPYING**

While most photocopying requirements can be handled internally utilizing photocopying equipment available in each office, large or complicated jobs may best be handled by an outside contractor. Generally, all outside photocopying requirements must be coordinated through the Administrative Services Division of the Executive Office and accomplished through the Printing Procurement Unit of the Justice Management Division. Requests for photocopying should be submitted to the Administrative Services Division of the Executive Office on a DOJ-2, Printing Requisition.

Photocopying may be contracted out locally provided that the total cost for the full job will not exceed \$2,500 and the total number of impressions made will not exceed 25,000. (Example: A 2-sided page equals 2 impressions.)

6-17.3

### PRINTING AND GRAPHICS

The printing of all documents and any associated graphics work must be coordinated through the Administrative Services Division of the Executive Office and accomplished through the Document Design and Printing Procurement Units of the Justice Management Division. Examples of work of this nature include all letterhead and envelopes bearing office addresses, as well as forms or pamphlets.

Requests for the printing of items must be submitted on a DOJ-2, Printing Requisition, at least two to three months in advance of a required due date. On letterhead, one main telephone number and the return address of the office may be printed. The color, size and placement of the printing is governed by the Department's graphic standards. Personal names are not permitted on any printed items using government funds.

Use of the Department of Justice seal is authorized for official business cards; however, individuals must obtain the cards at their personal expense through a private contractor. The Administrative Services Division of the Executive Office can assist in locating a contractor.

6-17.3.1

#### Graphics

In 1979, the Department established the Unified Graphic Communications Program designed to control the "visual character" of the Department of Justice through consistent and repetitive use of approved design standards. All printed matter, e.g., covers, stationery, and forms, must conform to these standards. All requests for printing which involves graphics work will be reviewed by the Administrative Services Division of the Executive Office for compliance with these standards. Offices requesting work which is not in accordance with the standards will be notified of required changes.

6-17.3.2

**Forms**

The majority of the forms used within the Department of Justice are preprinted and available from stock. Most standard forms with the "SF" prefix are available through the General Services Administration's Customer Supply Centers. Department of Justice forms with either an OBD or DOJ prefix, as well as plain Department of Justice letterhead and memorandum paper, may be obtained by submitting a completed DOJ-182, Stocked Printed Item Requisition, to the Administrative Services Division of the Executive Office.

6-17.4

**PERIODICALS AND PAMPHLETS**

Approval for the publication of any periodical or pamphlet to be distributed to individuals outside of the United States Trustee Program must be obtained in advance from the Department's Publication Review Committee. Based on information provided concerning the quantity, purpose, target audience, and cost, the Committee will make a determination as to whether the document is considered essential to official business. A DOJ-529, Publication Planning Guide, must be completed and submitted to the Administrative Services Division of the Executive Office for presentation to the Committee.

**CHAPTER 6-18: LIBRARY MATERIALS AND PUBLICATIONS**

6-18.1

**POLICY**

Library materials should be essential to the mission of the Program and support ongoing litigation, policy initiatives, or management operations.

Publications must be ordered through the Acquisitions Services Staff of the Department's Main Library. Requests for the purchase of new and used books, updates and supplements to publications, and subscriptions to periodicals (including requesting review copies, trial subscriptions, and other marketing promotions) must generally be made through the Administrative Services Division of the Executive Office. A limited purchase authority is available to holders of the Government VISA card,

and it is only under specific conditions that employees may acquire publications directly from publishers or vendors using this purchasing method.

6-18.2

**REGIONAL LIBRARY BUDGET**

A budget allocation has been established for each region for the purchase of library materials. This allocation allows for the purchase and maintenance of publications that have been deemed basic library requirements, as well as additional items identified by the United States Trustee as necessary to office operations. A report listing the amount chargeable against the library allocation for orders placed through the Administrative Services Division of the Executive Office will be provided to each region monthly. In addition, any publication purchased using the Government VISA card must be deducted from the allocation.

6-18.3

**ACQUISITION PROCEDURES**

6-18.3.1

**Visa Credit Card Purchases**

The Government VISA card may be used only for the purchase of: (1) a single publication that is not subject to replacement, supplements, or renewal; or (2) a subscription to a periodical for a period less than 12 months where renewal will not be required.

All other orders must be placed through the Administrative Services Division of the Executive Office.

6-18.3.2

**Requesting New Materials**

To order a book, publication, or new subscription that cannot be purchased using the Government VISA card, a UST-6, Procurement/Services Request, must be completed in full and approved by the United States Trustee. Each request should detail information on the author, the title of the item, the address and telephone number of the publisher, the volume or edition, the price, the number of copies required, the ship-to-address(es), any announcements from publishers (if available), and a complete justification. In addition, if the

publication is one which is routinely updated and maintenance/supplement service is required, the request must so state.

When requested material is available in other accessible collections, the Administrative Services Division of the Executive Office will advise the requestor of the location of the material and may recommend against acquiring additional copies.

6-18.3.3      **Subscription Renewals**

Publications ordered through the Executive Office will automatically be updated or renewed as supplements become available or as subscriptions expire, provided the initial order requested such. Generally, in June of each year, a region will receive an acquisitions report that lists each subscription and supplement ordered or renewed during the current fiscal year. Instructions for annotating changes in quantity, addresses, and requests for cancellations will be provided. The annotated report will serve as the official authorization to renew or adjust orders for subscriptions and supplements for the next fiscal year. To avoid duplicate orders, any renewal notices or invoices received directly from a publisher in a field office should be forwarded immediately to the Administrative Services Division of the Executive Office for processing.

6-18.3.4      **Cancellations**

6-18.3.4.1      **Subscription Orders**

Requests for cancellations noted on the acquisitions report provided to each region in June will take affect at the end of the current subscription period. Otherwise, cancellations to subscription orders will be made only if the following three criteria are met: (1) there are more than six months remaining on the subscription; (2) the cost is more than \$100; and (3) the subscription was ordered during the current fiscal year.

6-18.3.4.2      **Book or Supplement Orders**

Cancellations will not be made for books or supplements once an order has been sent to the publisher.

b.1.4

6-18.3.5            **Changes in Recipient Address**

Changes of address made during the June review of the acquisitions report will automatically be made for future renewals. For changes of address which occur during a current subscription period, it is the responsibility of the receiving office to notify the publisher or vendor of the change.

6-18.3.6            **Non-Receipt of Materials**

Responsibility for tracking the receipt of ordered materials lies with the receiving region. Each month, a fiscal year title report that lists all titles ordered as of the date specified will be provided to the regional office for review. If, after a reasonable amount of time, material ordered has not been received, the office should generally contact the publisher or vendor directly to determine the status.

6-18.4              **INVOICES**

Invoices will generally be received directly at the Department's Main Library. If, however, an invoice is received in an office for an item ordered, it should be promptly forwarded to the Administrative Services Division of the Executive Office for processing.

**CHAPTER 6-19: COMMUNICATIONS**

6-19.1              **FEDERAL TELECOMMUNICATIONS SYSTEM (FTS)**

The FTS enables government employees to conduct official daily business transactions with speed and efficiency. Department of Justice Orders 2420.2, Telecommunications Policy and Guidelines, and 2421.1E, Use of Government Telecommunications Systems, set forth policy for the use of the FTS.

6-19.1.1 **Authorized Uses**

The FTS may be used only to conduct official business or for calls that are authorized as necessary in the interest of the government. Calls which may be approved as being necessary in the interest of the government include a brief call to locations within the local commuting area (the area from which the employee regularly commutes).

Use of the FTS by non-Government employees is permitted only to those individuals conducting official business with the Program, and calls should be limited to the local area.

6-19.1.2 **Unauthorized Uses**

The FTS may not be used to make long-distance personal calls, except in emergency situations or for a brief daily call to an employee's residence, unless the calls are charged to a personal telephone credit card, made to an 800 toll-free number, or charged to a non-government number. Unauthorized use of the FTS may result in criminal, civil, or administrative action, including suspension or dismissal, being taken against an employee.

Each office shall adhere to the guidelines governing the use of the FTS and ensure that proper controls are in place to prevent unauthorized use.

6-19.1.3 **Collect or Third Party Telephone Calls**

"Collect" or "third party" telephone calls placed to the office are not to be accepted, except when the call is considered to be essential. The United States Trustee will be required to certify that these types of calls were for official business.

6-19.2 **TELEPHONES FOR § 341 MEETING ROOMS**

Generally, telephones will not be provided for § 341 meeting rooms, unless there is sufficient justification. When a telephone system is approved, procedures must be established to ensure that the equipment is properly secured to prevent its unauthorized use.



6-19.3

**TELEPHONE PROCUREMENT**

When new telephone lines, equipment, or voice mail are required, a Form UST-6, Procurement or Service Request, must be completed, signed by the United States Trustee, and submitted to the Administrative Services Division of the Executive Office, who will coordinate with the Facilities Management Branch.

The Facilities Management Branch will work closely with the requesting office to determine specific requirements and will be responsible for coordinating placement of the work order.

6-19.4

**TELEPHONE MAINTENANCE**

Administrative Officers/Staff Assistants may arrange for the repair and maintenance of telephone lines and equipment as required for offices within their region.

6-19.5

**TELEPHONE CALLING CARDS**

Government issued telephone calling cards are authorized for all Program employees that have a justifiable need for their use while on authorized government travel. Requests for cards should be made in writing to the Administrative Services Division of the Executive Office. Each request must include a complete justification for the card and must be signed by the United States Trustee.

Only official business calls and authorized personal calls while on official travel are permitted. A random review of monthly billing statements will be conducted by the Facilities Management Branch of the Executive Office, and cardholders may be required to provide explanations for questionable calls.

Each calling card is the property of the government and proper security measures must be practiced at all times.

6-19.6

**FACSIMILE MACHINES**

Facsimile machines are to be on at all times to permit the transmittal and receipt of priority information. Because these machines use the FTS, they may not be used to transmit personal business. Only priority information that cannot be forwarded timely by regular mail should be transmitted via the facsimile machine.

**CHAPTER 6-20: MAIL SERVICES**

6-20.1

**UNITED STATES POSTAL SERVICE MAIL**

Effective January 1, 1995, the use of direct-accountability mail metering for postage on mail sent via the U.S. Postal Service was made mandatory in all offices. Formerly used "franked" envelopes may no longer be used; the U.S. Postal Service will only deliver letters posted with the new metered frank. The mail meter is to be used for official business only and any private usage is punishable by law.

The following publications provide guidance and information regarding mail metering and direct accountability, and they should be maintained in each office. Individuals authorized as meter operators are responsible for reading these publications and complying with their requirements.

Preparing for Mail Metering  
Mail Processing Using Postage Meters  
Alternative Direct Accountability Guide  
Mail Users Guide

An 8-digit billing code has been established for each office. Mail related expenses (excluding packaging materials) are chargeable against this code.

Questions regarding mail metering alternatives and direct accountability should be directed to the Mail Management Service of the Justice Management Division on 202-616-3834.

**6-20.1.1      Designation of Meter Operators**

To avoid the unauthorized use of mail metering equipment, a limited number of employees should be designated as meter operators within an office.

**6-20.1.2      Adding and Maintaining Postage**

Pitney Bowes provides guidance and instructions on adding postage to a meter. The amount of postage added should be determined based on past usage. Up to \$9,000 can be added to a meter for any given period of time.

A log must be maintained in each office to record the meter reading at the beginning and end of each day, and when postage is added to the meter.

**6-20.1.3      Equipment Maintenance**

A maintenance agreement for all mail metering equipment has been established with the Pitney Bowes Company. All equipment problems should be resolved through a local Pitney Bowes representative under that agreement.

**6-20.2      OVERNIGHT MAIL SERVICE**

Federal Express is the Government's mandatory use contractor for the overnight delivery of letters and packages. Overnight mail service comes at a premium cost; therefore, it is to be used only when first class regular mail will not suffice. Materials sent using Federal Express should be both substantive and urgent in nature. Every employee is responsible for scheduling their workload, to the extent possible, so that the use of overnight service is kept to a minimum.

The Federal Express service identified as "Government Overnight" is to be utilized. Priority or any other premium service is subject to review and specific justification may be required for its use.

**CHAPTER 6-21: SECURITY PROGRAMS****6-21.1 OVERVIEW**

Department of Justice Order 2600.2B, Security Programs and Responsibilities, breaks down security into five major categories: personnel security, document/information security, physical security, ADP/telecommunications security, and emergency planning. In addition, it defines key security personnel and their responsibilities.

**6-21.2 DELEGATIONS OF AUTHORITY****6-21.2.1 Assistant Director for Administration**

The Assistant Director for Administration serves in two capacities. First, as the Program's Security Programs Manager, with responsibility for the administration of all security program areas; and second, as the Security Officer for the Executive Office, responsible for the implementation and administration of security programs within the Executive Office.

**6-21.2.2 United States Trustees**

The United States Trustee serves as the Security Officer for all facilities within his/her region, and is responsible for implementing and administering the security programs as established in coordination with the Security Programs Manager.

The United States Trustee may redelegate responsibility for carrying out the security programs to a qualified person in each field office. However, the United States Trustee still retains responsibility for the central management of all regional security matters.

**6-21.2.3 All Employees**

All employees are responsible for adhering to established security procedures in all program areas.

6-21.3 **PERSONNEL SECURITY**6-21.3.1 **Policy**

Executive Order 10450, Section 3(a), states that "the appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation . . . In no event shall the investigation include less than a national agency check (NAC) (including a check of the fingerprint files of the Federal Bureau of Investigation) and written inquiries to appropriate local law enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation."

Department of Justice Order 2610.2A, Employment Security Regulations, sets forth the Department's policy which reads: "It is the policy of the DOJ that no employee be permitted to enter on duty or be given a tentative enter on duty date until after the completion and favorable evaluation of the requisite investigation by the appropriate personnel processing official and the Department Security Officer."

Program policy is based on the above referenced orders and applicable sections of title 28 of the Code of Federal Regulations. The level of background investigation conducted on each employee is determined by the type of position occupied--sensitive or non-sensitive. No applicant may be appointed without prior approval from the Executive Office.

6-21.3.2 **Position Designation**6-21.3.2.1 **Sensitive Positions**

The following positions have been designated as sensitive positions within the Program and must undergo a full-field background investigation. The Federal Bureau of Investigation conducts the investigations of United States Trustees, Assistant United States Trustees, and Attorneys. Investigations for the following other sensitive positions are conducted by the Office of Personnel Management:

Executive Office senior management positions  
Bankruptcy Analysts

Case Administrative Support Specialists/Managers  
Computer Specialists  
Administrative Officers/Staff Assistants  
Paralegal Specialists  
Executive Office administrative positions

6-21.3.2.2 Non-Sensitive Positions

The following positions have been designated as non-sensitive positions within the Program and are subject only to a National Agency Check with Written Inquiries (NACI). Investigations for these positions are conducted by the Office of Personnel Management.

Secretaries  
Legal Clerks  
Legal Data Technicians  
Students  
All other support staff and non-professional series employees

6-21.3.2.3 Contract Temporaries

Contract temporaries have been designated as non-sensitive positions and are subject only to FBI name and fingerprint checks and credit checks. No contract temporary may begin employment without prior approval from the Executive Office. See USTM 6-2.18.

6-21.3.3 Promotion From a Non-Sensitive to Sensitive Position

The promotion or reassignment of an employee from a non-sensitive position to a sensitive position may not be effected until a full-field background investigation has been initiated.

6-21.3.4 Reinvestigations

Each employee occupying a sensitive position will be reinvestigated every five years.

6-21.3.5

**Drug Free Workplace Program**

Executive Order 12564, dated September 15, 1986, established the Government's policy on a drug-free federal workplace. All applicants must test negative for drugs before entering on duty. Employees transferring from the U.S. Attorneys, Immigration and Naturalization Service, U.S. Marshals, or other Department bureaus will be subject to drug testing, as will employees of other federal departments and the private sector.

An applicant will be scheduled for drug testing more than 30 days prior to the anticipated entrance on duty date; however, applicants must not be notified more than 48 hours in advance of the time the drug test is to be conducted.

All excepted service Notice of Vacancy announcements must include a statement regarding the drug testing policy. Contract temporary employees are exempt from drug testing.

6-21.4

**DOCUMENT/INFORMATION SECURITY**

Department of Justice Order 2600.2B, Security Programs and Responsibilities, "provides for the classification, declassification, and control of national security information and material, including Sensitive Compartmented Information (SCI), pursuant to E.O. 12356 and for the granting of DOJ employee access to such material. [It] also provides for the protection of non-national defense sensitive information, and information for which safeguarding is required by the Privacy Act of 1974."

It has been determined that Program offices do not generally handle information that is considered classified or higher; therefore, the markings of "confidential," "secret," and "top secret" should not be used on Program correspondence or transmittals.. The Program does, however, handle sensitive information which may be considered Limited Official Use (LOU) information. Questions regarding document classification may be directed to the Security Programs Manager.

6-21.4.1

**"Limited Official Use" Information**

"Limited Official Use" (LOU) is a term for identifying unclassified information of a sensitive, proprietary, or personally private nature that requires protection against release to unauthorized individuals. The term does not include information affecting national security and classified as "confidential," "secret," or "top secret" under Executive Order 12356. Department of Justice Order 2620.7, Control and Protection of Limited Official Use Information, provides specific guidance on the handling of LOU information.

Some examples of the kinds of information that may be designated as LOU information are: information that could be sold for profit; tax information; personal information subject to the Privacy Act of 1974 (5 U.S.C. § 552a), especially personnel records, medical records, and other personal records where individuals may expect confidential treatment of that information; information that could result in physical risk to individuals; company proprietary information; deliberative information concerning internal Department or Executive Branch policy and decision making; and any information to which access is restricted by statute, order, rule, or regulation.

LOU information can appear in written, printed, micrographic, and electronic media. It can also appear in oral and signed communications.

6-21.4.2

**Responsibilities**

Adequate and reasonable protection for Limited Official Use (LOU) information must be provided by all employees in order to safeguard individual rights, the integrity of the policy making process, and critical government operations. Under the guidance of the Security Programs Manager, the United States Trustee is responsible within his/her region for protecting classified information and identifying information that needs protection as LOU information; for determining who has authorized access to such information; for establishing procedures to protect LOU information; for making employees and contractors aware of these procedures; and for ensuring adherence to the procedures.



The United States Trustee also has the authority to designate, as appropriate, general categories of information or specific documents and information as LOU information within his/her area of responsibility. That responsibility may not be redelegated. Information may not be designated as LOU for the purpose of concealing inefficiency, misdeeds, or mismanagement.

Employees and contractors working for the Program and any party to whom the Program grants access to LOU materials shall not disseminate, discuss, or expose this information to unauthorized individuals.

6-21.4.3

**Authorized Access**

The United States Trustee must comply with proper requests for access to information in accordance with governing statutes, orders, rules, and regulations. Limited Official Use (LOU) materials are subject to the provisions and requirements of the Freedom of Information Act (5 U.S.C. § 552) and the Privacy Act (5 U.S.C. § 552a). The designation of information as LOU does not, of itself, preclude access to the information if permitted through these Acts or other statutes, orders, rules, and regulations. The Office of the General Counsel will coordinate responses to requests for information under the Freedom of Information and Privacy Acts and will give advice on the permissible disclosure of information.

Although individuals outside the government have "authorized access" to sensitive information, they do so only when a specific statute, order, rule, or regulation entitles them to it. Failure of the government to extend protection to the information does not, by default, entitle anyone to access the information who would not otherwise be authorized to do so. The Office of Legal Counsel within the Department is the final authority concerning whether statutes, orders, rules, or regulations require the disclosure of information.

Within the government, authorization to access specific LOU information extends only to those Program employees, other government employees, or employees working under contract for the government who have a need to know or handle that sensitive information in the

course of their official duties. For example, certain administrative personnel and secretaries may need to handle specific personnel papers in the performance of their official work, while other employees in the office are not entitled to see that sensitive information. Similarly, specific attorneys and support staff have authorization to handle individual income tax returns involved in cases on which they are assigned to work, but other staff in the office do not have authorized access to them.

Individual employees should not presume to decide if they or others have authorization to access particular sensitive information. Only the United States Trustee has the delegated authority to make those decisions for government or contractor employees.

6-21.4.4

**Protection of Limited Official Use Information**

By virtue of working within protected government offices, adequate protection is provided for routine sensitive information. The purpose of separately identifying Limited Official Use (LOU) information is to ensure that all those who receive or work with LOU information are aware that such information needs special protection. As mentioned previously, the United States Trustee should determine what information handled in the region requires protection as LOU information. General classes of information may be designated as LOU information. For example, LOU protection may be extended to personnel records, FBI reports, and privileged, deliberative process information. Additionally, the United States Trustee may designate individual, sensitive documents as LOU information.

When information has been designated by the United States Trustee for LOU protection, at a minimum, all employees who deal with this information must be advised that it is sensitive and requires special handling precautions. If the United States Trustee determines that the nature of the information warrants more pronounced labeling, it should be stamped "Limited Official Use" on the first page of each document or a "Limited Official Use" cover sheet placed on each.

The United States Trustee shall specify the appropriate level of protection needed for each kind of designated LOU information and

shall establish handling procedures necessary for each. The method selected should be adequate to ensure the confidentiality of the information, but should have minimal effect on the operational efficiency of the office.

6-21.4.5 **Custody and Storage of Limited Official Use (LOU) Information**

6-21.4.5.1 **Use of LOU Materials**

Personnel who receive, create, maintain, or work with LOU information should exercise caution to ensure its protection from disclosure to unauthorized individuals. All such information should be handled in accordance with procedures established by the United States Trustee for designating LOU information. At a minimum, unauthorized individuals must not be able to enter areas unobserved and have visual access to LOU information.

6-21.4.5.2 **Storage of LOU Materials**

The United States Trustee shall assess the sensitivity of each kind of LOU information and determine the level of protection needed for the storage of each. At a minimum, LOU information should be stored in an area with adequate physical access control measures. As the nature of the information and circumstances suggest, the United States Trustee may deem it necessary to establish more secure arrangements for storing some information.

6-21.4.5.3 **Special Requirements**

By statute, directive, or executive order, some LOU materials may require special or particular security measures. The United States Trustee should take appropriate steps to comply with these requirements.

6-21.4.6 **Dissemination and Transmission**

In addition to using and storing Limited Official Use (LOU) information safely, employees must also guard against the oral disclosure or physical release of LOU information to unauthorized individuals. They must

further ensure the safe transmission of LOU information to those authorized to receive it.

6-21.4.7

**Disposition of Materials**

When offices have no further need for particular materials containing Limited Official Use (LOU) information, the information should be disposed of in a fashion that ensures confidentiality. Closed and inactive records that are required to be retained should be retired to a Federal Archives and Records Center (FARC) for storage and maintenance. Records that are obsolete or unnecessary for retention and are authorized for destruction should be destroyed and not sent to the FARC. See USTM 6-24 for detailed information on the records management program.

Regulations exist for records with national security classifications that require safeguarding in the interest of national defense. If an office ever acquires such records in a bankruptcy proceeding, the Office of the General Counsel should be contacted for guidance under Attorney General Order No. 489-72 (28 C.F.R. §§ 17.74-17.77).

6-21.5

**PHYSICAL SECURITY**

Physical security programs provide for the safety and physical security of personnel, as well as the protection of property. Since each office has unique security requirements, it is the responsibility of the Security Officer to develop, in coordination with the Security Programs Manager, security plans within each office that are in accordance with Department Orders, including Department of Justice Order 2630.2A, Protecting and Controlling Federally Controlled Property and Loss/Theft Reporting Procedures, and Executive Office guidance.

6-21.5.1

Office Space Access Controls

Security Officers are responsible for developing written access control plans for their office(s). Each plan should address the following key areas:

1. Physical Measures

All doors leading into office space from public areas should be locked at all times with the exception of the door leading into the reception area. All such doors should have key locks, as should all United States Trustee and Assistant United States Trustee office doors and computer room doors. In addition, each office should document the types of physical measures in place that protect employees in the event of an emergency, such as: a security window with a pass through and voice box to allow staff to talk to visitors without permitting access to the office space in the reception area; a door leading from the reception area into the clerical area equipped with an electric lock that has release buttons to permit access; and duress alarms.

2. Key Controls

There should be strict controls over the inventory and issuance of keys, combination locks, and locking devices.

3. Visitor Access

Access controls, such as sign in logs, badge requirements, and escort requirements, should be documented.

4. Private Sector Temporary Employee and Contractor Access

All private sector temporary employees and other contractors must have a favorably adjudicated background investigation (BI) prior to entering office space unescorted. If a contractor does not have a BI, he/she must be escorted and observed at all times by an employee. For example, if an office is cleaned during non-working hours, a BI is required on all cleaning individuals.

5. Coverage

Ensure coverage of reception area when the receptionist is away from his/her desk.

6-21.5.2

Control of Government Equipment and Other Property

It is the responsibility of each office's Security Officer to ensure that proper physical security measures are in place to protect the physical storage of National Security Information, government equipment, and other property from loss or theft. Although the Program currently does not generally deal with National Security Information, each Security Officer should familiarize themselves with Department of Justice Order 2620.4, Physical Security Manual for Safeguarding Classified National Security Information, to ensure these guidelines are applied in the event the office is faced with handling such information.

For the protection of government equipment and other property, security measures should include formal written procedures regarding such issues as: periodic inventories, lists of accountable property, labeling of property, property pass procedures, and loss/theft reporting procedures.

The following details minimum guidelines to assist the Security Officer in developing access control plans. These requirements do not preclude an office from instituting more stringent measures if deemed appropriate.

1. Property Control and Removal

Formal written procedures should be in place to control the access to and removal of federal property. Identifying federal property with labels, maintaining lists of accountable property, property pass plans, and periodic inventories are a few procedures that can assist an office in tracking federal property. Property pass procedures should be instituted for all property that is being removed from an office's premises. See also USTM 6-23 for detailed information on the property management program.

## 2. Control of Excess Equipment

Control of excess office equipment, such as typewriters and calculators, is important since they are frequently lost or stolen when not in use. Such losses often go undetected and are not reported until annual inventories are conducted. In these instances, law enforcement officials and Department property officers are unable to obtain useful information regarding the loss/theft of the property and the chances of recovery are greatly reduced.

## 3. Reporting Loss/Theft

It is the Security Officer's responsibility to find out the theft reporting procedures to be followed in his/her geographical area by consulting with the local GSA office and law enforcement agencies. After the appropriate reporting measures have been taken locally, all incidents of loss/theft must be reported to the Facilities Management Branch of the Executive Office. See USTM 6-23.3.3 for further information on reporting lost or stolen property.

6-21.5.3

### Telephone Procedures/Call Lists

Each office should have a list of emergency telephone numbers posted in an area visible to all employees, but not visible to the general public. Furthermore, all employees should receive a copy of this list to keep at their desks.

6-21.5.4

### Evacuation Plans/Occupant Emergency Program

In accordance with Department of Justice Order 2630.4C, Occupant Emergency Program, all buildings or facilities occupied by Department of Justice components must be covered by an Occupant Emergency Plan (OEP). The development of an effective emergency plan is essential to minimizing the risk to life and property.

In cases where Program personnel are the sole or primary federal tenant of a building, responsibility for developing and implementing an OEP

rests with the office. In facilities shared with other federal agencies, the responsibility rests with the organization having the largest number of employees in the facility.

The Facilities Management Branch of the Executive Office can provide guidance on the development of OEPs.

6-21.5.5 **Occupational Safety and Health Program**

An Occupational Safety and Health Program must be in place in each office to protect employees from unsafe and/or unhealthful working conditions and/or practices that may cause or contribute to occupational accidents or illnesses. Department of Justice Order 1779.2A, Occupational Safety and Health Program, sets the minimum standards that must be met; however, more stringent measures may be applied if appropriate.

6-21.5.5.1 **Occupational Safety and Health Coordinator**

The United States Trustee must appoint an individual in each office to serve as the Occupational Safety and Health Coordinator. Furthermore, a performance element regarding the Occupational Safety and Health Program must be added to the coordinator's performance work plan. A list containing the names, office locations, and phone numbers of the coordinators should be submitted to the Facilities Management Branch of the Executive Office and updated annually.

6-21.5.5.2 **Responsibilities**

Supervisors are reminded of the paramount importance of the health and safety of their employees. The appointment of an Occupational Safety and Health Coordinator (OSHC) for the office does not relieve them of their responsibilities for the safety and health of employees under their supervision. Every supervisor must work closely with the OSHC and should coordinate action/response to all reports on health or safety issues brought to their attention.

The OSHC is responsible for reading and carrying out the provisions of Department of Justice Order 1779.2A. Other key responsibilities of the



coordinator include, but are not limited to: ensuring that the "Job Safety & Health Protection" poster and OSHA regulations are posted permanently for all employees to see; conducting occupational safety and health self-inspections of the work site and facilities used by employees within their reporting area; maintaining copies of reports of these inspections, as well as copies of all yearly and/or semi-annual GSA inspections; reporting unsafe and unhealthful conditions immediately; developing and following up on abatement plans to resolve deficiencies noted in an annual inspection or employee report; maintaining the "Log of Federal Occupational Injuries and Illnesses" and posting the log for the calendar year for all employees to see; submitting a copy of the log, along with an annual narrative report on the office's Occupational Safety and Health Program to the Executive Office; posting incident reports for all employees to see; maintaining/retaining all records and reports for five years following the close of the calendar year; representing the office at safety, health, and fire prevention meetings to obtain information and provide input to improve the program; securing and distributing safety, health, and fire prevention literature and promotional material; attending safety and health seminars and training programs as applicable to the scope of the work environment; and conducting occupational accident investigations.

Employees shall observe and practice all oral and written safety and health procedures required for the tasks assigned for their safety and that of fellow workers and the public. Employees who become aware of an occupational safety or health condition that could reasonably be expected to cause injury or illness within the workplace are responsible for notifying their supervisor immediately. If an employee is involved in an accident involving personal injury, occupational illness, and/or property damage, he/she is responsible for the prompt reporting of all facts and circumstances surrounding the incident to his/her immediate supervisor. When circumstances do not permit the employee to make this report, any employee having knowledge of the accident must report the accident.

6-21.5.5.3 Other Federal Agency Standards Affecting Occupational Safety and Health

If there is a conflict between any applicable standards in these procedures/guidelines and Department of Justice Orders, or other federal agency standards, the Program will comply with the more protective of the conflicting standards until the conflict is resolved.

6-21.5.5.4 Inspections

All areas and operations of each workplace, including office operations, shall be inspected at least annually by the Occupational Health and Safety Coordinator. Unannounced inspections and follow-up inspections should be conducted to ensure the identification and abatement of hazardous conditions.

6-21.5.5.5 Employee Reports of Unsafe or Unhealthful Working Conditions

Each employee has the right and is encouraged to submit, without fear of reprisal, an oral (informal) and/or written report of any unsafe or unhealthful working condition. The employee should first communicate orally any such condition to his/her supervisor upon discovery of the unsafe or unhealthful condition, as well as to the office's Occupational Safety and Health Coordinator (OSHC). If action is not undertaken to correct the condition by the supervisor and no explanation is forthcoming, the employee can submit a written report to the Assistant Director for Administration and request inspection.

Each office's OSHC must maintain a log of all employee reports, including the date and time of the report, reference number, location, description, and classification of the condition (i.e., imminent, serious, or other), as well as the date and the nature of the action taken to correct the condition. If the classification is imminent, an inspection must be conducted within 24 hours of the report; a classification of serious, within 3 working days; and a classification of other, within 20 working days. However, if the condition can be corrected quickly through normal management action and prompt notification of the employee, an inspection may not be necessary.

The OSHC must respond to an employee's written report within 15 days of receiving the report, if the coordinator determines that there are no grounds for believing the condition exists and the coordinator does not plan to inspect based on the report. However, if an inspection is conducted for a reported safety or health violation, a copy of the inspection must be submitted to the employee within 15 days for a safety violation and 30 days for a health violation from the inspection completion date.

If an employee is not satisfied with the results/response to his/her written report, an appeal may be filed with the Assistant Director for Administration or directly with the Secretary of Labor, Occupational Safety and Health Administration.

#### 6-21.5.5.6

##### Accident Investigations

An investigation is required for, but not limited to, the identification of human and physical/environment factors; system deficiencies; and facts about causes of accidents involving any employee injury, occupational disease, or death while performing official duties; all known public injuries and property damages within jurisdictional administration of the Department; any fire; any motor vehicle accident; any other property under the control of the Department that is damaged by accident; and any accident resulting in a fatality or hospitalization of five or more employees.

The accident investigation report should include appropriate documentation, such as the date, time, location, weather (if applicable), a description of events, statements of employees and witnesses, and so forth. A copy of the accident investigation report should be filed and copies forwarded to the appropriate supervisor, the regional Occupational Safety and Health Coordinator, and the Assistant Director for Administration.

#### 6-21.5.5.7

##### Abatement Plan

The Occupational Safety and Health Coordinator (OSHC), along with the appropriate supervisor, must develop and implement an abatement action plan to resolve any unsafe and/or unhealthful working conditions

noted during an inspection, self-inspection, or employee report. The abatement plan must include any explanations of the circumstances that would cause a delay in correction greater than 30 days. The plan must also include steps to protect employees while the corrections are being implemented. Procedures (i.e., the abatement plan) for correcting unsafe and unhealthful conditions must also include a follow-up plan, to the extent necessary, to ensure that the corrections were accomplished. A copy of the abatement plan must be forwarded to the regional OSHC and the Assistant Director for Administration.

## 6-21.6

**ADP/TELECOMMUNICATIONS SECURITY**

The Program must be in full compliance with the requirements and controls specified in Public Law 100-235 (Computer Security Act of 1987); OMB Circular A-130 (Management of Federal Information Resources); Department of Justice Order 2600.2B (Security Programs and Responsibilities); Department of Justice Order 2640.2C (Telecommunications and Automated Information Systems Security); and Department of Justice Order 2830.1D (Automated Information Systems Policies).

In addition, all offices must comply with internal directives issued in support of these policies by the Executive Office. These policies will establish baseline security requirements to protect computer systems from threats in the areas of: theft/fraud/industrial espionage; hardware failure/alteration; software failure/alteration; unauthorized access to the facility/system; malicious physical damage; environmental physical damage; and, unintentional human error.

## 6-21.6.1

**Responsibilities**

## 6-21.6.1.1

**Security Programs Manager/Deputy Assistant Director for Information Systems**

The Security Programs Manager has delegated responsibility for the computer security program to the Deputy Assistant Director for Information Systems. Coordination of all security activities is handled by the Information Systems Division and all questions should be directed to that office.

**6-21.6.1.2**      United States Trustees/Security Officers

It is the responsibility of the United States Trustee, or his/her designated Security Officer, to ensure that all computer security measures are implemented, appropriate controls are in place, and corrective measures are initiated when violations are identified.

**6-21.6.1.3**      Case Managers

The Case Manager is tasked with the daily enforcement of security requirements in each region. These requirements include: controlling passwords; prohibiting the use of "imported" software or software acquired through other than normal government procurement processes; preventing unauthorized use of the system; reporting any suspected or known incident of unauthorized access to the Program's computer system or its data bases immediately to the Security Officer, the United States Trustee, and the Security Programs Manager; maintaining an inventory of all computer equipment; providing new employees with a basic computer security awareness briefing within 60 days of employment; and providing all employees with annual computer security awareness briefings.

**6-21.6.1.4**      Users

It is the responsibility of every system user to abide by all security measures established by the office and to protect the integrity of the information contained in any computer system. These responsibilities include: backing up individually assigned hard drives on a regular basis; storing backup diskettes in a secure place; refraining from use of personal, unauthorized, or unlicensed software on Program computers; reporting any suspected or known incident of unauthorized access to the Program's computer system or its data bases immediately to the Case Manager, Security Officer, and United States Trustee; and logging off his/her terminal every time it is left unattended.

**6-21.6.2**      Equipment Control

The System/36 or AS/400 CPU, as well as all terminals and printers, must be located within a controlled access area of an office. All offices

with CPUs must be equipped with locks to limit access only to authorized individuals. If a CPU is located in an open room, the CPU itself should be locked by use of its system key when it is not in use. Combination locks on doors that protect a computer must be changed at least every three months or at any time the combination has been disclosed to an unauthorized person. Finally, a current and complete inventory of all accountable computer property must be maintained by each office.

6-21.6.2.1 Password Access

Access to the System/36 and AS/400 is controlled by a user identification and password. The password should be randomly selected and must be changed at intervals not to exceed six months. Since an individual's user identification is commonly made up of his/her last name, upon termination of employment, that identification must be deleted from the system. Canceled passwords may not be reassigned for a period of at least two years. The Administrative Officer is responsible for advising the Case Manager of the forthcoming departure of any employee who may have had access to the computer system.

6-21.6.2.2 Menu Access

To control access within the Automated Case Management System (ACMS), the Case Manager should limit each user's access to specific ACMS menu options.

6-21.6.3 Equipment Removal

When hard drives must be removed from an office for repair or replacement, certain security procedures must be performed. The damaged disk should be overwritten using the WIPEDISK command (available on Norton Utilities Advanced Edition, Version 4.5) or a similar approved product so that at least three overwrites are performed. The Case Manager should inform the Information Systems Division of the Executive Office of such occurrences and should call for directions if needed.

Portable computers and printers are available within each region and the Executive Office for loan to employees performing official business outside the office. When connected to a computer system via modem, portable computers have all the capabilities of an on-site terminal and users bear the same privileges and responsibilities.

6-21.6.4 **Loss/Theft**

The loss or theft of ADP equipment must be reported in accordance with the procedures established at USTM 6-21.5.2 and 6-23.3.3. In addition, the loss or theft of ADP equipment which includes data, e.g., personal computers, must be immediately reported to the Case Manager, Security Officer, and the United States Trustee. Should the United States Trustee deem the data critical and/or sensitive, the loss or theft should be reported to the General Counsel and the Security Programs Manager immediately.

6-21.6.5 **Data Security**

All data should be secured against unauthorized access. Each office, in consultation with the United States Trustee, the Case Manager, and the Security Officer, should establish controls appropriate to the sensibility of the data. For terminal screens that can be viewed by persons outside of the office (such as a screen at a receptionist's desk), special security restrictions must be invoked to avoid the inadvertent disclosure of sensitive information. Whenever a terminal is left unattended for any period of time, the terminal must be logged off.

6-21.6.5.1 **Back-ups**

All ACMS system files and data files must be "backed-up" on a regular basis. Specifically, daily backups should be performed on the ACMS database with rotating copies. A complete system backup must be accomplished at least every three months, although more frequent backup is encouraged.

Backup tapes/diskettes must be stored in a locked, fireproof container or file cabinet. In addition, a set of backup tapes/diskettes must be stored off-site for safekeeping, rotating backup copies on at least a weekly

basis. The minimum retention period for daily backup tapes is two calendar weeks. Each daily backup for a given week must cumulate the preceding backups for that week. Extension of this retention period is a recommended local option.

The back-up of non-ACMS files and folders (such as text folders) should be completed regularly and stored in a manner similar to those suggested for ACMS backups. The frequency of these backups should be based on the importance of the information and the frequency of change to that information.

6-21.6.5.2 Index Listings

As a safeguard against prolonged system failure, the Case Manager must periodically create hard copy index listings that can be used to access case files and route requests for information and documents to appropriate office personnel.

6-21.6.5.3 Limited Official Use Data

All computer produced reports that contain sensitive information must be marked "Limited Official Use" and must be protected and destroyed in accordance with the provisions of Department of Justice Order 2620.7, Control and Protection of Limited Official Use Information. This includes shredding prior to disposal. Access to data file(s) must also be restricted. Additional information on LOU security requirements can be found at USTM 6-21.4. The Case Manager is responsible for assuring that the reports are marked, and the Security Officer is responsible for assuring that the recipients of all sensitive reports are advised of the provisions of Department of Justice Order 2620.7.

Information stored on a personal computer hard drive is also susceptible to access by unauthorized individuals. Sensitive information, such as criminal referral data, should be stored on removable storage media, e.g., diskettes or tape, and maintained in locked safes.

Computer equipment within the Program is not approved for the processing of National Security Information and must be labeled with



stickers that read, "Warning: This equipment is not approved for the processing of National Security Information."

6-21.6.5.4

Computer Security Incident Reporting

Uniform reporting requirements for telecommunication and automated information systems (TAIS) security incidents have been developed by the Department.

All TAIS security incidents, including virus infections, shall be reported immediately to the Security Programs Manager and the Deputy Assistant Director for Information Systems. Within ten working days of the incident's discovery, the regional Security Officer must provide a written report to the Department's Security Officer, as well as the Program's Security Programs Manager and the Deputy Assistant Director for Information Systems. The report must include the following elements: date and location of incident; point of contact; a description of the hardware, operating system, and software involved and a brief description of the information contained therein; a detailed accounting of the events leading up to the incident and the incident itself; the corrective actions taken; and an assessment of the damage caused.

6-21.6.6

Computer Security Training

6-21.6.6.1

New Employees

New employees must be provided with a basic computer security awareness briefing within the first 60 days of employment. The briefing should be conducted by the Case Manager and should address basic computer security guidelines and procedures expected of all employees.

6-21.6.6.2

Existing Employees

All employees must receive an annual computer security awareness briefing. The Case Manager, in coordination with the Information Systems Division of the Executive Office, should establish the objectives of these annual briefings.

6-21.7

**DISASTER RECOVERY/CONTINGENCY PLAN**

Each office must have a Disaster Recovery/Contingency Plan in place to ensure the effective and efficient return to operations of an office, with minimal disruption and loss of data, in the event of an emergency, flooding, or fire.

Each contingency plan should address the following issues: scope of the disaster; assumptions made; the emergency chain of command; the disaster recovery team and its responsibilities; employee notification procedures; hardware, software, furniture, telecommunications, and other equipment requirements for interim and recovery operations; strategies; and ultimately, testing to ensure the plan is functional and adequately supports the office in the event of a disaster. The plan should also have several alternative action plans available addressing various levels of disasters and time frames.

It is important to note that a Contingency Plan does not imply that during the duration of the plan the office is expected to run at full capacity (i.e., it may have only a skeleton staff of essential personnel reporting to work with only the most critical cases being maintained). It does, however, prioritize the functions that must continue in order not to jeopardize the office's mission until such time as full recovery can be accomplished.

Contingency plans must be reviewed on a regular basis, but no less than annually, to update any changes in personnel, technology, or other conditions in the plan.

**CHAPTER 6-22: FACILITIES MANAGEMENT**

6-22.1

**SPACE MANAGEMENT**

The goal of the space management program is to provide for the efficient use of space and to ensure a quality work environment while reducing the amount and cost of federal work space. The space program operates within the guidelines of the Federal Property

Management Regulations (FPMR), under the control of the General Services Administration.

6-22.2

**SPACE ACQUISITION**

The authority and responsibility for providing space to federal agencies rests with the General Services Administration (GSA). Through GSA, the Facilities Management Branch of the Executive Office will arrange for and manage the acquisition of space, provide information and guidance, and make recommendations to the United States Trustee and GSA. GSA must adhere to very stringent contracting and leasing regulations, such as the Competition in Contracting Act and the Federal Acquisition Regulations, in order to ensure approval of proposed space assignments during the final review by the GSA Legal Counsel and Competition Advocate. Program officials must also abide by those regulations, ensuring that procurement sensitive information about a specific leasing action (pricing, prospective sites, etc.) remains confidential to preclude jeopardizing the lease process. GSA is to be the sole contact with prospective lessors and contractors.

6-22.3

**SPACE PLANNING**

Planning for the utilization of space is a responsibility shared by the Executive Office and the office that will occupy the space. The Facilities Management Branch of the Executive Office is responsible for the acquisition, design, renovation, and maintenance of Program facilities. That Branch, in consultation with appropriate regional personnel, will develop space requirements, office space designs, and construction drawings for approved projects. The Facilities Management Branch is the primary contact with the General Services Administration (GSA), and that group will transmit all official documents, including revisions or changes to original submissions. The Facilities Management Branch may request the United States Trustee to participate with GSA in critical or long-range planning meetings or market surveys.

6-22.4

**APPROVAL TO ESTABLISH OR RELOCATE AN OFFICE**

The establishment of a new office or the relocation of an existing office must be requested by the United States Trustee with a justification that demonstrates the need for action. Requests are to be forwarded to the Assistant Director for Administration for consideration. Certain requests may require Congressional approval.

6-22.5

**OFFICE RENOVATIONS**

When it is determined that it is necessary to modify the existing space of an office to improve efficiency or meet the operational needs of the office, the United States Trustee is to submit a request, with a complete justification, to the Assistant Director for Administration for consideration.

6-22.6

**PARKING**

Parking for employee-owned vehicles is authorized for severely handicapped employees, United States Trustees, and Assistant United States Trustees. Requests for additional parking must include a complete justification and should be forwarded to the Assistant Director for Administration for consideration.

Effective January 1, 1994, employer-provided parking became a taxable employee benefit. Under the Energy Policy Act of 1992, all employees assigned a parking space that is funded by the Program are subject to a tax liability if the "fair market value" of the space exceeds the IRS established limit. This information is transmitted to the National Finance Center every six months for inclusion on W-2s at the end of the tax year.

6-22.7

**SMOKEFREE WORK ENVIRONMENT**

To protect employees from the health hazards caused by exposure to tobacco smoke, the smoking of tobacco products is prohibited in all offices and meeting areas. Smoke break areas may be designated only outdoors in areas away from common points of ingress and/or egress of the workplace.

## **CHAPTER 6-23: PROPERTY MANAGEMENT**

6-23.1

### **OVERVIEW**

Property management policies are governed by the Property Management Regulations found in chapters 101 and 128 of title 41, Code of Federal Regulations.

The Program maintains an inventory of accountable personal property on an office by office basis using bar codes and serial numbers. For the purpose of the Program's system, accountable personal property is property that is owned by the Government (other than land, buildings, and building fixtures) whose initial purchase price was greater than \$1,000, excluding furniture. In addition, due to the susceptibility of converting certain items to personal use, televisions, videocassette recorders, cellular telephones, and personal computers are also included in the definition, regardless of cost. Personal property does not refer to property owned by employees.

Although only accountable personal property is inventoried, sound management practices dictate that each region maintain a system of monitoring all property to ensure its proper use, maintenance, and protection.

6-23.2

### **RESPONSIBILITIES**

6-23.2.1

#### **Executive Office**

The Administrative Services Division of the Executive Office is responsible for the overall administration and control of the Program's accountable personal property inventory. An individual in that Division is designated as the Program's Property Management Officer and he/she is responsible for monitoring the activities of Property Custodians in each field office; providing liaison to the Justice Management Division's Property Management Service; and implementing and updating, as required, procedures that are in accordance with Department policies, directives, and sound property management practices.

6-23.2.2

**Field Offices**

The United States Trustee is the designated Accountable Officer for his/her region. He/she is responsible for the accountability of personal property, the supervision of property recordkeeping, and the certification of required inventory reports for all offices in the region.

A responsible individual in each office should be designated by the United States Trustee to serve as its Property Custodian. The Administrative Officer/Staff Assistant is usually appointed as the primary Property Custodian for the region, with responsibility for property management practices within his/her immediate office, as well as coordinating the activities of the Property Custodians in each of the sub-offices. The Property Custodian is responsible for the immediate physical custody of all property within the office, for providing the Accountable Officer with documentation on actions affecting property, and for ensuring that the property management policies and procedures as set forth by the Program are fully implemented and adhered to by all employees.

All employees and contractor staff must account for personal property issued to them. Failure to return or account for any personal property when an employee leaves the Program may delay payment of the employee's final salary check or may result in a claim against the employee.

6-23.3

**PROPERTY ACCOUNTABILITY**

All property received in an office should be verified and documented as appropriate. For accountable personal property (as defined above), this includes recording serial numbers, affixing bar code labels, and reporting to the Administrative Services Division of the Executive Office.

Though the Program's inventory of accountable property is based solely on office location, not individual designations, a Property Custodian may, at his/her option, implement the use of Form OBD-231, Custodial Receipt for Personal Property. If this system is used to assist with

property accountability, the Property Custodian must have the recipient of the accountable property sign the form.

6-23.3.1 **Physical Inventories**

Physical inventories are required to reconcile accountable personal property on hand with property management records. Inventories will generally be performed annually, but may be performed every two years. A memorandum from the Executive Office designating the time frame for inventoring and detailing the requirements of the inventory process will be issued as inventories are required.

6-23.3.2 **Property Control**

The Accountable Officer or Property Custodian shall control all property from its time of receipt and safeguard it from loss, theft, breakage, or undue deterioration until the property is removed, on proper authority, from his/her jurisdiction.

6-23.3.2.1 **Receipt of Accountable Personal Property**

Regardless of its source, all accountable personal property received in an office must be bar coded, its serial number and item description noted, and a report made to the Administrative Services Division of the Executive Office for inclusion in the automated property management system.

6-23.3.2.2 **Service or Repair of Personal Property**

Any item, regardless of value, that is temporarily removed from an office for service or repair must be properly documented to include the date of removal, the reason for removal, the name and address of the servicing company, the signature of the servicing company's representative, and the anticipated date of return. Proper follow-up to ensure the return of the item should be made and the documentation retained for recordkeeping purposes.

**NOTE:** Under no circumstances shall a service technician be permitted to remove a hard drive of a computer from the office for repair,

replacement, or disposal, until the security measures discussed at USTM 6-21.6.3 have been performed.

6-23.3.2.3

Replacement of Personal Property

If an accountable personal property item is broken and is replaced without charge by a vendor, the Property Custodian must affix a new bar code label to the replacement item and report both the old and new bar code numbers and serial numbers to the Administrative Services Division of the Executive Office for update of procurement records and the automated property management system.

For non-accountable personal property that is broken and replaced without charge by a vendor, the Property Custodian should comply with regional requirements on the administration of such property.

6-23.3.3

Reporting Lost or Stolen Property

In addition to the security requirements detailed at USTM 6-21.5.2, all loss, theft, damage, or destruction of personal property, regardless of its value, is to be reported to the Resources Division of the Executive Office. The United States Trustee, as the Accountable Officer and Security Officer for the region, should submit a memorandum documenting each incident and detailing the actions which have been taken within 24 hours of its discovery.

In addition, when loss, theft, damage, or destruction involves accountable personal property maintained on the automated property management system, a Form OBD-216, Report of Survey, must also be completed, any supporting documentation (e.g., police reports) attached, and the report forwarded to the Administrative Services Division of the Executive Office within 24 hours of discovery of the incident.

Department of Justice Order 2630.2A provides specific guidance on loss/theft reporting procedures.



6-23.3.4

Disposition of Personal Property

Maintenance of the automated property management system is handled directly by the Property Management Service of the Justice Management Division (JMD). Transfers of accountable personal property or requests for the disposition of any property should be handled directly with that office at Suite 1070, National Place, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

6-23.3.4.1

Transfer of Property Between Offices

All transfers of accountable personal property outside a Property Custodian's cost center, but within the United States Trustee Program, must be authorized and documented on a Form OBD-14, OBD Property Transfer Request. This form should be completed by the receiving office and forwarded to JMD's Property Management Service at the above address for modification of the automated property management system.

6-23.3.4.2

Excess Property

When it is determined that property, including furniture, supplies, and equipment, regardless of its value, is excess to the needs of an office or is beyond repair, a SF-120, Report of Excess Personal Property, must be completed and forwarded to JMD's Property Management Service at the above address.

The Property Management Service will determine whether or not the items are reportable to the General Services Administration (GSA). If not, they will issue disposition instructions within 30 days. If the property is reportable to GSA, the report will be forwarded to GSA who will make the property available to any government agency or, if acceptable, attempt to sell the property via auction. At the conclusion of this process, which may take from 30 to 60 days, GSA will issue disposition instructions on the reported property.

Only after disposition instructions have been received, can excess property be removed (i.e., destroyed, donated, or sold). No action can be taken with the property unless or until authorized by GSA or JMD's

Property Management Service. Once appropriate disposition instructions have been furnished, the property is then deleted from the inventory/accounting system.

## **CHAPTER 6-24: RECORDS MANAGEMENT**

6-24.1

### **OVERVIEW**

The United States Trustee should establish an active continuing program for the economical and efficient management of records within his/her region that complies with the standards prescribed in this chapter. The records and files of all offices should be maintained in a current and orderly manner. In addition, a well organized records retirement program should be in place, which will systematically save valuable office space, release file equipment for reuse, and make the utilization of needed records more efficient.

Detailed information on the policies and standards for the maintenance of official files, as well as records processing, classification, filing, and disposition, are contained in Department of Justice Orders 2710.3A.

6-24.2

### **FILE DESCRIPTION AND MAINTENANCE**

#### 1. Chapter 7

No Asset: No individual file folder should be created. Instead, offices should maintain filings in batches by court number sequence. The period of the batch file (monthly, bi-weekly, weekly, other) and the size of the folder should be determined by the United States Trustee, based on the volume of filings in a given judicial district. If a case becomes an asset case, an individual file folder should be created as described immediately below.

Asset: Individual case file folders should be created and shall contain all petitions, motions, reports, statements, schedules, and correspondence relating thereto. Each folder should display the

bankruptcy case number assigned by the Clerk of the Bankruptcy Court at filing.

2. Chapter 11

Individual case file folders should be created and shall contain all petitions, motions, reports, statements, schedules, and correspondence relating thereto. Each folder should display the bankruptcy case number assigned by the Clerk of the Bankruptcy Court at filing.

3. Chapter 12

No individual file folder should be created. The Clerk of the Bankruptcy Court will provide petitions and schedules directly to the chapter 12 standing trustee.

4. Chapter 13

No individual file folder should be created. The Clerk of the Bankruptcy Court will provide petitions and schedules directly to the chapter 13 standing trustee.

5. 180-Day/Semi-Annual Reports

Individual file folders should be created for each panel trustee and shall contain the two most recent 180-day/semi-annual reports, including all supporting documentation and correspondence relating thereto.

6. Criminal Referral Files

Criminal referral material that is not part of the case process is not part of the public record. It is investigative in nature and should be maintained in a secure area in a folder separate from the case file. Each folder should display the bankruptcy case number assigned by the Clerk of the Bankruptcy Court at filing. Investigative reports should be maintained in the file of the

United States Attorney to whom the matter is referred, or the file of the investigative agency which is conducting the investigation.

7. Administrative Files

Administrative files should be created as needed. Following are basic administrative files that United States Trustee offices could be using.

- Records Disposition Files
- Suspense Files
- Policy Memoranda Files/Handbooks
- Chronological Correspondence/FAX Files
  
- Personnel Files:
  - a. Office Personnel Files: Official Personnel Files are maintained in the Resources Division of the Executive Office. United States Trustee offices should not maintain separate "official" personnel files, and should forward all original personnel papers to the Resources Division. Duplicate "working" personnel papers may be maintained in United States Trustee offices; however, appropriate security measures must be taken to control access.
  - b. Position Descriptions
  - c. Performance Work Plans
  - d. Merit Promotion Matters
  - e. Employment Applications (Attorney/Non-Attorney)
  - f. Equal Employment Opportunity Complaints
  - g. General Personnel Correspondence, Reports, or Memoranda
  - h. Supervisor's "Work" File

-- Financial Files:

Most official financial files are maintained by the Justice Management Division and the Executive Office. With one exception noted below, United States Trustee offices should not maintain separate "official" financial files. Duplicate "working" financial papers may be maintained in administrative files in United States Trustee offices.

- a. Travel Authorizations/Vouchers
- b. Budget Allocation Information
- c. Earnings Statements
- d. Procurement Records
- e. Budget Logs (i.e., BPAs, etc.)
- f. Invoices
- g. Equipment/Furniture Inventories
- h. Property Disposal Matters (Surplus/Excess Property)
- i. Space Matters
- j. Time and Attendance Reports: This is the exception noted above. The paper copy of the T&A signed by the supervisor is the "official" file and it is to be maintained in United States Trustee offices.

-- Section 341 Meeting/Trustee Files:

- a. Calendars
- b. Rotations
- c. Exceptions to Rotations
- d. Reassignments

8. Section 341 Meeting Tapes

When Section 341 tape transcripts are made, the original is to be filed with the Clerk of the Bankruptcy Court and one copy filed with the appropriate United States Trustee case file. The transcript then becomes part of that file, subject to its chapter's disposition and destruction requirements.

6-24.3

**FILE DISPOSITION**

A revised Records Disposition Schedule has been approved by the Archivist of the United States, and remains in effect until a new schedule is issued. This schedule is the official authority to be used when retiring records to the Federal Archive Records Centers (FARC).

Pursuant to the approved schedule, only chapter 7 asset, chapter 11, panel trustee 180-day/semi-annual reports, and certain administrative files may be retired to the FARC. All other records are to be disposed of/destroyed by United States Trustee offices.

The FARC will not permanently retain any United States Trustee Program files, including those of significant historical value. If a case is to be retained permanently, it must be kept by the United States Trustee. Such cases must:

1. have a significant impact on statutes, rules or regulations, or law enforcement policies;
2. have actual or potential economic impact with specific effect on a particular industry; or,
3. have been the subject of intense public interest expressed by a demonstrated interest of a Congressional Committee or the Executive Office of the President, or have a high degree of national media attention.

Permanent retention should be rare. The first test to be met should be, "Is the official file in the Court's office sufficient, whereby retention by the United States Trustee would be redundant?"

Regulations also exist for records with national security classifications that require safeguarding in the interest of national defense. Although the likelihood of any Program office acquiring such records in a bankruptcy proceeding is rare, instances of this nature are covered by regulations found at Attorney General's Order No. 489-72 (28 C.F.R. §§ 17.74 to 17.77).

Department of Justice Order 2710.3A requires that, at least annually, offices pack and ship to the FARC cases and matters closed up to September 30 of the previous year. That order also describes the procedures for sending records to the FARC. When records have been boxed according to Order 2710.3A and accession numbers have been requested from the FARC, shipping authority may be requested from the Administrative Services Division of the Executive Office.

1. Chapter 7

No Asset: Files are not retired to a FARC; they are to be destroyed by United States Trustee offices. See Item 1 at USTM 6-24.4 for destruction guidance.

Asset: Files are to be retired to the FARC no sooner than six months after the case is closed by the court.

2. Chapter 11

Files are to be retired to the FARC no sooner than six months after dismissal or confirmation.

3. Chapter 12

For purposes of providing guidance to chapter 12 trustees, these are records of the chapter 12 trustee and they may not be retired to a FARC. See Item 3 at USTM 6-24.4 for destruction guidance.

4. Chapter 13

For purposes of providing guidance to chapter 13 trustees, these are records of the chapter 13 trustee and they may not be retired to a FARC. See Item 4 at USTM 6-24.4 for destruction guidance.

5. 180-Day/Semi-Annual Reports

Files beyond the two most recent reports are to be retired to the FARC. Eligible reports should be transferred annually or upon accumulation of one cubic foot.

6. Criminal Referral Files

Files are not retired to a FARC; they are to be destroyed by United States Trustee offices. See Item 6 at USTM 6-24.4 for destruction guidance.

7. Administrative Files

Item 7 at USTM 6-24.4 provides guidance on the destruction of administrative files that are not retired to a FARC.

- Records disposition files are not retired to a FARC. They are an office's documentation and cross-reference check on what has been sent to a FARC. To retire these records would serve no useful purpose, and may even be counterproductive.
- Suspense files are not retired to a FARC.
- Policy memoranda files/handbooks are not retired to a FARC.
- Chronological correspondence/FAX files: Refer to specific subject areas in OBD 2710.4A.
- No personnel files maintained by United States Trustee offices are "official" files and, therefore, are not retired to a FARC.
- With the exception of time and attendance reports, official financial files are generally not maintained by United States Trustee offices and, therefore, files of this nature are not retired to a FARC. Even though the



official time and attendance report file is maintained by United States Trustee offices, they are not retired to the FARC.

-- Section 341 meeting/trustee files are not retired to a FARC.

8. Section 341 Meeting Tapes

Tapes of meetings are to be retained for a period of two years from the date of the section 341 meeting.

Tapes may be retained for a longer period of time than specified above if the United States Trustee determines that retention is useful for one or more of the following:

- a. collecting estate assets;
- b. determining the appropriateness of discharge;
- c. obtaining relevant information about the affairs of the debtor;
- d. investigating the debtor's organizational structure;
- e. fixing professional compensation; or
- f. investigating/prosecuting criminal conduct, including, but not limited to, perjury.

If tapes are retained past the two-year retention period, they may be erased or destroyed whenever the United States Trustee determines that the basis for retention no longer exists. Any section 341 meeting tape recording needed for further use, i.e., criminal proceedings, is to be officially transcribed and made part of the relevant case file. The original is to be filed with the Clerk of the Bankruptcy Court and one certified copy is to be placed in the United States Trustee case file.

9. Other

Refer to OBD 2710.4A (Sept. 21, 1989), General Records Schedule (Transmittal #1, August 10, 1988).

6-24.4

**FILE DESTRUCTION**

All sensitive or other records which, in the opinion of the United States Trustee, require destruction to avoid the disclosure of information must be disposed of by burning, shredding, or some other equally complete method of destruction. Non-sensitive or unclassified material is considered destroyed when placed in trash receptacles.

1. Chapter 7

No Asset: The United States Trustee's office shall destroy the file after reviewing the trustee's no-asset report.

Asset: The FARC will destroy the case file three years after the case is closed.

2. Chapter 11

The FARC will destroy the case file three years after dismissal or confirmation.

3. Chapter 12

The United States Trustee's office shall destroy the case file six months after the entry of an order dismissing the case or the entry of an order confirming a chapter 12 plan, whichever occurs first.

4. Chapter 13

The United States Trustee's office shall destroy the case file after the expiration of the thirty-day period following the entry of an order dismissing the case or the entry of an order confirming a chapter 13 plan, whichever occurs first.

5. 180-Day/Semi-Annual Reports

The FARC will destroy the files when the most recent 180-day report is five years old.

6. Criminal Referral Files

The United States Trustee's office shall destroy the file five years from the date of the finding of insufficient evidence, declination of prosecution, or the voting of a True Bill/No True Bill by a Grand Jury.

7. Administrative Files

Generally, office administrative files shall be destroyed when two years old or when no longer needed, whichever is sooner.

- Records disposition files: Destroy when related records are destroyed or when no longer needed for administrative or reference purposes.
- Suspense files: Destroy notes, reminders, and extra copies of documents immediately after action is taken. Suspense documents which are the "file" copy should be immediately incorporated into the subject file.
- Policy memoranda files/handbooks: Those relating to routine administrative functions are to be destroyed when superseded or obsolete.
- Personnel Files:
  - a. Office Personnel Files: Destroy three years after separation or transfer of employee.
  - b. Position Descriptions: Destroy two years after position is abolished or a superseding position description is issued.
  - c. Performance Work Plans: Destroy two years after position is abolished or a superseding performance work plan is issued.
  - d. Merit Promotion Matters: Destroy after OPM audit or when two years old, whichever is earlier.
  - e. Employment Applications (Attorney/Non-Attorney): Destroy upon receipt of OPM

inspection report or when two years old, whichever is earlier.

- f. Equal Employment Opportunity Complaints: Destroy one year after case resolution.
- g. General Personnel Correspondence, Reports, or Memoranda: Destroy after three years.

-- Financial Files:

- a. Travel Authorizations/Vouchers: Destroy when three years old.
- b. Budget Information: Destroy one year after the fiscal year covered by the budget.
- c. Earnings Statements: Destroy after GAO audit or when three years old, whichever is sooner.
- d. Equipment/Furniture Inventories: Destroy two years from date of list, but only if a subsequent inventory has been taken.
- e. Time and Attendance Reports: Destroy after GAO audit or when three years old. Destruction must be by shredding or burning.

-- Section 341 meeting/trustee files: Destroy internal administration records and calendars, schedules, logs, etc. after two years where substantive information is involved or, if the records contain no substantive information, when no longer needed.

8. Section 341 Meeting Tapes

When the quality of a tape is too poor for reuse, it should be discarded after the expiration of the retention period. Because all section 341 meetings recorded on these tapes are matters of public record, there is no need to follow any security procedures when discarding useless tapes.

9. Other

Refer to OBD 2710.4A (Sep. 21, 1989), General Records Schedule (Transmittal #1, August 10, 1988).

10. Non-Record Files

Material such as obsolete forms, publications, Federal Supply Schedules, extra copies of correspondence, and duplicate copies may be destroyed without authority by United States Trustee offices.

**CHAPTER 6-25: COMPUTER SYSTEMS MANAGEMENT**

6-25.1

**OVERVIEW**

Computer systems are critical to the mission of the Program, and the effective management of these systems is essential. The Information Systems Division of the Executive Office provides technical direction and management for all computer systems. These responsibilities include information systems planning, development, acquisition, maintenance, training, technical support, and evaluation. The Information Systems Division works with the United States Trustees, Case Managers, and other officials to carry out this responsibility.

6-25.2

**POLICY**

Computer systems are governed by four primary directives: the Federal Information Resources Management Regulations (FIRMR); Office of Management and Budget Circular A-130, Management of Information Systems; Department of Justice Order 2640.2C, Telecommunications and Automated Information Systems Security; and Department of Justice Order 2880.1, Information Resources Management Program. All automation policies and directives are established pursuant to these documents.

Information relating to the security of ADP/telecommunications systems is detailed at USTM 6-21.6.

6-25.3

**COMPUTER SYSTEM LIFE CYCLE MANAGEMENT**

The Information Systems Division facilitates the development of a computer system from inception throughout its useful life. Executive Office and regional personnel are integral to this process as sponsors or users of a system. The objective is to provide computing support that allows each employee do the best job possible.

6-25.3.1

**Acquisitions Management**

The Department's Justice Management Division (JMD) requires the submission of a strategic automation plan, that is updated every five years, and an annual tactical plan. The Information Systems Division of the Executive Office is responsible for the development of both plans in conformance with the goals, objectives, priorities, and initiatives relating to information management. These plans play an important role in budget formulation and form the foundation for Automated Information Systems (AIS) acquisitions. JMD must approve all AIS acquisitions in excess of \$25,000, and any deviations from either of the plans requires detailed justification.

AIS planning must also include computer accommodations for the disabled. The 1990 Americans with Disabilities Act mandates that all federal agencies provide handicapped and non-handicapped employees equivalent access to electronic office equipment to the extent the required accessibility can be provided by industry.

6-25.4

**REQUESTS FOR EQUIPMENT AND SERVICES**

Requests for computer equipment or services must be reviewed by the Information Systems Division for technical merit, security impact, cost effectiveness, as well as compliance with automation objectives. The Information Systems Division will work with the Administrative Services Division of the Executive Office on all ADP equipment and service purchases.

**6-25.4.1      Inventory Management**

The Information Systems Division of the Executive Office maintains a computer equipment inventory as a subsidiary to the master accountable property inventory managed by the Administrative Services Division. An update of all computer equipment and software is required annually. Whenever computer equipment is acquired, moved to a new location, or recommended for excess, the change must be reflected in regional inventory records for reporting at the annual update. See also USTM 6-23 for additional information on property management.

**6-25.4.2      Operational Services****6-25.4.2.1      Automated Case Management System (ACMS) Maintenance**

The Information Systems Division manages the nationwide contract for the ACMS and hotline support. The telephone number for the HAZMED hotline is 202-616-0888.

**6-25.4.2.2      Liaison with the Court Interface Project Teams**

The Information Systems Division maintains a reimbursable agreement with the Administrative Office of the U.S. Courts for support of the court interface project. NIBS and BANCAP project teams are responsible for liaison with bankruptcy court system administrators, the Information Systems Division, and Case Managers to ensure that data can be passed electronically from the courts to ACMS.

**6-25.4.2.3      Data Communications Management**

Requests for new or modified data communications services should be submitted to the Facilities Management Branch of the Executive Office, who will coordinate with the Information Systems Division.

**6-25.4.2.4      Office Relocations**

The Information Systems Division provides consulting services for office relocations as they relate to computer operations. This includes

computer design reviews and procurement support for new equipment or services.

6-25.4.2.5 Legal Research Services

The Information Systems Division coordinates technical and administrative matters for automated legal research. Questions regarding WESTLAW usage, new user identification numbers, training, WESTLAW software, or other legal research services should be directed to the Information Systems Division.

6-25.4.2.6 Internet Access

An Internet identification will be provided to the United States Trustee, with no charge to any regional budget allocation. Requests for Internet ID's for all other personnel will be honored provided the cost is deducted from a regional budget allocation.

Requests for Internet ID's should be made in writing to the Deputy Assistant Director for Information Systems and should include the name, title, office address, and telephone number of the user.

6-25.5 OFFICE RELOCATIONS

There are three major tasks related to the movement of computer equipment when an office relocates: design and layout; cabling and telecommunications planning; preparing equipment for relocation; and restoring operations. The Case Manager should contact the Information Systems Division for technical assistance and coordination of the relocation of computer equipment.

6-25.5.1 Design and Layout and Cabling and Telecommunications Planning

Prior to any office relocation, a General Services Administration architect will prepare an electrical, telephone, and furniture layout. These layout designs should be used to plan the placement of all computer equipment, including printer sharing devices. The Facilities Management Branch of the Executive Office should be contacted as



soon as possible to coordinate the completion of these drawings so that the general contractor has all the necessary information.

6-25.5.2

**Preparing Equipment for Relocation**

All IBM System/36 operating software and utilities, document folders, security and resource files on the IBM tape unit, and individual personal computers should be backed up prior to moving any equipment.

The Case Manager should coordinate this effort, obtaining guidance from the Information Systems Division of the Executive Office as needed. All backups should be maintained in a safe place during a relocation.