

## FAQ Introduction

We have collected a set of questions our office receives about performance management and related topics. The primary audience for this compilation of questions and answers are agency human resources offices and performance management program managers. These are the same group of questions that are available as Frequently Asked Questions on OPM's performance management website. The questions are divided first into two major types of questions' general questions and technical questions, and then into topical sections within each type. If you have additional questions about performance management and incentive awards topics that are not answered here, you may contact us at 202-606-2720 or email us at [performance-management@opm.gov](mailto:performance-management@opm.gov).

# Table of Contents

## General Questions

<a href="#">Appraisal Systems and Programs</a>	1
<a href="#">Appraisal Program Requirements/Flexibilities</a>	3
<a href="#">Performance Elements</a>	6
<a href="#">Summary Levels</a>	10
<a href="#">Performance Management and Employee Involvement</a>	15
<a href="#">Managing Team Performance</a>	15
<a href="#">General Awards</a>	19

## Technical Questions

<a href="#">Appraisal System Approval</a>	21
<a href="#">Appraisal System Descriptions</a>	23
<a href="#">Appraisal Program Transitions</a>	24
<a href="#">Performance-Based Actions</a>	28
<a href="#">Performance Plans</a>	30
<a href="#">Performance Management and Negotiability Issues</a>	32
<a href="#">Performance Management and Within-Grade Increases</a>	34
<a href="#">Performance Management: Record Keeping and Reporting</a>	36
<a href="#">Performance Crediting and Reduction in Force</a>	38
<a href="#">Performance Management and Quality Step Increases</a>	45
<a href="#">Performance Awards (Rating-Based Awards)</a>	46
<a href="#">Awards Information</a>	48
<a href="#">Honorary Awards and Informal Recognition Awards</a>	51
<a href="#">Time-off Awards</a>	55
<a href="#">Awards Limitations</a>	57

# General Questions

## Appraisal Systems and Programs

*Federal agencies are required to establish employee performance appraisal systems. Some frequently asked questions about Federal employee appraisal systems and related appraisal programs include:*

- 1. What's the difference between an appraisal system and an appraisal program?**

An appraisal system describes the general policies and parameters for the administration of performance appraisal programs in the agency. An appraisal program is the specific procedures, methods, and requirements for planning, monitoring, and rating performance. To demonstrate the relationship between a system and a program, an analogy using the construction of a house might be helpful. The system could be compared to making the outer structure of the house (the foundation, outer walls, and roof), which establishes the boundaries for the rest of the construction. The program could be compared to building the rooms within the house. The rooms have to be within the boundaries of the outside walls, but there is some freedom to place the walls and vary room sizes to fit the needs of the family who will live there. Programs operate the same way. They have to be designed within the boundaries of the system but can be tailored to the needs of the organization.
- 2. Can an agency have more than one appraisal system?**

Yes. Federal employee appraisal law (section 4302(a) of title 5, United States Code) requires Federal agencies to establish one or more appraisal systems. If an agency finds a need to describe different general policies and parameters for different groups of employees who are not in the Senior Executive Service (SES), it can develop more than one appraisal system. However, the Office of Personnel Management anticipates that most agencies will not find it necessary to develop more than one set of general policies and guidelines. If an agency believes it needs to develop multiple systems, its designated representative should call the agency's performance management contact in the Office of Personnel Management to discuss the agency's special needs.
- 3. Can an agency develop more than one appraisal program?**

Yes. Agencies can authorize the development of separate appraisal programs under the framework of their appraisal system. This would allow their various subcomponents or subpopulations to determine how best to address their needs and cultures and more effectively manage individual and organizational performance by tailoring specific appraisal procedures and requirements to mission and work technology.

4. What distinguishes one program from another?
- At a minimum, these three features must have a single definition for each program:
- employee coverage,
  - appraisal period length, and
  - pattern of summary levels for ratings of record.

If multiple definitions are intended for any one of these features, separate programs must be established.

5. Can a program include more than one pattern of summary levels for ratings of record?
- No. Each program must use a single pattern of summary levels. To use different summary patterns, agencies must define separate programs and employee coverage to which a single pattern applies. However, more than one program can use the same summary pattern. Within any program, with its single summary pattern, more than one derivation method to assign the summary level can be used. Also, different approaches for using elements to plan and appraise performance can be accommodated under the same summary pattern.

## Appraisal Program Requirements/Flexibilities

*Federal employee appraisal regulations are designed to give agencies the flexibility they need to design appraisal programs that meet their needs. Some frequently asked questions about program design requirements include:*

6. Does an agency have to have written performance appraisals for its employees?

The regulations read “written, or otherwise recorded.” This language was chosen very deliberately to allow for use of the newer electronic formats available today. Although agencies do not have to write performance appraisals on paper, the appraisals must be recorded in some way and agencies must be able to produce a paper copy, if needed. Purely oral appraisals would not meet the regulatory requirement.
7. Can an agency **assume** that most employees are performing at an acceptable level (i.e., rate by exception)?

No. The statute requires that each employee be appraised against his or her performance standard(s). It does not allow for appraising an employee by “presuming” that an employee is meeting performance standards. For the same reason, the process for appraising employees described by the regulations at part 430 of title 5, Code of Federal Regulations, does not provide for any “assumed” levels of performance. However, this requirement to rate should not be interpreted as a requirement to generate lengthy written justification of element appraisals and summary level assignment. Agencies may choose to make recording the determination that performance meets the *Fully Successful* standard a very simple procedure.
8. What is the maximum length allowable for appraisal periods?

Technically, there is no maximum length. The regulations specify that appraisal periods shall generally be designated so that employees are provided a rating of record annually. Also, the legislative history of the Civil Service Reform Act of 1978, the statute that prescribes the current performance appraisal system, indicates that Congress expected appraisals to be done annually. In addition, an important consideration when choosing the length of the appraisal period is its relation to the annual rating of record required for reduction in force purposes. Agencies must look at the nature of the work done by various organizations and determine what length of time is appropriate as the basis for measuring employee performance. Agencies are encouraged to designate a single appraisal period (i.e., 1 year) as the standard appraisal period throughout the agency, with the built-in flexibility to accommodate individual or mass transitions between programs. Otherwise, an agency system must define any limits (maximum length, minimum length, or acceptable range) within which it will permit appraisal programs to select their appraisal periods.

Furthermore, agencies may establish different appraisal **cycles** (starting and ending dates) for different employees under the same appraisal **period**.

9. Are there any length requirements or limitations for the program's minimum period (i.e., the length of time before a performance rating can be prepared)?

No. An agency program must specify the length of its minimum period and that minimum must fall within any limits established by the agency appraisal system. However, the outcomes of performance appraisals are applied in other personnel areas, and these applications create some practical limits for minimum periods.

For example, the regulations and statutory waiting periods for granting the within-grade pay increase for General Schedule and Prevailing Rate System employees rely on a determination that the employee's performance merits the pay adjustment. Prevailing Rate System employees with a work performance rating of satisfactory or better are advanced from step 1 to step 2 after 26 weeks, which implies that their performance must be ratable before that. Consequently, and without taking into consideration the nature of the work itself, the practical outside limit for the minimum period for prevailing rate employees is roughly 180 days.

In addition, the minimum period is one of the program features that may be subject to third-party review. Agencies are advised to be careful in determining the time limits to be used and avoid setting minimum periods that might be judged unreasonably short.

10. Does an agency have to establish a performance plan and prepare a summary rating for an employee who goes on detail for 120 days or more?

Regulations do not require that performance plans be established or performance ratings be provided for employees on detail. Agencies must determine how they will capture information about employee performance while on detail and how they will consider it in producing the rating of record.

11. The 1995 regulations removed many of the procedural requirements that were there before; does that mean that an agency can no longer follow such practices or that the Office of Personnel Management no longer supports them as tools to help administer performance management?
- No. The Office of Personnel Management removed many of the procedural requirements from the regulations because in the spirit of decentralization they no longer need to be presented as **Governmentwide requirements**. These practices can be just as valid to some organizations as they always have been. Their removal from the regulations in no way implies that the Office of Personnel Management no longer considers them good practice. However, their removal does free agencies to try other alternatives in their appraisal programs to find those that work best for them.
12. Can an agency program require higher-level review of all employee performance plans?
- Yes. Pre-1995 regulations required higher-level review of employee performance plans but the 1995 regulations no longer require this review Governmentwide. However, many agencies have retained the higher-level review process in their programs because this level of review has worked well for them in the past and there is no reason or requirement to discontinue it.

## Performance Elements

*Under the Federal employee performance appraisal regulations, performance elements are work assignments or responsibilities that are used to plan, monitor, and appraise employee and group performance. A few of the most frequently asked questions about performance elements include:*

- 13.** What kinds of performance elements can agencies use in employee performance plans? The regulations specify three types of performance elements:
- critical elements,
  - non-critical elements, and
  - additional performance elements.
- 14.** What is a critical element? A critical element is a work assignment or responsibility of such importance that unacceptable performance on that element would result in a determination that an employee's overall performance is unacceptable. The regulations require that employees have at least one critical element in their performance plans. Critical elements must address performance at the individual level only.
- 15.** What is a non-critical element and how can it be used in the performance appraisal process? A non-critical element is a dimension or aspect of individual, team, or organizational performance, exclusive of a critical element, that is used in assigning a summary level. It may include, but is not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance. Its use is optional but, if used, it must be expressed as an element and standard, be included in the employee's performance plan, and be used in assigning a summary level for the rating of record. However, a non-critical element cannot be used as a basis for taking a performance-based action. Other features of non-critical elements include:
- non-critical elements cannot be used in two-level appraisal programs (i.e., pass/fail);
  - non-critical elements can be given more weight than critical elements when assigning a summary level above *Unacceptable* (Level 1); and
  - while a non-critical element must have a performance standard written for at least one level, the written standard need not describe the *Fully Successful* or equivalent level.



16. Can an agency appraisal program provide for appraising non-critical elements at the *Unacceptable* level?
- Yes. Writing a performance standard for a non-critical element at the *Fully Successful* level and appraising that element at only two levels (e.g., *Fully Successful* and *Unacceptable*) has been done for some time and can result in an employee being appraised as *Unacceptable* for that element. When a non-critical element is appraised at the *Unacceptable* level, it usually causes the summary rating of record to be lowered from what appraisal on only the critical elements would merit. However, a non-critical element appraised at the *Unacceptable* level can **not** lower the summary level to Level 1 or be the basis for a performance-based action under parts 432 or 752 of title 5, Code of Federal Regulations. Also OPM encourages agencies to change the focus of their non-critical elements to more effectively use them to set goals and results-measures that distinguish among higher levels of performance above *Fully Successful* or equivalent.
17. Why can't a pass/fail appraisal program use non-critical elements?
- A non-critical element, by definition, must be used in assigning a summary level and in the application of a Pass/Fail summary program, this cannot be done. The reason it cannot is because the only way a Level 1 summary can be assigned is when performance on a critical element is *Unacceptable*, no matter what the performance on any non-critical element. Therefore, pass/fail appraisal and non-critical elements cannot be used together.
18. What is an additional performance element?
- Additional performance elements provide agencies another tool for communicating performance expectations important to the organization. In essence, they are dimensions or aspects of overall performance that the agency wishes to communicate and appraise, but which **will not be used in assigning a summary level**. Such additional elements may include objectives, goals, program plans, work plans, and other methods of expressing expected performance. Like non-critical elements, they do not have to be appraised at any particular level. Their major distinctions from non-critical elements are that they can **not** be used in assigning a summary level and additional performance elements do not require a performance standard. They allow agencies to factor group or team performance into the performance plan of employees under two-level (Pass/Fail) summary appraisal programs.

**19.** If additional performance elements are not used in assigning a summary level, what purpose do they serve?

Additional performance elements allow employee performance plans to communicate a fuller picture of the performance that is expected. This can be particularly important in two-level (Pass/Fail) summary level programs, which may only use critical elements that appraise individual-level—or individually-controllable—performance to assign a summary level. By using additional performance elements to set expectations for and appraise group and organizational goals and results, an agency can answer many of the criticisms of the Pass/Fail approach, the most common of which concern its apparent focus on mediocre performance and failure to emphasize and reward excellence.

The inclusion of additional performance elements encourages a dialogue among supervisors, employees, and peers that might not have taken place if they had not been included in a performance plan or goal statement. An agency could include items that employees are not ready to have affect their ratings of record, but which may be used in the future as non-critical elements. One example would be appraising “team interaction” in a group that has not had sufficient time or experience with such concepts and behaviors. Because no standard is required, additional performance elements also might be appropriate when the organization has not decided what measurements are valid or who is the most credible rater(s).

Lastly, assessments on additional performance elements that make distinctions above the *Fully Successful* or equivalent level may be used as the basis for granting awards. Such a use of additional performance elements is a perfectly reasonable way to meet the legal requirement at section 4302(a)(3) of title 5, United States Code, to “use the results of performance appraisals as a basis for rewarding employees.”

**20.** Can an additional performance element include individual performance?

Yes. Additional performance elements (e.g., stretch goals, extra credit for special projects, published customer service standards) can address individual or group performance, whichever is the most appropriate to the agency’s mission, goals, and culture.

- 21.** Since they can't affect the summary level, can an agency use additional performance elements instead of non-critical elements in a Pass/Fail program?
- Yes. Within a Pass/Fail summary program, additional performance elements can be used in ways otherwise usually associated with non-critical elements.
- 22.** Can an agency appraise an element at a performance level more than one level from the level at which a standard is established?
- Yes, provided the agency program provides for such levels to be assigned. That is, an element cannot be appraised at *Outstanding* based on a standard established at the *Fully Successful* level if the applicable program only provides for appraising elements at *Unacceptable* and *Fully Successful*.

## Summary Levels

*Federal employee performance appraisal regulations require that employees periodically be assigned a summarizing rating that describes their performance throughout the entire appraisal period compared to the elements and standards established in their performance plans. This summarizing rating is called a rating of record and is described using summary levels, which can be one of five levels (Levels 1 through 5, with 1 being **Unacceptable**, 3 being **Fully Successful** or equivalent, and 5 being **Outstanding** or equivalent.) A few of the most frequently asked questions about summary levels include:*

23. Are the performance rating, the rating of record, and the summary level the same thing?
- No, but they are very similar. A performance rating is the appraisal of the employee's performance compared to the elements and standards established in the performance plan. The rating of record is a specific performance rating done at the end of the appraisal period that includes the appraisal of the elements and standards and also must include the assignment of a summary level (Levels 1-5). Performance ratings done at times other than the end of the appraisal period (such as at the mid-year review, for promotion panels, or similar situations) do not require a summary level to be assigned, although one is permitted. So, while the rating of record is often associated only with the summary level that is assigned as part of the process, it actually goes beyond that and provides a written, or otherwise recorded, record of the employee's performance on all elements in the performance plan during the applicable appraisal period.
24. Must an agency assign a summary level?
- Yes. When the rating of record is completed at the end of the appraisal period, a summary level must be assigned. The principal reason for this requirement is that several other personnel systems and actions rely on the rating of record as a trigger or threshold (e.g., granting within-grade increases, noncompetitive promotions) or as an otherwise necessary input (e.g., for granting additional service credit in a reduction in force (RIF)). Agencies may use between two (Levels 1 and 3) and five (Levels 1, 2, 3, 4, and 5) summary levels, or a specified combination in between, as permitted by the agency's performance appraisal system and specified in the applicable appraisal program.
25. When can a summary level be assigned?
- A summary level **must** be assigned when the rating of record is prepared at the end of the appraisal period. A summary level can be determined at any time agencies deem appropriate and specify in their appraisal programs (e.g., performance rating, progress review). However, the ways in which summary levels are applied (e.g., granting within-grade increases and additional service credit in a reduction in force) are always in the context of the rating of record.

26. Can one agency subcomponent use two summary levels and others use three or more (up to five)?

Yes. So long as the applicable agency performance appraisal system provides for it, subcomponent programs may use any pattern of summary levels permitted by regulation. The Office of Personnel Management cautions agencies and their subcomponents to ensure that their applicable performance appraisal programs explicitly state the pattern used, including their numeric rating-level designators and equivalent terms.

The summary level patterns allowed by regulation are:

Pattern	Summary Level				
	1	2	3	4	5
A	X	----	X	----	----
B	X	----	X	----	X
C	X	----	X	X	----
D	X	X	X	----	----
E	X	----	X	X	X
F	X	X	X	----	X
G	X	X	X	X	----
H	X	X	X	X	X

27. When designing a method to assign the summary level, do critical elements have to weigh more than non-critical elements?

Only when determining *Unacceptable* performance. The appraisal regulations permit non-critical elements to have a greater weight in determining the final summary level for an employee when assigning levels **above Level 1**. However, if performance on any critical element is appraised as *Unacceptable*, a Level 1 summary **must be** assigned and performance on a non-critical element can not be used to raise that summary above Level 1, no matter the weight it might receive in other circumstances. Also, any performance-based adverse action may be based only on a determination that performance is at the *Unacceptable* level on a critical element.

28. Does an employee have to have a performance rating or a rating of record of *Unacceptable* before a performance-based action can be taken?

No, not at all. Both a performance rating and a rating of record involve the evaluation of an employee's performance against **all** the elements and standards in the performance plan. At any time during the appraisal period, an agency can make the **determination** that an employee's performance is unacceptable on **one** or more critical elements. This determination is sufficient to begin the process that could lead to a performance-based action if the employee's performance fails to improve to an acceptable level.

29. Must the rating of record be derived and the summary level assigned only on the basis of appraisal of elements and standards in the employee's performance plan?
- Yes. The statute at section 4302(b)(3) of title 5, United States Code, requires that employees be evaluated against their performance standards.
30. Can an agency assign a summary level below Level 3 (*Fully Successful* or equivalent) if all an employee's critical elements are appraised as *Fully Successful* or better?
- Yes, as long as it does not result in assigning a Level 1 (*Unacceptable*) summary. However, the Office of Personnel Management advises agencies that use non-critical elements to measure group or organizational performance to stipulate that if all of a non-supervisory General Schedule employee's critical elements and individual-level non-critical elements are appraised at least *Fully Successful*, the summary rating of record must be at least Level 3. This would prevent a within-grade increase being withheld on the basis of performance on a non-critical element measured at the group or organizational level, where the denial might not be upheld if appealed to the Merit Systems Protection Board.
31. Why does the Office of Personnel Management require programs to include the Level 1 (*Unacceptable*) summary?
- The law at chapter 43 of title 5, United States Code, clearly intends that through their appraisal systems and programs, agencies will be able to identify and deal with employees whose performance is unacceptable. Permitting agency programs to eliminate the use of the designation *Unacceptable* would violate the intent of this law. Statute defines unacceptable performance as failure to meet established performance standards in one or more critical elements. Regulation defines a critical element as having such importance that unacceptable performance on a critical element results in a determination that overall performance is unacceptable. Therefore, Level 1 is reserved to designate unacceptable overall performance.
32. Why does the Office of Personnel Management require higher-level management review of a Level 1 (*Unacceptable*) rating of record?
- An *Unacceptable* rating of record bars granting step increases, may result in a performance-based adverse action, and removes retention rights in a reduction in force. For these reasons, there must be an extra measure of assurance that a Level 1 rating of record has been properly assigned. The requirement for higher-level review of a rating of record that could have significant consequences for the employee is a prudent measure of protection for employees.

33. Is higher-level review required for ratings of record above Level 1? Higher-level review of ratings of record above Level 1 is not a Governmentwide requirement. However, many agencies may decide that higher-level review is a good practice and provides a measure of fairness. In establishing how ratings of record will be derived, agencies must ensure that equity or fairness issues are addressed so that the results of the process are credible and accepted. Here again, employee involvement in developing program procedures can help promote such acceptance.
34. Why doesn't the Office of Personnel Management allow an agency to use Level 2 as the "pass" level in a program with two summary levels? The Level 2 summary rating was never contemplated to signify anything but marginal performance. There has always been a presumption that a "pass" would merit the employees their within-grade increases and full retention rights in a reduction in force. Regulations require a Level 3 (*Fully Successful* or equivalent) rating of record to reach the acceptable level of competence determination needed for a within-grade increase and to receive all retention rights in a reduction in force. There have been no compelling arguments for lowering the threshold for those personnel actions and those rights to marginal, rather than fully successful, performance.
35. Who can determine the rating of record? Who can sign ratings of record? The regulations are silent on these issues. Generally, ratings of record should be based on the input from an individual or individuals who are in the best position to assess performance. Agency programs will identify who prepares the rating of record and whose signature may appear on official documentation.
36. Can a rating of record ever be given at a time other than the end of the appraisal period? Yes. The regulations define a rating of record as the performance rating completed at the end of the appraisal period that reflects performance over the entire period, or an off-cycle rating of record given when a within-grade increase (WGI) decision is not consistent with the employee's most recent rating of record and a more current rating of record must be prepared. These are the only times that a rating of record can be issued.

37. Why don't the regulations use the labels "Pass" and "Fail" more explicitly?

Because the term "unacceptable performance" is defined in statute and has specific statutory authorizations associated with it (i.e., to take performance-based actions), the regulations implementing those statutes use *Unacceptable*, rather than "Fail":

- to describe performance that fails to meet the established performance standard for a critical element, and
- for a Level 1 rating of record.

Likewise, because of these statutory and regulatory references, agencies are expected to use *Unacceptable*. However, programs that insist on using the term "Fail" may do so provided the following conditions are met:

- a The program description includes a clear statement of equivalency to establish that its use of the term "Fail" has the meaning and effect of *Unacceptable* as used in law and regulation.
- b. All employees covered by the program receive clear information concerning the performance standard(s) that must be met, that failure to meet would lead to appraisal and/or rating as "Fail," and the possible consequences of that determination.

Technically, there's no reason why the term "Pass" cannot be used to describe performance that is not unacceptable.

38. May an agency use assessments and measures other than ratings of record to make personnel decisions?

Yes. Agencies may use any procedures they deem appropriate for considering performance when granting awards and taking other personnel actions, with the following exceptions:

- assigning additional service credit in a reduction in force, which requires that ratings of record be used to assign additional service credit, and
- within-grade increases for General Schedule employees and prevailing rate system employees, which are tied to ratings of record and performance ratings respectively.



## Performance Management & Employee Involvement

*Federal employee appraisal regulations state that the Office of Personnel Management highly encourages employee involvement in developing appraisal programs, awards programs, and employee performance plans. Some frequently asked questions about employee involvement in regard to appraisal and awards include:*

- 39.** Does an agency have to involve its employees in developing appraisal programs, award programs, and employee performance plans? Of course, an agency must meet its collective bargaining obligations under the Federal Service Labor-Management Relations Statute. Thinking beyond those legal obligations, however, research and experience in performance management have confirmed that employee involvement is an important determinant of whether specific performance management methods, procedures, and requirements will be accepted and work successfully to support performance improvement. Therefore, besides the need to meet collective bargaining obligations, agencies will handicap themselves if they do not involve their employees in the development and implementation of their performance management programs. The Office of Personnel Management is determined to convey to agencies the need for employee involvement in the strongest way permissible within legal authorities. That involvement should normally be via existing partnerships.
- 40.** Can agencies involve representatives of professional and management associations in developing programs? Yes. The Office of Personnel Management strongly encourages agencies to involve all employees, including managers and supervisors. Part 251 of title 5, Code of Federal Regulations, provides a framework for consulting and communicating with non-labor organizations representing Federal employees and with other organizations on matters related to agency operations and personnel management.
- 41.** What is meant by “employee involvement” in an agency without a union? To involve employees in the design and implementation of the agency system and programs when there is no union, an agency will need to use other means of employee participation. Including employees on design teams and gathering input from surveys or focus groups are examples of such other means of employee involvement.

## Managing Team Performance

*Federal employee performance management regulations include flexibility to design appraisal and awards programs that support the culture, type of work, and goals of team-structured organizations as well as those structured traditionally. A few of the most frequently asked questions about teams in regard to performance appraisal and awards include:*

**NOTE: In these questions and answers, the following terms are used:**

**Individual Contribution to the Team**—An employee’s behaviors, work products, or results that contribute to successful team performance and that measure the performance of a single employee.

**Team Performance**—The processes, results, or outputs of a group of people for which the entire group can be held responsible. Performance is measured at an aggregate level.

42. Can an agency appraise employees entirely and exclusively on team performance? Usually no. The regulations require that each employee have at least one critical element, which must be based on individual performance. This requirement ensures that an appraisal program establishes individual accountability, as the performance appraisal law intended by providing for the demotion or removal of an employee on the basis of unacceptable performance. However, it is possible to develop a critical element and standard that holds a supervisor, manager, or team leader responsible for a team’s performance (taking into account their level of leadership responsibilities for the team).
43. When deriving a rating of record above *Unacceptable*, can an agency assign greater weight to non-critical elements that describe team performance in order to emphasize their importance? Yes. An agency can design procedures for deriving a rating of record that assign greater weight to non-critical elements (which may be used to measure team performance and may affect the rating of record) than to critical elements. If desired, in summarizing overall performance at or above the *Fully Successful* level, agencies can make distinctions on the basis of team performance alone.
44. Can an agency use critical elements that address team performance? Usually, no, not as team performance is defined here (see the Note above). Critical elements are the only basis for determining that an employee’s performance is unacceptable. The law intends that they be used to establish individual accountability. Consequently, critical elements generally are not appropriate for identifying and measuring team performance, which by its definition involves shared accountability.

This restriction is clearest for rank-and-file employees who may be

serving as team members. A supervisor or manager can and should be held accountable for seeing that results measured at the group or team level are achieved. Critical elements assessing group performance may be appropriate to include in the performance plan of a supervisor, manager, or team leader who can reasonably be expected to command the resources and authority necessary to achieve the results (i.e., be held individually accountable).

However, agencies can use other ways to factor team performance into ratings of record or other performance-related decisions such as granting awards. One approach to bringing team performance into the process of deriving a rating of record, and certainly to the process of distributing recognition and rewards, is to establish team performance goals within the team members' performance plans as either non-critical or additional performance elements.

45. Could the individual critical element that every employee performance plan must include be used simply to appraise the individual's contribution to the team?

Yes. The individual critical element required by the regulations must describe performance that is reasonably measured and controlled at the individual employee's level. Such performance includes individual contributions to the team, but does not include team performance. This means that agencies have the option of making individually-oriented decisions about an employee's job retention as well as reduction-in-force retention standing, eligibility for within-grade increases, and eligibility for individually-based awards exclusively on the basis of the individual's contributions to the team, rather than team performance.

46. Why doesn't the Office of Personnel Management permit ratings of record based entirely on team performance?

The principal reason is that it would violate the intent of the appraisal statute. Allowing a non-performer to "ride" the efforts of other team members and accrue all the entitlements that *Fully Successful* performance conveys would violate the fundamental principle of individual accountability on which the statute rests.

A second reason is that a fundamental principle of compensation policy and practice is that adjustments to basic pay operate at an individual level. Within the Federal compensation system, periodic within-grade pay increases are granted on the basis that the employee, not the employee's team, is performing at an acceptable level of competence as reflected in a rating of record.

Finally, no Federal system can be viewed as credibly managing performance in the eyes of Congress or the American public without making it possible to identify and deal with poor performers.

As noted in answers to other questions in this document, however,

summary levels (or other performance distinctions) above *Unacceptable* can be based largely on team performance. Alternatively, a determination that performance is *Fully Successful* can still be based solely on an individual's contribution to the team.

47. What options does an agency have for emphasizing the importance of teams to the organization when it does not necessarily want to base appraisal decisions on team performance?

One option is to establish an individual's contributions to the team as critical or non-critical elements in employee performance plans and use them in deriving the rating of record or as awards eligibility criteria. Another option is to establish team goals as additional performance elements in the employees' performance plans and use them as the basis for team awards.

48. How else might an agency emphasize the importance of team performance, without necessarily using performance elements?

The importance of team performance can be emphasized through the creation of appropriate awards. Where goals are reasonably stable, measurable, and achievable, agencies may wish to establish incentive awards that are granted on the basis of achieving team performance objectives or sharing savings from gains in team efficiency and productivity among team members.

## General Awards

*Federal agencies are authorized to grant awards to their employees to recognize and reward good performance. Some frequently asked questions about Federal awards regulations include:*

49. What forms can awards take for Federal employees? Regulations provide for four forms of awards that can be given to Federal employees: lump-sum cash awards, honorary awards, informal recognition awards, and time off awards.
50. Are there amount restrictions for granting cash awards? Yes. The Office of Personnel Management must approve any cash award over \$10,000. For awards over \$25,000, the President must approve the amount over \$25,000.
51. What is the difference between an “honorary award” and an “informal recognition award?” Honorary awards are generally symbolic and usually do not use monetary recognition at all. They are a gesture of respect given to employees to recognize their performance and value to the organization. Many agencies include this traditional form of high-level, formal recognition as part of their overall incentive awards programs. Informal recognition awards, on the other hand, are a type of award that may be given to reward performance that otherwise might not merit an award such as cash, time-off, or an honorary award. Agencies use these awards to provide more frequent and timely informal recognition to employees.
52. Can an award program cover both regular Federal employees and contract employees? No. Employees of outside contractors may **not** receive direct payments from the Federal Government. Their employment, including pay, rewards, and discipline, must be handled by their employer, who is the contractor, not the Government. We are aware that in some situations, Federal employees and contract employees work side-by-side as members of the same overall work teams. In such cases, it might be desirable to use procurement flexibilities to set up a parallel awards program for the contract employees, which the contractor would be required to fund and administer. Under the terms of the contract, the Government could make additional payments to the contractor according to performance-related criteria specified in the contract, to provide the funds which the contractor would then distribute to the contract employees. Setting up and operating such a program would have to conform to procurement regulations, limitations, and requirements. Personal services contracts could also be written to allow for performance-contingent payments. The key issue is that such payments to individuals, whether under personal services or non-personal services contracts, would **not** be made under the awards authorities in title 5, United States Code.

- 53.** Can an award program cover both civilian and military employees? Yes, but only to the extent that the program covers awards for suggestions, inventions, or scientific achievements. For those categories of awards, an agency can choose to have a single program in which both civilian and military employees can participate or even a specific award for which both might be eligible. Otherwise, for all other types of awards authorized by chapter 45 of title 5, United States Code, military employees are excluded.
- 54.** Can an agency grant an award to a private citizen? It may be possible to recognize the contributions of private citizens to the Government, but it would not be done under the awards programs authorized by chapter 45 of title 5, United States Code. The awards statute in title 5 only authorizes granting awards to and recognition of Federal employees. An agency head may have other general authorizations and access to other funds for the accomplishment of the agency's mission that might be accessible for the recognition of private citizens who have made significant contributions to the completion of the agency's mission or the improvement of the Government.
- 55.** Can an agency give awards to its Senior Executive Service employees under the authority of subpart A of part 451 of title 5, Code of Federal Regulations? Yes. Agencies can give Senior Executive Service (SES) employees any awards under subpart A of part 451 for which they qualify and are eligible. The specific exception in the regulations at section 451.104(a)(3) of title 5, Code of Federal Regulations, refers to performance awards because there is a separate statutory and regulatory authority for granting performance awards to SES employees.
- 56.** Are agencies required to set up suggestion award programs? Suggestion award programs are not specifically required by law or regulation. The Office of Personnel Management (OPM) is aware that some agencies have redesigned and streamlined their programs to reward employee ideas and innovations. However, it is well to remember that Congress established the suggestion award authority as the foundation of all employee incentive award authorities. Further, the program is rooted in a presumption that Governmentwide—not just agencywide—benefits are to be determined and rewarded. Consequently, OPM expects agencies to extend their interdepartmental good will and cooperate when suggestions are referred to them from other agencies for evaluation and possible adoption, even if the receiving agency has curtailed formal procedures for its own employees. Agencies that have retained their existing submission and evaluation systems rightfully expect reasonable consideration of ideas their employees put forward.

# Technical Questions

## Appraisal System Approval

*The Office of Personnel Management’s “Guide to Submitting Performance Appraisal Systems for OPM Review and Approval” provides specific guidance about the procedures, documents, and material that agencies submit to obtain the Office of Personnel Management’s review and approval of performance appraisal systems under the regulations that became effective September 22, 1995. Some frequently asked questions about appraisal system approval include:*

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| <p><b>57.</b> Does the Office of Personnel Management have to approve an agency’s performance appraisal system?</p>  | <p>The Office of Personnel Management (OPM) is required by statute to review performance appraisal systems to ensure they meet statutory and regulatory requirements. Agencies submit appraisal system descriptions by completing OPM Form 1631 and providing appropriate attachments to that form.</p>   |
| <p><b>58.</b> Is the list of items in section 430.204(b) of title 5, Code of Federal Regulations, that must be included in agency performance appraisal systems a complete list, or must other items also be included?</p> | <p>Although the list in the regulations covers the major components of an agency system, it does not include some technical, administrative material. The OPM Form 1631 was developed specifically to incorporate all necessary system information and thereby make the approval process as simple and clear as possible.</p>   |
| <p><b>59.</b> Does the Office of Personnel Management have to review and approve all the appraisal programs?</p>   | <p>No. However, before any appraisal program developed under a new agency appraisal system can be implemented, the Office of Personnel Management must review and approve the system, which sets out the limits within which all the agency’s programs must be developed.</p>   |
| <p><b>60.</b> Once an agencywide system has been approved by the Office of Personnel Management, does the agency have to approve its appraisal programs before they can be implemented?</p>                                | <p>Technically, no—the regulations are silent on this issue. However, once an agency’s appraisal system has OPM’s approval, the agency is responsible for ensuring that all its appraisal programs comply with the policies and parameters contained within its system. The requirement for and timing of any actual review and approval of such programs are at agency discretion. Nevertheless, the Office of Personnel Management expects that most agencies will include some review and approval process, if only to ensure that program coverage is properly coordinated. That is, because programs must be mutually exclusive, with no employee covered by more than one program, some central oversight of all programs might be necessary to assure this result.</p> |

61. Must the Office of Personnel Management approve a performance appraisal system if the agency makes only minor changes to its current system?
- Yes. At any time an agency proposes to change its performance appraisal system to modify a provision that is subject to a regulatory requirement, the agency must submit the changes to the Office of Personnel Management for review and approval prior to implementation. For example, at the time the final regulations went into effect on September 22, 1995, no existing Performance Management Plans included appraisal systems with two levels because they had not been permitted before then. Therefore, to permit using only two levels to appraise elements or to summarily rate performance, the Office of Personnel Management must approve a system change before any appraisal program under the system can implement two levels.
62. Did the 1995 regulations require agencies to submit new appraisal systems for approval by the Office of Personnel Management to replace their Performance Management Plans established under the pre-1995 regulations?
- No. The performance appraisal systems contained in Performance Management Plans approved by the Office of Personnel Management prior to September 22, 1995, did **NOT** need to be changed in any way unless agencies wanted to change them. While the new regulations authorize new flexibility in the performance management area, they continue to accommodate such older agency systems. Also, a specific regulatory provision at section 430.201(b) of title 5, Code of Federal Regulations, ensures that the appraisal systems contained in existing Performance Management Plans remain in effect until changed by the agency.



## Appraisal System Descriptions

*The Office of Personnel Management has specific requirements for agency appraisal system descriptions. Some frequently asked questions about appraisal system descriptions include:*

- 63.** May an agency establish exceptions to coverage of employees under a performance appraisal system? Yes, so long as the employees the agency excludes from one system are covered by another performance appraisal system the agency establishes under chapter 43 of title 5, United States Code, and part 430 of title 5, Code of Federal Regulations (unless the employees are in the excepted service and the agency has obtained from the Office of Personnel Management a separate approval for their exclusion).
- 64.** Can an agency request that the Office of Personnel Management exclude certain groups of employees from the appraisal requirements of chapter 43 of title 5, United States Code, and part 430 of title 5, Code of Federal Regulations? Yes, for **excepted service positions** only. Under section 4302(g) of title 5, United States Code (U.S.C.), and section 430.202(d) of title 5, Code of Federal Regulations (CFR), the Office of Personnel Management has the authority to exclude positions **not in the competitive service** from the requirements of 5 U.S.C. chapter 43 and 5 CFR Part 430 when requested by the head of the agency.
- 65.** Can an agency exclude temporary employees from its performance appraisal system? Yes. Provided the temporary employees meet the requirements established at section 4302(h) of title 5, United States Code, an agency can exclude them from its performance appraisal system. Under that section, an agency may exclude an employee who:
- is serving in a position under a temporary appointment for less than 1 year,
  - agrees to serve without a performance evaluation, and
  - will not be considered for a reappointment or for an increase in pay based in whole or in part on performance.

In addition, the Office of Personnel Management has already excluded by regulation at section 430.202(c) of title 5, Code of Federal Regulations, any excepted service employee in a position for whom employment in a consecutive 12-month period is not reasonably expected to exceed the minimum period that would otherwise have applied to the employee.

## Appraisal Program Transitions

*As agencies develop new programs for appraising employee performance, questions arise about procedures for ending old programs and beginning new ones. Some frequently asked questions about transitioning from one program to another include:*

- 66.** How should an agency transition between appraisal programs? Ideally, an agency would close out the current appraisal period and issue ratings of record at the time specified under the existing appraisal program and then begin the next appraisal period under the terms of the new program.
- 67.** Does an agency have to complete the current appraisal period (or rating cycle) before changing the number of summary levels? Technically, no. However, agencies need to consider carefully the effect that switching to a different pattern of summary levels, especially the two-level pattern, may have on employee expectations regarding performance appraisal results and their related consequences. Such expectations are established at the beginning of the appraisal period.
- 68.** If an agency is in the middle of the appraisal period and decides to change the number of summary levels used in its appraisal program, is it required to end the current period and give employees a rating of record? No. Regulations do not require that the appraisal period be ended to change appraisal programs. However, agencies need to remember that the regulations permit only a single rating of record in a given appraisal period. When changing programs, agencies may grant a rating of record, grant a performance rating that does not summarize the entire period, or do nothing when changing summary level patterns in the middle of an appraisal period. If an agency provides for neither a rating of record nor a performance rating, it must ensure that an employee's performance prior to conversion is considered when deriving a rating of record under the new program at the end of the appraisal period.

Agencies that choose not to close the appraisal period and grant a rating of record should be aware of the possible demoralizing effects of not using performance levels agreed to at the beginning of the period to assess performance up to the time of conversion. They should particularly anticipate employee concerns over possible implications for assigning additional service credit in a reduction in force.

69. An agency has varying performance appraisal cycles. If it gives a rating of record to those employees who have completed their minimum period when a program and summary level pattern change, what happens to those who haven't completed the minimum period?
- Agencies may not prepare performance ratings, including ratings of record, for employees who have not completed the minimum period. Therefore, an agency may choose to phase in the implementation of its new program to allow organizations with such employees to wait until the minimum periods are completed. If the agency waits for completion of applicable minimum periods before converting, a rating of record with its summary level could be assigned under the old program. If the agency does not wait, the performance during the period after the employee's last appraisal period and before the program changes must be accounted for in the employee's next rating of record under the new program. Agencies should consider the number of employees close to completing their minimum periods and whether or not they are isolated into different organizations before establishing their policies. If agency conversion decisions appear arbitrary, employees may be concerned about the loss of potential additional service credit they might have been granted in a reduction in force with another rating of record under the old rating pattern. This is yet another reason why employee involvement is so critical in promoting acceptance of program changes.
70. When situations arise where it is not possible to close out appraisal periods in a normal manner before shifting to a new appraisal program, what advice does the Office of Personnel Management have for how an agency could transition between appraisal programs (i.e., handle appraisal periods, minimum periods, performance ratings, and ratings of record) in the following situations? (See descriptions (a) through (e))
- Few straightforward answers are possible here. Agencies have a lot of flexibility for how mid-period transitions could be handled. At the same time, however, such transitions may stimulate employee complaints and grievances. This is especially true as many agencies seek to implement changes and transitions during a time when the Government is facing serious downsizing. It is only prudent to consider the effect and timing of program changes in light of their possible reduction in force implications.
- A few simple principles can help guide decisions about program transitions:
- 1 The appraisal regulations in part 430 of title 5, Code of Federal Regulations, contemplate only **one** formal rating of record per appraisal period.
  - 2 The reduction-in-force regulations in part 351 of title 5, Code of Federal Regulations, defer to ratings of record as defined in part 430.
  - 3 A sense of fairness and equity is generally not well served by "changing the rules late in the game" unless there is clear evidence that the rule changes are well understood and widely accepted by the affected parties. It's generally a good idea to stick by the "rules" that are in place when the employee's

performance plan is communicated, unless program changes are imminent (see (a) below).

- 4 It's generally a good idea to let employees get credit for their positive achievements, rather than ignore them.

These principles were applied in developing the following advice about situations (a) through (e) below. Please note that in each situation, the new program would have to be in effect and employees would have to be under their new performance plans for the minimum period before a rating of record could be prepared under the new program. Also, a new program should not be implemented with its performance plans and ratings of record unless management and employees have received appropriate preparation and training.

***a) It's early in a new appraisal period (or rating cycle) and the minimum period has not been completed yet.***

This is the simplest case. Because it is not permissible to rate performance under the old program before the minimum period is complete, implementing the new program should not cause serious problems. However, agencies must remember to comply with the requirement to communicate with supervisors and employees about the relevant parts of their appraisal programs.

***b) It's near the end of the current appraisal period and the new appraisal program has fewer summary levels than the old.***

This may be the second simplest case. Assuming adequate warning and preparations are made, relevant parties are in agreement, and the agency system allows the flexibility, it should be possible to in effect "shorten" the old appraisal period to close out the old program. Ratings of record would be prepared using the old pattern with more summary levels. The agency could have the discretion to lengthen the next appraisal period so that two ratings of record would be assigned to cover a 24-month period. This approach would be most consistent with giving employees credit for their accomplishments and avoids disadvantaging employees by "changing the rules late in the game."

***c) It's near the end of the current appraisal period and the new appraisal program has more summary levels than the old.***

In this situation, it may be more desirable to let the rating of record be assigned under the new program with more summary levels. A performance rating could be prepared (with or without assigning a summary level) to "close out" the old program before implementing the new program. When the appraisal period ends and a rating of record must be prepared, that earlier performance information would

be available and applied as appropriate. Of course, an employee could not be rated under the new program or assigned a performance rating or rating of record until the new program's minimum period was completed, which in effect could lengthen the appraisal period. In that event, the agency would have the option of shortening the subsequent appraisal period to end up with two ratings of record covering a 24-month period. Agencies should consider designing their programs to accommodate the need for a transitional appraisal period.

***d) It's the middle of the current appraisal period and the new appraisal program has fewer summary levels than the old.***

In this situation, unless relevant parties are in agreement and a lot of groundwork has been laid with employees, it may be advisable to delay implementing the new program until the next appraisal period. Closing out the old program with a summary rating of record (as in (b) above) by substantially "shortening" the appraisal period might be more acceptable than just implementing the new program with its fewer summary levels, but it's still "changing the rules" in midstream.

***e) It's the middle of the current appraisal period and the new appraisal program has more summary rating levels than the old.***

In this case, the fact that more summary levels would be available under the new program may make shortening the appraisal period less desirable. As in (c) above, the old program could be closed out with a performance rating (with or without a summary level) that "counts" when the rating of record is prepared under the new program at the end of the appraisal period. This presumes the new program is more attractive and there is shared interest in implementing it. If that is not the case, the scenario in (b) above still could be played out.

## Performance-Based Actions

*A performance-based action is the reduction in grade or removal of a Federal employee based on unacceptable performance. A few of the most frequently asked questions about performance-based actions in regard to performance appraisal programs include:*

71. Did the 1995 changes to the Federal performance management regulations make any changes to the procedures for taking performance-based actions? No. The only change to part 432 of title 5, Code of Federal Regulations, was to make a conforming change to the definition of “critical element.”
72. What happens to a performance-based action if an agency changes its appraisal program while the action is still in progress? If a notice of proposed action has been given to the employee, a change to an appraisal program should have no effect on the action. Section 430.201(b) of title 5, Code of Federal Regulations, contains a specific provision, called the “savings provision,” that safeguarded administrative procedures pending on September 22, 1995, from being disrupted by the implementation of new programs covered by these regulations. The Office of Personnel Management’s system approval procedures require agency appraisal programs to have a similar provision to safeguard pending administrative procedures when programs change. (See question #77 in this section for impact of a program change on an opportunity period.)
73. What should an agency do with any opportunity period or performance improvement plan (PIP) that is in progress when a program is changed? An opportunity period, or a PIP as it is often called, provides a reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue. What an agency should do with a PIP that is in progress when a program is changed depends on the nature of the changes between the old program and the new one. If neither the performance standards nor the retention level communicated to the employee at the start of the PIP has changed, the agency should be able to proceed with the opportunity period or PIP. However, a substantive change in standards or the retention level would require that the current PIP end. For example, if an agency goes from a program that provided for an appraisal level between *Fully Successful* and *Unacceptable* to one that does not, it should amend the opportunity period or PIP specifying that performance now must be improved to the *Fully Successful* level, which is now the retention level. Additional time may need to be given to the employee to allow the employee sufficient time to demonstrate improved performance at the new retention level. This example still

presumes that the *Fully Successful* standard has not been changed. If the performance standard has changed, the employee has to perform for the agency's minimum period under the new standard before a determination of unacceptable performance can be made and a new opportunity period or PIP started.

**74.** Do the appraisal regulations require an agency to give an unacceptable employee an opportunity to improve before proposing an adverse action?

The regulations addressing the requirements for taking performance-based actions are found in part 432 of title 5, Code of Federal Regulations, not in the appraisal regulations at part 430. The law and regulations require agencies to assist unacceptable employees to improve, and, if the provisions at section 4303 of title 5, United States Code (U.S.C.), and part 432 of title 5, Code of Federal Regulations (CFR), are going to be used in proposing and taking an adverse action based on unacceptable performance, an opportunity to demonstrate acceptable performance must be provided. The regulations at 5 CFR 430.207(d) refer more generally to taking an action based on unacceptable performance. This action could be pursued either under the provisions of 5 U.S.C. chapter 43 or under the adverse action provisions of 5 U.S.C. chapter 75, which has no specific requirement for an opportunity period.

## Performance Plans

*Under the Federal employee performance appraisal regulations, employees must have a performance plan that includes at least one critical element. A few of the most frequently asked technical questions about performance plans include:*

75. In the definition of a critical element, what is meant by performance at the individual level?
- Performance at the individual level means the accomplishment of outputs and work processes for which the employee can be held individually accountable. Because failure of a critical element can result in an employee's reduction in grade or removal, critical elements would measure those outputs/outcomes and processes over which the employee is expected or intended to have control and exercise authority. It would not be reasonable to hold an employee accountable for outputs and processes when the authority and resources for them are shared with others or controlled by someone other than the employee.
76. Could someone who has responsibility for a group of employees (supervisor, manager, team leader) have a critical element based on a result that the group is expected to achieve?
- Yes. The Office of Personnel Management believes it is possible to develop a critical element and standard that holds a supervisor, manager, or team leader responsible for group performance. The element and standard would have to be crafted carefully so that it identifies achievements that would be expected to result when the individual supervisor, manager, or team leader properly exercises his or her leadership responsibilities.
77. Does a program have to use the same number of levels to appraise elements and to assign ratings of record?
- No, not at all. In fact, the Office of Personnel Management anticipates that this is an area where agencies may show considerable creativity. Agency performance appraisal programs must specify a method for deriving a rating of record and assigning a summary level. The level designators described at section 430.208(d) at title 5, Code of Federal Regulations (Level 1, Level 2, Level 3, etc.) address summary levels only.

One agency appraisal program could be designed to:

- appraise critical elements at only two levels (which must be *Fully Successful* and *Unacceptable*);
- use group-level non-critical elements with their standards written only at the *Outstanding* level and appraise them using at least two levels (e.g., *Outstanding* and *Not Outstanding*);
- use summary Levels 1, 3, and 5 and assign the summary level based on appraisal of both the critical and non-critical elements.



Another program, possibly even in the same agency and under the same overall appraisal system, could be designed to:

- appraise critical elements at five levels (two of which must be *Fully Successful* and *Unacceptable*) in the interest of providing specific feedback and developing information to use in justifying appropriate individual recognition and rewards,
- use the Pass/Fail summary level pattern (Levels 1 and 3) to assign summary levels based simply on whether any critical element is appraised as *Unacceptable*, and
- use a variety of performance information and measurements, including the appraisal of additional performance elements included in employee performance plans, to drive the distribution of awards in ways that underscore achieving the organization's objectives.

In outlining these alternatives, the Office of Personnel Management is recommending neither, but simply illustrating the flexibility the regulations provide. The particular program design choices that agencies and their subcomponents make should reflect their own situations and needs.

## Performance Management & Negotiability Issues

*Federal agencies are required to negotiate implementation and impact issues when establishing new appraisal programs. Some frequently asked questions about appraisal program negotiation include:*

- 78.** How does the flexibility that the performance management regulations allow affect negotiability? As a general principle, when agency discretion over a condition of employment of bargaining unit employees is increased by the removal of a Governmentwide requirement or restriction, and that increased discretion is not reserved to management by section 7106 title 5, United States Code, there is a duty to bargain on how the agency will exercise that discretion. Even when the decision is reserved to management by its section 7106 rights, there is a duty to give notice to the union and, upon request, bargain on the impact and implementation of the otherwise protected decision. For further information, see the OPM labor-management relations guidance bulletin, *Labor Relations Case Law on Performance Management*, March 1996, which may be obtained from OPM's Center for Partnership and Labor-Management Relations at 202-606-2930.
- 79.** Is the establishment of performance standards negotiable? No. Bargaining performance standards interferes with management's rights to direct employees and assign work. Therefore, performance standards are nonnegotiable.
- 80.** Will the pattern of summary levels an appraisal program uses be negotiable? No. The number of summary levels is an exercise of management rights and not subject to collective bargaining. However, given the relevance of employee involvement to program acceptance, a decision about a program's pattern of summary levels, assuming the agency system permits some flexibility, might be approached through partnership.
- 81.** The 1995 employee appraisal regulations removed the Governmentwide requirement for higher-level review of employee performance plans. Doesn't this make performance standards negotiable? The rulings in case law that performance elements and standards are nonnegotiable are based on management's rights to direct employees and assign work, through the establishment of performance plans, not on the previous regulatory requirement for higher-level review. Removing that requirement does not alter these management rights in any way.

**82.** Does an agency have to negotiate implementation of appraisal program changes with its union?

If the proposed program covers bargaining unit employees, at the very least the agency is obligated to notify the union and afford it the opportunity to negotiate on the impact and implementation of the appraisal program. But apart from the agency's legal requirements, the Office of Personnel Management encourages agencies to approach any program design in a spirit of partnership. We also recommend involving nonbargaining unit employees the program may cover.

**83.** Does the Office of Personnel Management think that the performance crediting provisions in the reduction in force regulations are negotiable?

No. In giving agencies some discretion on performance crediting, the reduction in force regulations make clear that whatever decision is made, it must be uniformly and consistently applied throughout the competitive area. Since competitive areas normally contain employees that are not in the bargaining unit, there is no duty to bargain on otherwise negotiable proposals that are aimed at the entire competitive area, as that would be tantamount to negotiating with the union the conditions of employment of non-bargaining unit employees. The limited discretion agencies have regarding crediting is reserved to management by section 7106 of title 5, United States Code. But, as we indicated previously, the Office of Personnel Management encourages agencies to approach program design in a spirit of partnership.

## Performance Management and Within-Grade Increases (WGI)

*The term “within-grade increase” is synonymous with the term “step increase” and means a periodic increase in a Federal employee’s rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that grade or next higher rate within the grade. Employees must be performing at an acceptable level of competence in order to receive a within-grade increase. Some frequently asked questions about within-grade increases in regard to the Federal employee performance appraisal regulations include:*

- 84.** Can an agency restrict the application of a rating of record that was prepared solely to reflect current performance for the denial of a within-grade increase?
- No. When a within-grade increase determination is not consistent with an employee’s most recent rating of record (i.e., current performance is not accurately reflected by the rating of record prepared at the end of the most recently completed appraisal period), regulation requires the preparation of a more current rating of record. However, there is no provision for the agency to limit the application of the newer rating of record to the within-grade increase determination only.
- 85.** Under an appraisal program with two summary levels (Pass/Fail), can an agency establish some criteria other than, or in addition to, the Level 3 (*Fully Successful* or equivalent, e.g., pass) rating of record for achieving an acceptable level of competence?
- No. Regulations at section 531.404(a) of title 5, Code of Federal Regulations, continue to require a rating of record of at least Level 3 (*Fully Successful* or equivalent) as the basis for the acceptable level of competence determination. There is no provision to consider anything other than the rating of record when making an acceptable level of competence determination.
- 86.** When can an acceptable level of competence determination be delayed?
- An acceptable level of competence determination can be delayed for only two reasons:
- when an employee has not had the minimum period of time to demonstrate acceptable performance on his or her elements and standards; and
  - when an employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a within-grade increase or will become eligible within the minimum appraisal period.

87. Can an agency delay a within-grade determination while an employee completes a performance improvement period (PIP) if no rating of record was given at the beginning of the PIP?

No. The regulations specifically restrict the delay of a within-grade determination to the two conditions stated in the regulations (and reviewed in the previous question). Consideration was given to permitting the delay of a within-grade determination for employees completing a PIP, but the decision was made not to allow this since it would give an unfair advantage to an employee whose performance has been determined to be unacceptable (a condition upon which the PIP is based) over employees whose most recent rating of record is Level 2 (marginal, minimally successful, etc.) and who are not eligible for a within-grade increase. There is no requirement to give an employee a rating of record before beginning a PIP. If a within-grade increase determination is due during an employee's PIP, the agency needs to make sure it reviews the employee's most recent rating of record and determines whether a new rating of record is needed to support the within-grade decision. If the last rating of record does not support the within-grade determination (i.e., the rating was Level 3 (*Fully Successful* or equivalent) or better and performance later reached the unacceptable level triggering the PIP), a new rating of record must be given to support a denial of the within-grade increase. If the agency chooses to use the last rating of record of Level 3 (*Fully Successful* or equivalent) or better and grant the within-grade, they need to realize they are certifying the employee as performing at that level and jeopardizing any future performance-based action that might have been based on performance during that time period.

## Performance Management: Record Keeping and Reporting

*Among the many record keeping and reporting requirements that agencies must follow, they are required to place the most recent ratings of record into employees' Official Personnel Folders when they transfer between agencies or servicing personnel offices. They also are required to report awards data to the Office of Personnel Management. Some frequently asked questions about record keeping and reporting in regard to performance appraisal and awards regulations include:*

- 88.** Does an agency have to submit an annual awards report? Yes. The Office of Personnel Management (OPM) will always need to respond to requests for data about Governmentwide and agency awards activity, particularly from the Office of Management and Budget and the Congress. The regulations at section 451.106(h) of title 5, Code of Federal Regulations, establish that agencies shall maintain and submit such records as OPM may require. Annually, OPM asks agencies to use OPM Form 1465 to submit awards data. The OPM Form 1465 gives agencies the option of using the awards data that has already been submitted to the Central Personnel Data File, or to submit other numbers they feel are more accurate.
- 89.** Will an agency be required to report honorary and informal recognition awards? Not at this time; for now only cash and time-off awards must be reported to the Central Personnel Data File (CPDF). However, if an agency grants a cash stipend or honorarium with an honorary award, it should report that cash payment to the CPDF as a special act or service award. Because of interest in agency use of honorary and informal recognition awards, methods of collecting information about these awards, which used to be required in older versions of OPM Form 1465, may be considered in the future.
- 90.** Does the rating of record data have to be submitted to the Central Personnel Data File (CPDF)? Yes. When submitting status and dynamics files, agencies must submit three pieces of rating of record data to the Office of Personnel Management's Central Personnel Data File (CPDF) for each record: the summary level, the pattern of the program that the rating was given under, and the ending date of the rating's associated appraisal period. As of October 1996, these data fields have been part of the regularly submitted data in CPDF status and dynamics submissions.

91. Where can one obtain copies of the Office of Personnel Management's *Guide to the Federal Workforce Reporting System*, *Guide to Processing Personnel Actions*, and *Guide to Personnel Recordkeeping*?
- The *Guide to Processing Personnel Actions* and the *Guide to Personnel Recordkeeping* can be ordered from the Superintendent of Documents, U.S. Government Printing Office (ask for the Office of Personnel Management (OPM) operating manuals with those titles). The *Guide to the Federal Workforce Reporting System* and the *Guide to Personnel Recordkeeping* also can be downloaded from OPM's electronic bulletin board, OPM ONLINE (202-606-4800). Once on OPM ONLINE, go to the forum on Processing/Records/Statistics. The *Guide to the Federal Workforce Reporting System* (FWRS.PDF) can be found in the Central Personnel Data File subforum and the *Guide to Personnel Recordkeeping* (RECGUIDE.ZIP and RECGUIDE.PDF) can be found in the Recordkeeping sub-forum. The *Guide to Personnel Recordkeeping* also is available on OPM's website (<http://www.opm.gov>).

## Reduction In Force and Performance Crediting

*Reduction in force is a process designed to handle the displacement or removal of employees during agency downsizing or restructuring. An employee's rating of record is one factor used to determine the employee's standing in a reduction in force. Some frequently asked questions about crediting performance in a reduction in force include:*

- 92.** Can an agency drop the use of performance in the reduction in force process entirely? No, under current law, performance ratings must be a factor in the reduction in force process. Only under a demonstration project that waives pertinent law or regulation could an agency drop the use of performance in a reduction in force.
- 93.** How is performance credited in a reduction in force? Additional years of service credit are added to an employee's length of service based on the employee's three most recent ratings of record during the four years prior to the reduction in force. In a competitive area where all the ratings of record being credited were done under a single pattern of summary levels, the additional service credit is computed by averaging the three most recent ratings of record given in the previous four years using the following values:
- 20 years of service for each Level 5 (*Outstanding* or equivalent) rating;
  - 16 years of service for each Level 4 rating; and
  - 12 years of service for each Level 3 (*Fully Successful* or equivalent) rating.

In an agency where employees in a competitive area have ratings of record being credited for reduction in force that were done under more than one pattern of summary levels, the agency can establish the values for the summary levels (within 12 to 20 years) so that performance crediting will be as fair and equitable as possible. Within a competitive area, the agency must use the same number of years additional retention service credit for all ratings of record with the same summary level in the same pattern of summary levels.

- 94.** What happens if an employee does not have three ratings of record in the last four years? If an employee has fewer than three ratings of record during the last four years, the actual rating(s) of record available would serve as the sole basis of the employee's credit (no assumed ratings would be used). Consequently, if an employee has received only two actual ratings of record during this period, the value assigned to each rating would be added together and divided by two to determine the amount of additional retention service credit. If an employee has only one actual rating of record, the value assigned to that rating would be used. If, however, the employee has **no** ratings of record



during the last four years, the modal rating for the appraisal program that covers the employee's position of record at the time of the reduction in force is used to grant performance credit.

- 95.** What is a modal rating and are agencies required to notify the Office of Personnel Management of their modal rating and/or the basis used to determine this rating? The modal rating is the summary level within a single pattern given most often as the latest rating of record to the employees in a specified group that is no smaller than the competitive area and no larger than the agency undergoing a reduction in force. It is important that the employees undergoing a reduction in force understand the basis used to determine the modal rating, but there is no requirement to notify the Office of Personnel Management of this information.
- 96.** Why do the reduction in force regulations give agencies the flexibility to set credit for performance when summary level patterns are mixed? The various summary levels in different patterns represent different ranges of performance, and there are too many potential situations and combinations to develop a general system that would give credit in a manner that would be perceived as fair in all situations. Giving individual agencies the option to vary credit gives them the opportunity to more appropriately address potential inequities that might exist within their respective organizations.
- 97.** What if the modal rating for 1997 is based on an agencywide calculation, but the 1998 calculation is made using a single competitive area? The agency will have to determine the modal rating based on the rating of record information it has available. If ratings of record are aggregated only at the agency level, that is what the agency will have to use. It might be possible for them to adapt their systems to do smaller aggregations in the future. The Office of Personnel Management recommends that the modal rating which is based on the most recent ratings of record, be tabulated for the specific competitive area undergoing a reduction in force whenever possible, and that larger aggregations of agency population be used only when the rating of record information is not available for the specific competitive area itself.
- 98.** How much does the additional service credit based on performance affect the outcome of a reduction in force? The possible effect of performance-based additional service credit is most likely to appear in the second round of the reduction in force process, when employees exercise their bump (into positions held by employees in lower tenure groups for which they meet the basic qualification standard) and retreat (to previously held positions) rights. Even at this stage, experience suggests that the performance-based additional service credit often has no impact on the actual final result of the reduction in force.
- 99.** Will an employee's rating of record change if he or she moves to another agency or organization that uses a No. A rating of record does not change when an employee moves to another agency or organization, whether or not they use a different summary pattern. However, there is no predetermined value associated with a specific rating of record for reduction in force purposes if there is a mix of rating patterns within the competitive

different summary rating pattern?

area. Therefore, an employee will not know how many years of additional service credit will be given for a specific rating of record until an agency is getting ready to run a reduction in force, determines whether a mix of patterns exists, and, if one does, decides how service credit will be assigned. To help employees understand the crediting for performance within a particular competitive area, agencies should communicate this information as soon as practicable after they make the necessary decisions.

**100.** Can the number of years of additional service credit be awarded differently for the same reduction in force in different competitive areas?

Yes. Each competitive area must be looked at individually to analyze what the situation is regarding the ratings of record being credited. For example, an agency needs to determine whether a mix of rating patterns exists, what the combination of rating patterns used looks like, and the relative numbers of employees rated under each pattern. Only then can the agency make an appropriate determination of how to assign years of additional service credit, based on the specific situation found.

**101.** If all the ratings of record being credited for a reduction in force in the competitive area are under a single rating pattern, does the agency still have the option to vary credit?

No, the agency may only vary credit if the competitive area includes employees with ratings of record being credited for this reduction in force that were received under more than one summary level pattern. If all ratings being credited were given under a single pattern, the agency must use the 12/16/20 system regardless of the pattern used.

**102.** If an agency is running reductions in force in two separate competitive areas and each area has ratings given under a different pattern, does this constitute a mix of patterns under the reduction in force regulations?

No, there is no comparison across competitive areas to determine if a mix of patterns exists. Only if there is a mix of patterns within a single competitive area can an agency vary credit.

- 103.** If an agency uses a single rating pattern, but an employee comes from another agency and has one or more ratings of record given under a different pattern used in the former agency, does this constitute a mix of patterns under the reduction in force regulations?
- Yes. Even if an agency uses a single summary level pattern, if there is any employee in the competitive area undergoing a reduction in force who has one or more ratings of record being credited in the reduction in force that were given under a different summary level pattern, the competitive area has a mix of patterns.
- 104.** Are agencies required to vary the credit from 12/16/20 in every situation where they have mixed rating patterns?
- The regulations require that agencies look at the situation and make a determination on what, if anything, should be done regarding the credit assigned for ratings of record when there is a mix of rating patterns among the ratings of record being credited for reduction in force. If the agency decides that the best course of action is to still use the 12/16/20 assignment of credit, they may do so.
- 105.** Why can't agencies vary credit for ratings of record given prior to October 1997?
- The Office of Personnel Management felt that changing the credit retroactively would be very difficult for agencies to administer and for employees to accept. Therefore, a phased-in transition was selected to give employees, managers, personnelists, and unions an opportunity to communicate, understand, and implement the regulations.
- 106.** If an agency can establish different amounts of additional service credit in different reductions in force, different competitive areas, and even different summary level patterns, how can they apply the additional service credit in a uniform and consistent manner?
- Once an agency determines how it will assign the amounts of additional service credit based on performance, everyone who has ratings of record with the same summary level within the same pattern in the same competitive area will get the same amount of additional service credit. This is a uniform and consistent application of service credit for everyone who meets the specified criteria (i.e., level, pattern, and competitive area).

- 107.** Can an agency assign 16 years of additional service credit to a Pass (Level 3) in Pattern A (two summary levels) and 12 years credit to a *Fully Successful* (Level 3) in Pattern H (five summary levels) in the same reduction in force?
- Yes. Based on its analysis of the competitive area(s) and its determination of what would minimize severely advantaging or disadvantaging employees, an agency can assign different values to the same summary level (Level 3) in different patterns (A and H) in the same reduction in force, and even with-in the same competitive area.
- 108.** In prior regulations, assumed ratings for reduction in force were used. Why did the Office of Personnel Management reduce the use of assumed ratings?
- The number of assumed ratings varies widely among agencies, among competitive areas within an agency, and even from reduction in force to reduction in force in the same competitive area. Many factors affect the number of assumed ratings needed, including the type of work force, the implementation of performance management programs, and many other factors. The Office of Personnel Management has found, for example, a competitive area where 5% of employees undergoing a reduction in force had 3 assumed ratings and 36% had 2 assumed ratings; so, the use of assumed ratings potentially can affect quite a number of employees.
- 109.** If employees are on anniversary-date performance cycles instead of fixed-date cycles, and the agency implements the performance crediting provisions for an upcoming reduction in force, does the agency have to wait until the new performance cycle begins to assign additional performance credit?
- No. Implementation of the crediting provisions is not tied to performance cycle dates. Agencies have some flexibility regarding when they implement the provisions for crediting performance; however, all agencies must implement these provisions by October 1, 1998. Once the provisions have been implemented, they can be applied only to ratings of record put on record (i.e., given to the employee with all appropriate reviews and signatures and available to the office responsible for establishing retention registers) on or after October 1, 1997. Many agencies establish a cut-off date after which no new ratings of record will be put on record for use in a specific reduction in force. Using a cut-off date could be particularly helpful when an agency uses anniversary-date cycles, since there is no other single, clear-cut date available to signify when the last creditable appraisal period ended. However, even for agencies that choose not to establish a cut-off date, there is no requirement for an agency to wait beyond the implementation date of the regulations (e.g., for a new appraisal cycle) to implement and/or apply the new crediting provisions.

- 110.** May an agency grant additional service credit for reduction in force based on employees' receiving quality step increases?
- No. The only basis for granting additional service credit for reduction in force is a rating of record as specified at section 351.504(a) of title 5, Code of Federal Regulations.
- 111.** If an agency gives a summary performance rating when it does its mid-year review, can that rating be used for crediting performance in a reduction in force if it was given before the cutoff date?
- No. Only ratings of record can be used as the basis for assigning additional service credit during a reduction in force. Performance ratings are used to capture performance information for many different kinds of situations, including mid-year or quarterly reviews, details, employee transfers, etc., and are factored into the employee's rating of record at the end of the appraisal period, but they do not constitute ratings of record themselves. The reduction in force regulations were written specifically to minimize confusion over which ratings can be used for reduction in force purposes by limiting the crediting of years of additional service to ratings of record only.
- 112.** Can ratings given by private industry employers be used as equivalent ratings of record for crediting performance in a reduction in force?
- No. Only ratings given by Federal Government entities can be used and only when they meet the requirements for equivalent ratings of record as specified in the performance management regulations.
- 113.** What are equivalent ratings of record?
- There are agencies and organizations within the Federal Government that are not covered by the performance appraisal provisions in the law and regulations. However, many of them have adopted these procedures or developed their own procedures to evaluate the performance of their employees. The previous regulations on reduction in force restricted the application of additional service credit based on performance to those ratings of record given under the provisions of the appraisal law and regulations. When employees moved between agencies and organizations that are and are not subject to the appraisal law and regulations, they lost credit for Federal performance. To help alleviate this problem, the regulations have been changed to give agencies the basic guidelines by which they can review the performance evaluations employees bring with them from other Federal organizations and determine whether they qualify as equivalent ratings of record that can then be used as the basis for assigning additional service credit in a reduction in force.

- 114.** Can an agency use a close-out performance rating brought by an employee transferring in from another agency as a rating of record?
- No. Under the new regulatory definition, the rating of record is: the performance rating done at the end of the appraisal period that reflects performance over the entire period; or the more current rating of record required by regulation at section 531.404(a)(1) of title 5, Code of Federal Regulations, to support a within-grade pay decision. The regulations do not provide for agencies to specify other circumstances for giving a rating of record.

## Performance Management and Quality Step Increases

*A quality step increase is an additional step increase that may be granted in recognition of high quality performance above that ordinarily found in the type of position concerned. (A step increase is an increase in a Federal employee's rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that grade or next higher rate within the grade.) Some frequently asked questions about quality step increases in regard to performance appraisal and awards regulations include:*

- 115.** Who can get a quality step increase? A quality step increase can only be granted to an employee whose most recent rating of record is Level 5, or, if covered by an appraisal program that does not use a Level 5 summary, the employee receives a rating of record at the highest summary level used by the program and demonstrates sustained performance of high quality significantly above the *Fully Successful* level.
- 116.** Will a written justification be required to grant a quality step increase to an employee covered by an appraisal program that doesn't use a Level 5 summary? While employees must receive a rating of record at the highest summary level used by the program and meet the agency-specified criteria for qualifying for a quality step increase, a separate written justification is not required. However, the Office of Personnel Management strongly encourages agencies to require some form of recorded justification. Assuring compliance with agency-established criteria for quality step increase eligibility would be difficult without recorded justifications. The agency should be able to show that the proposed recipient has performed at a truly exceptional level to justify a permanent increase in his or her rate of basic pay.
- 117.** Must OPM approve the criteria an agency develops for granting quality step increases under appraisal programs that don't use a Level 5 summary? No, but the Office of Personnel Management's Performance Management and Incentive Awards Division can help agencies develop criteria best suited for their needs.
- 118.** Is peer nomination for quality step increases allowed? Yes. Peer nomination for quality step increases is permissible. However, some process would need to be set up to ensure that nominated employees meet the eligibility criteria. Also, under section 531.501 of title 5, Code of Federal Regulations, final authority for granting quality step increases must remain with management.

## Performance Awards (Rating-Based Awards)

*Performance awards (or rating-based awards) are lump-sum cash awards given to recognize performance as reflected in a rating of record. Some frequently asked questions about performance awards include:*

- 119.** What is a performance award? Performance awards are lump-sum cash awards based on ratings of record of Level 3 (Fully Successful or equivalent) or higher. Rating-based performance awards are included among the various types of awards available under part 451 of title 5, Code of Federal Regulations. Agencies can use the rating of record as the sole basis for granting a performance award.
- 120.** Can agencies not covered by part 430 of title 5, Code of Federal Regulations, pay performance awards? Yes. The provision at section 451.104(a)(3) of title 5, Code of Federal Regulations (CFR), regulates the statutory authority to pay performance-based cash awards by specifying the use of a rating of record under the provisions of 5 CFR 430 as the sole justification for such an award. However, since the statutory authority permits any agency to pay a performance-based cash award to a General Schedule employee based on a rating of *Fully Successful* or better, agencies that are not covered by the provisions of 5 CFR 430 can still use their official agency performance rating as the justification for the award.
- 121.** Under a “pass/fail” appraisal program, is any employee who receives a “pass” rating eligible for a cash performance award? Technically, yes. A “pass” rating in a two-level appraisal program is a Level 3 (*Fully Successful* or equivalent) summary level. The law at section 4505a of title 5, United States Code, which covers General Schedule employees, states that “an employee whose most recent performance rating was at the *Fully Successful* level or higher (or the equivalent thereof) may be paid a cash award.” Eliminating the higher summary levels also eliminates the further performance distinctions that many agencies had applied in granting rating-based performance awards. Although not required, it was not uncommon for agencies to restrict the use of rating-based awards to employees with ratings of record above Level 3. Under a two-level appraisal program, agencies need to develop additional criteria for selecting employees who should receive cash performance awards and for granting awards of different amounts.

Technically, agencies will be free to continue to use just a Level 3 rating of record as the legal criterion for granting a cash award. However, the Office of Personnel Management advises agencies to make some record of the additional performance distinctions they make to select award recipients and thereby prevent perceptions of awards being arbitrary or capricious.



- 122.** Are rating-based performance awards subject to the \$10,000 and \$25,000 approval thresholds?
- Yes. Under sections 4502(a) and (b) of title 5, United States Code, and the implementing regulations, such awards always have been subject to the Office of Personnel Management and Presidential approval, respectively. Section 4505(a), of title 5, United States Code, further restricts performance awards to no more than 10 percent of the employee's annual rate of basic pay, excluding any locality-based comparability payment, except that a rating-based award may exceed 10 percent if the agency head determines that an employee's exceptional performance justifies such an award. However, in no case may a rating-based award exceed 20 percent of the employee's annual rate of basic pay, excluding locality-based comparability payments.
- 123.** Will an agency be able to grant a performance award for a non-recurring contribution?
- Performance awards, as the terminology is used, refer to cash awards granted on the basis of the rating of record, which generally summarizes the employee's performance over an extended period of time, i.e., the full appraisal period. The more important flexibility now in the regulations is that the contribution that may merit a special act or service award is no longer defined as a "non-recurring" contribution. This new flexibility should make it easier for agencies to design award programs that recognize the successful or improved accomplishment of work projects that by their nature can be considered "recurring contributions."

## Awards Information

*Award regulations are very general in nature and allow for a great deal of agency innovation. Here are some frequently asked questions regarding what might be permitted under the awards authority:*

**124.** Since it is getting harder and harder to have access to cash and get checks cut, what can an agency use instead of cash or a check to give money as an award?

Significant constraints on getting checks issued make it difficult to present prompt “same as cash” recognition. Also, the increased use of electronic fund transfers and “non-cash” transactions is widely anticipated and even mandated by law. These have raised the question of what alternatives are available to deliver cash awards. The Office of Personnel Management has concluded that cash surrogates are an appropriate option for delivering cash awards, subject to all the limitations and requirements that apply to cash awards. Current examples of cash surrogates are “award vouchers” created by the agency itself that can be exchanged for currency through its imprest fund and “gift cheques” that are purchased through a vendor and that are easily and widely redeemable for cash, not merchandise. Recipients of cash surrogates must have the same freedom and control over how that award may be used as they would have over any currency or U.S. Treasury check they might otherwise receive as a cash award, including the option of saving the money or turning it over to any third party (e.g., a charity or other individual). Consequently, cash surrogates must meet the following criteria:

- ***They are subject to all the limitations and requirements that apply to cash awards.***
- ***They must be easily and immediately convertible to cash.***
- ***They must not be limited to be redeemed only where purchased, at a few selected sites outside the agency, or through specific vendors.***
- ***If purchased from a vendor or financial institution, they are subject to all relevant procurement regulations.***

Cash surrogates should not be confused with merchant gift certificates.

**125.** Can an agency provide training or purchase equipment as a form of award?

Technically, yes, although it is important to recognize the intersection of several administrative authorities in such a situation. The decision to reward an employee or group of employees with training or equipment may be very reasonable within a recognition program that contemplates such forms of recognition. In that instance, under the definition of “award” at section 451.102 of title 5, Code of Federal Regulations, the “award” would be considered

an “action taken.” The action itself would be the procurement of the training or equipment. As such, it would be subject to all relevant training and procurement regulations, limitations, and requirements. It would not be unreasonable to deduct the costs of such training or equipment from the relevant awards budget, although technically that is not required. Some agencies partition their funding very specifically across object classes such as awards, training, equipment, etc., and special funding arrangements and transfers may be required.

**126.** What is meant by the regulation at section 451.106(c) of title 5, Code of Federal Regulations, that agencies shall “provide for communicating with employees and supervisors about the relevant parts of their award program(s)”?

The regulations recognize that many means of communication are available to agencies to help employees understand their award program(s), including formal training. The Office of Personnel Management anticipates that in some agencies more than one program may be in place for different employees working within the agency, and, therefore, the employees’ greatest need is to understand the program(s) that pertains to them.

**127.** What is meant by “forced distribution” and how can it be applied to awards?

The term has no precise definition in policy or practice, but “forced distribution” generally is associated with the idea of limiting awards to a certain number or percentage of employees. Relative comparisons among individuals or groups, such as rank ordering or categorizing employees, can be used for making decisions about distributing awards. For example, agencies may limit awards to the top three producers or teams, or limit awards to those individuals or groups that exceeded certain goals. Agencies can also establish criteria for categories of awards that are given only to a selected number of recipients who best fit the criteria, although the criteria might have been met by more than one person or team.

- 128.** What is meant by the regulatory language, “an agency shall assure that a program does not conflict with or violate any other law or Governmentwide regulation?” (5 CFR 451.106(a))
- In designing their award programs, agencies have a responsibility to look beyond the award regulations themselves and make sure that the specific reward and incentive programs that are being proposed do not conflict with other laws or regulations. Examples of other rules that can be directly related to incentive/reward schemes are procurement, travel, FLSA, and tax withholding. These compliance issues surface most often when we are asked to review an agency’s proposal for an innovative award scheme. Often, the issue has less to do with the proposal’s forms of recognition, than with the nature of the contribution that would be recognized. (An extreme example is an instance where the Office of Personnel Management (OPM) was asked to review an incentive proposal that would have violated the criminal code since the award would have constituted an illegal “kickback”!) OPM does not wish to stifle creativity, but the integrity of the Government-wide award program must be protected.

## Honorary Awards and Informal Recognition Awards

*Agencies are authorized to grant honorary awards and informal recognition awards to recognize their employees' performance. Some frequently asked questions about honorary awards and informal recognition awards include:*

**129.** What is an honorary award?

An honorary award is a gesture of respect given to an employee to recognize his or her performance and value to the organization. Honorary awards are generally symbolic. Many agencies include as part of their overall incentive awards programs a traditional form of high-level, formal "honor awards." Often, such honorary award programs do not use monetary recognition at all, but emphasize providing formal, highly symbolic recognition of significant contributions and publicly recognizing organizational heroes as examples for other employees to follow. They typically involve formal nominations, are granted in limited numbers, and are approved and presented by senior agency officials in formal ceremonies. The items presented, such as engraved plaques or gold medals, may be fairly expensive to obtain. However, they are principally symbolic in nature and should not convey a sense of monetary value. In other, more routine situations, many honorary awards are provided to commemorate the presentation of cash or time-off awards. As mementos, such nonmonetary honorary award items may not be particularly expensive; indeed, they may be of only nominal value (e.g., simple certificates in inexpensive frames, lapel pins, paperweights). Nonetheless, all items used as honorary awards must meet specific criteria.

**130.** Are there special criteria for honorary awards?

Because honorary awards represent symbolic formal recognition, items presented as honorary awards must meet **all** of the following criteria:

- ***The item must be something that the recipient could reasonably be expected to value, but not something that conveys a sense of monetary value.*** A basic principle of symbolic awards is that their primary value should be as a form of recognition and not as an object with monetary value. If monetary recognition is intended, the agency should use the explicit authority provided by Congress to grant a cash award. Care also should be taken to consider what the recipient might find attractive, gracious, and complimentary.
- ***The item must have a lasting trophy value.*** An honorary award that is intended to have abiding symbolic value loses that value if it does not have a lasting form. Consequently, items must be neither intangible nor transitory, such as food or beverages.

Vouchers and tickets to events, while technically tangible themselves, do not meet this criterion because they are intended to be redeemed for something that does not have lasting value.

- ***The item must clearly symbolize the employer—employee relationship in some fashion.*** Affixing, imprinting, or engraving an agency seal or logo on an honorary award item is an obvious way to meet this criterion. However, putting a logo on an item that otherwise has no connection to the employee’s work (e.g., a child’s toy or sporting equipment) would not meet this criterion. In some cases, adding such a seal or logo might not be practical or necessary to meet this criterion (e.g., a plain desk globe might be appropriate for an employee who handles international matters for the agency). Further, an item that meets this criterion in one agency, because of its mission or the employee’s job, might not meet it in another agency (e.g., a desk globe would not be appropriate for an accountant in an agency with no international programs). Consequently, each agency is responsible for determining whether items meet this criterion.
- ***The item must take an appropriate form to be used in the public sector and to be purchased with public funds.*** Some items may meet the other criteria, but still not be appropriate. For example, it would not be appropriate to purchase a firearm as an honorary award, even to recognize a law enforcement official. Agency officials must take responsibility for assuring that the authority to “incur necessary expense for honorary recognition” is used in a manner that shows good judgment and preserves the credibility and integrity of the Federal Government’s awards program.

131. What are informal recognition awards?

Informal recognition awards are a type of award that may be given to recognize performance that, taken alone, does not merit a larger award, such as cash, time-off, or an honorary award. Agencies are finding that they can effectively and efficiently achieve many of the goals of a recognition and incentive award program by providing more frequent, timely, and informal recognition of employee and group contributions. The Office of Personnel Management has used its regulatory authority to provide for this form of recognition at section 451.104(a) of title 5, Code of Federal Regulations, as an appropriate agency use of the statutory authority to “incur necessary expense for honorary recognition.” Because these informal recognition awards are intended to recognize contributions of lesser scope that might otherwise go unrecognized, they are subject to fairly general criteria.

132. What criteria do informal recognition awards have to meet?

Items used effectively and efficiently as informal recognition award items are often extremely casual and low-cost. In addition, informal recognition awards typically have more informal approval procedures and presentation settings than honorary awards. However, it is important to remember that some contribution must still form the basis for using an informal recognition award and be clearly acknowledged as part of any presentation, however informal. Items presented as informal recognition awards must meet the following criteria:

- ***The item must be of nominal value.*** The value of the award should be commensurate with the contribution being recognized. These awards recognize contributions that would not ordinarily merit formal recognition. No exact dollar value is set as nominal. Nevertheless, agencies are expected to use good judgment and remember that nominal generally refers to a low monetary value.
- ***The item must take an appropriate form to be used in the public sector and to be purchased with public funds.*** Some items may be inexpensive but still not be appropriate. Agency officials are responsible for determining that the items used as informal recognition awards demonstrate good judgment and preserve the credibility and integrity of the Federal Government's awards program.

133. Can agencies give employees merchandise items as awards?

In some limited circumstances merchandise items could be used as an honorary award or informal recognition award. Merchandise may be used for awards purposes **if and only if** the item meets the criteria for an honorary award or an informal recognition award. Agencies need to be aware that the Internal Revenue Service (IRS) considers merchandise to be a taxable fringe benefit that must be taxed on its fair market value. Further questions on taxable fringe benefits should be directed to the IRS.

134. Can an agency give a gift certificate as an award?

Agencies may present such certificates and vouchers if they are being used as informal recognition awards. Merchant gift certificates should **not** be confused with cash surrogates (which are vouchers or checks that can be easily and widely redeemable for cash, not merchandise). Gift certificates usually are given when the intent is to give some **thing** but let the recipient make the final choice. Merchandise certificates cannot meet a cash surrogate's criterion of being easily negotiable because of limitations on where, how, and for what they may be redeemed. Gift certificates fail to meet the criteria for honorary awards because they convey a clear monetary value and cannot be characterized as symbolizing the

employer-employee relationship. Consequently, the only circumstance where a gift certificate may be used to recognize an employee contribution is as an informal recognition award, which may not exceed nominal value.

Agencies also need to be aware that the Internal Revenue Service (IRS) considers gift certificates to be taxable fringe benefits that must be taxed on their fair market value. The face value of a gift certificate would be considered its fair market value. Further questions on taxable fringe benefits should be directed to the IRS.

**135.** Can savings bonds be given as an award?

The Office of Personnel Management has determined that U.S. Savings Bonds have distinctive, positive qualities that make them appropriate recognition items. Despite the fact that U.S. Savings Bonds clearly convey a sense of monetary value, a savings bond must be considered a form of honorary award since it is a Federal contract that must be purchased and held for a minimum of 6 months before it can be redeemed. Its “failure” to meet the honorary award criterion regarding a sense of monetary value need not preclude its use. The other criteria are met since its minimum 6-month holding period gives it some lasting value, it certainly can be considered symbolic of the employee-employer relationship for any Federal employee, and it is appropriate to the public sector. Consequently, the Office of Personnel Management has concluded that a savings bond may be used as an honorary award. When of nominal value, a savings bond also can be used as an informal recognition award since it meets the required criteria. We consider savings bonds to be a special case, however, and expect that **all** the criteria for using items as honorary awards and informal recognition awards will be applied in other cases. Agencies also need to be aware that the Internal Revenue Service (IRS) considers savings bonds to be taxable on their fair market value. The cost of a savings bond would be considered its fair market value. Further questions should be directed to the IRS.



## Time-off Awards

*Awards regulations allow agencies to grant time off without charge to leave or loss of pay as an award to recognize performance. Some frequently asked questions about time-off awards include:*

- 136.** Are there any limits to the number of hours that can be granted as a time-off award? There are no **Governmentwide** limits on granting time-off awards. However, agencies are free to establish their own guidelines and limitations on how much time off is appropriate for various employee contributions, as well as overall periodic limits that may be useful for preserving the integrity of their time-off award program and preventing abuse and/or criticism.
- 137.** What regulatory limitations apply to time-off awards? The regulations provide that time-off awards shall not be converted to cash. Agencies will document a time-off award, as well as cash awards, in compliance with the OPM operating manual, *Guide to Processing Personnel Actions*, and they must submit time-off award, as well as cash award, data to the Central Personnel Data File in compliance with the Office of Personnel Management operating manual, *Guide to the Federal Workforce Reporting Systems*.
- 138.** Why does the Office of Personnel Management prohibit converting time-off awards to cash? The “currency” of a time-off award is time, not money. A method for conversion would have to be developed. The obvious, apparently straightforward solution is to convert time to cash using an hourly rate of pay. However, lower-graded employees may well find such salary-based conversion unfair. If a mixed-grade group of employees were granted equal time-off awards (which is a common practice), they would convert to cash very unequally. In addition, several administrative issues are involved. For instance, the administrative problems associated with “withdrawing” a reported time-off award and “substituting” a cash award would also wreak havoc on the integrity of agency and Office of Personnel Management reports of award use. Although administrative concerns ought not to drive sensible policy choices, they are serious enough in this instance to leave the prohibition on conversion in place.
- 139.** Can an agency offer an employee the choice of time-off or a cash award? Technically, there is no legal bar to offering that choice. However, the Office of Personnel Management **strongly** recommends that agencies **not** offer such a choice. To do so would put the employee who opts for time-off in “constructive receipt,” for tax withholding purposes, of the cash award offered. Appropriate withholding based on the cash award offered would have to be done **at the time the choice is offered** (i.e., when the employee reasonably would be expected to receive the cash), rather than based on the pay

associated with the time off when the time off is actually taken.

When offering the employee a choice between time off or cash as an award, and if the employee chooses the time off, difficulties arise:

- it will be difficult to explain to the employee the basis for the unexpected additional tax withholding that occurs as a result of the constructive receipt of the cash award; and
- the administrative burden on the agency may well be prohibitive because agencies would be responsible when the choice of award is offered for assuring that the initial withholding based on the cash award offered is made at that time. When the time-off award is actually used, the agency would be responsible for comparing the amount already withheld for the cash award offered and the amount that otherwise would be due based on the pay for the time off. No additional withholding would be made if the tax due for the time off is at least equal to the tax already withheld for the cash offered. If pay for the time off is greater than the cash award offered, an additional withholding is made on the difference when the time-off award is used.

## Awards Limitations

*The law places a ban on awards to political appointees during a Presidential election period. A frequently asked question about this limitation is:*

**140.** Can any awards be given to political appointees during a Presidential election period?

In the legislative history and other documents that led to the legislation at section 4508 of title 5, United States Code, that bans the granting of awards to political appointees during a Presidential election period, the subject under discussion was clearly limited to “bonuses” or awards with principally a monetary value. There is no evidence that the prohibition was intended to include awards that are primarily honorary in nature (i.e., that do not grant cash). Therefore, the Office of Personnel Management interprets both the law and its accompanying regulation to prohibit any cash award and any other bonus delivered under the cover of a nonmonetary award, i.e., any award with an apparent value that is more monetary than honorific. Applying this interpretation, award categories are treated as follows:

**Cash Awards**—The ban on awards (i.e., performance awards, special act or service awards, etc.) that take the form of cash is absolute for political appointees during a Presidential election period. Under no circumstances may a political appointee receive an award in the form of cash, including any honorarium or stipend that may be associated with an agency honorary award.

**Time-Off Awards**—Because a time-off award is ultimately delivered in the form of pay for time not worked, it must be construed in this context to be comparable to a cash award. Consequently, the ban on time-off awards is absolute. For the purposes of section 451.105(a) of title 5, Code of Federal Regulations, a time-off award is considered “received” when it is granted. Under no circumstances may a political appointee receive a time-off award during a Presidential election period.

**Honorary Awards and Informal Recognition Awards**—Honorary awards and informal recognition awards may take a wide variety of forms with a wide variance in monetary value, both in terms of direct cost and the appearance of such value. The Office of Personnel Management concluded that an agency may grant a political appointee an honorary or informal recognition award during a Presidential election period, provided that the form of the honorary award avoids the appearance of replacing a bonus. Agencies must exercise good judgment in selecting honorific items.

Such items should create the inherent impression of symbolic value (an honor being bestowed) rather than monetary worth (cash value). For example, presenting a commemorative photograph or a certificate in a simple, inexpensive frame would be appropriate, but presenting an expensive crystal carafe would not be.