

Department of Commerce Alternative Personnel System
Operating Procedures Manual



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DEPARTMENT OF COMMERCE ALTERNATIVE PERSONNEL SYSTEM OPERATING PROCEDURES MANUAL

TABLE OF CONTENTS
COVER LETTER
OPERATING PROCEDURES CHANGES

I. INTRODUCTION

II. HUMAN RESOURCES SYSTEMS

A. POSITION CLASSIFICATION P. 26

1. INTRODUCTION
2. CLASSIFICATION SYSTEM
3. MAKING CLASSIFICATION DECISIONS
4. PROCESSING CLASSIFICATION ACTIONS
5. CLASSIFICATION APPEALS
6. REVISING THE SYSTEM

B. STAFFING P. 47

1. INTRODUCTION
2. DEFINITIONS
3. DIRECT EXAMINATION: CRITICAL SHORTAGE OCCUPATIONS
4. DIRECT EXAMINATION:
CRITICAL SHORTAGE HIGHLY QUALIFIED CANDIDATES
5. AGENCY-BASED STAFFING
6. MERIT ASSIGNMENT PROGRAM
7. ACCRETION OF DUTIES PROMOTIONS
8. PAID ADVERTISING
9. THREE-YEAR PROBATIONARY PERIOD
10. QUALIFICATION REQUIREMENTS
11. RECRUITMENT AND RETENTION INCENTIVES
12. RELOCATION INCENTIVES
13. TRAVEL EXPENSES

C. REDUCTION-IN-FORCE..... P. 67

1. INTRODUCTION
2. RIF ASSIGNMENT PANEL AND SUBPANELS: MEMBERSHIP
3. PROCEDURES

D. PAY ADMINISTRATION..... P. 70

1. INTRODUCTION
2. DEFINITIONS
3. PAY SETTING
4. GRADE AND PAY RETENTION
5. RECRUITMENT, RETENTION AND RELOCATION INCENTIVES
6. SUPERVISORY PERFORMANCE PAY
7. LOCALITY PAY
8. HIGHEST PREVIOUS RATE
9. FACULTY AND STUDENT APPOINTMENTS

E. PERFORMANCE APPRAISAL..... P. 78

1. INTRODUCTION
2. DEFINITIONS
3. ROLES AND RESPONSIBILITIES
4. PERFORMANCE MANAGEMENT PROCESS
5. ACTIONS BASED ON UNSATISFACTORY PERFORMANCE
6. FUNDING
7. PERFORMANCE PAY INCREASES
8. PERFORMANCE BONUSES
9. ANNUAL COMPARABILITY INCREASE
10. EVALUATION
11. RECORD KEEPING
12. PAY ACTION PROCESSING

F. AWARDS P. 100

1. PERFORMANCE BONUS
2. OTHER AWARDS

G. EMPLOYEE RELATIONS P. 100

1. PLACEMENT IN A LOWER PAY BAND
2. LOSS OF SUPERVISORY PERFORMANCE PAY

III – SYSTEM ADMINISTRATION

A. SYSTEM MANAGEMENT P. 102

1. INTRODUCTION
2. COMMERCE ALTERNATIVE PERSONNEL SYSTEM BOARD
3. OPERATING PERSONNEL MANAGEMENT BOARDS

B. MODIFICATION AND REVISION..... P. 102

C. CONVERSION TO THE GS SYSTEM FROM THE CAPS..... P. 103

1. GRADE-SETTING PROVISIONS
2. PAY-SETTING PROVISIONS
3. EVALUATION OF CLASSIFICATION

DEPARTMENT OF COMMERCE ALTERNATIVE PERSONNEL SYSTEM OPERATING PROCEDURES

This manual sets forth operating procedures that govern the Department of Commerce (Department) Alternative Personnel System. The Commerce Alternative Personnel System (CAPS) was implemented as a Demonstration Project on March 29, 1998 as authorized by Title 5, United States Code (U.S.C.) § 4703. It was designed by the Department with the participation and review of the Office of Personnel Management (OPM). The Demonstration Project became a permanent system on December 26, 2007, with the passage of the Consolidated Appropriations Act, Fiscal Year (FY) 2008; and renamed the CAPS. The CAPS Board manages the system at the Department level, and each operating unit manages its own internal operations through an Operating Personnel Management Board (OPMB) in accordance with charters and delegations of authority approved by the CAPS Board. The Deputy Chief Human Capital Officer and Director for Human Resources Management, Office of Human Resources Management (OHRM) has overall oversight and accountability responsibility of CAPS.

The procedures outlined in this manual are based on the policies contained in the Federal Register Notice of December 24, 1997, and subsequent changes approved by OPM and published in subsequent Federal Registers. These procedures apply to all operating units participating in CAPS. The procedures are binding; major changes to or deviations from the procedures must be approved by the CAPS Board Chair, based upon recommendations from CAPS Board members and OPMB Chairs. When required, changes shall be made through appropriate notice as determined by the CAPS Board Chair (i.e., employee, OPM and/or Federal Register notice).



William J. Fleming
Acting Deputy Chief Human Capital Officer and
Acting Director for Human Resources Management
Acting Chair, CAPS Board

OPERATING PROCEDURES CHANGES

Changes to the Commerce Alternative Personnel System (CAPS) Operating Procedures Manual on May 28, 2010

1. Revised Language throughout Operating Procedures Manual

Substantive changes were made throughout the manual to retitle the Demonstration Project to the Commerce Alternative Personnel System (CAPS).

2. Language Addition for Responsibilities Section I.A.1 – Authority

The Demonstration Project became a permanent system on December 26, 2007 with the passage of the Consolidated Appropriations Act, Fiscal Year 2008 (Public Law 110-161) and was renamed the Commerce Alternative Personnel System (CAPS).

3. Replace Responsibilities Section I.A.3.a Execution – Management with the following:

The Department CAPS Board manages the system. Each operating unit (OU) has its own Operating Personnel Management Board (OPMB) to oversee internal operations. The Deputy Chief Human Capital Officer and Director for Human Resources Management, Office of Human Resources Management (OHRM), serves as the Chair and a member of the CAPS Board. Voting members of the CAPS Board include one senior management official from the participating OU, with the exception of the National Oceanic and Atmospheric Administration (NOAA) who has two senior management officials due to the number of employees in NOAA covered under the CAPS. Each OPMB is chaired by a senior manager.

4. Language Addition for Responsibilities Section I.A.5 – Evaluation

Accountability reviews of CAPS will be conducted by the Department's OHRM and CAPS is subject to OPM review as part of the OPM Center for Merit System Accountability Audit Program.

5. Revised Coverage Section I.C.1 – Participating Organizations

Revised Participating Organizations to remove Technology Administration, change National Oceanic and Atmospheric Administration, Office of Human Resources to Workforce Management Office and re-letter organizations.

6. Revised Coverage Section I.C.2.b – Participating Employees

Revised Participating Employees to remove ST-3104 positions from being covered under CAPS for the purposes of performing appraisal, awards, and reduction-in-force systems as GS positions covered by the project.

Revised Participating Employees to state Department sponsored Federal Career Intern Program (FCIP) interns **only** when the entire class of interns is not covered under the same pay system, (i.e., GS or alternative personnel system). These employees will be covered by the GS pay system. Service as a career intern confers no rights to further Federal employment upon the expiration of the internship period. If the intern is non-competitively converted, upon conversion, they will be placed in the appropriate pay system for their permanent position.

In accordance with Title 5, Code of Federal Regulations (CFR) § 213.3202 the conversion will be effective on the date the two-year service requirement is met or at the end of an agency or OPM extension. When an intern is entitled to a within-grade increase (WGI) that is effective at the same time as the conversion action, the WGI must be processed before processing the conversion action. Thus, interns converted from the GS pay system to CAPS on the date of the 2 year service requirement will not be given a lump-sum cash payment for the time credited to the employee's next WGI.

In rare or unusual circumstances, when an intern is converted after the two-year service requirement and has begun a new waiting period for his or her next WGI, upon conversion the employee will be given a lump-sum cash payment for the time credited to the employee toward what would have been the employee's next WGI, in accordance with the policy published in the Federal Register Notice of December 24, 1997.

7. Replaced Position Classification Section II.A.2.(a) Classification System

Replaced a. User System with a. Automated Classification System.

8. Added the following language for Position Classification Section II.A.2.b(4) Classification System– Position Descriptions

Validation of classified PDs must be accomplished by the servicing HR office. Validation is accomplished by reviewing the PD to ensure that the content (i.e., principal objective, specialty descriptors, and key phrases) is consistent with the classification and by signing and dating item #30 on the reverse side of the form CD-516, "Classification and Performance Management Record." Once verified, the servicing HR office must validate the position description in ACS using the validation feature. This process requires the HR advisor to determine whether the position is covered or not covered by the Fair Labor Standards Act (FLSA) based on the actual duties of the position as follows:

- (a) A mandatory FLSA determination drop-down box will appear. The HR advisor will select the FLSA criteria from the drop down box.

(b) If a non-exempt option is selected, then a default message will appear in the "FLSA Basis" dialogue box.

(c) If an exempt option is selected the basis for the FLSA determination must be entered into the mandatory dialogue box that supports the determination.

After the FLSA determination is made, the HR advisor certifies that all parts of the classification action have been completed; that the action is signed by an authorized official; and that the action is ready for entry into the National Finance Center (NFC) payroll/personnel System.

This process requires the HR advisor to input the Fair Labor Standards Act (FLSA) determination as follows: A mandatory FLSA determination drop-down box will appear. The HR advisor will select the FLSA criteria from the drop down box. If a non-exempt option is selected, a default message will appear in the "FLSA Basis" dialogue box. If an exempt option is selected the basis for the FLSA determination, it must be entered into the mandatory dialogue box that supports the determination.

9. Correction in Position Classification Section II.A.3.(j) CAPS Pay for Performance Framework

Corrected pay band ZP to V (GS Equivalent 15).

10. Replaced Position Classification Section II.A.3.s(1)(a) and (b) Making Classification Decisions – Designation Team/Lead Work Lead Responsibility with the following:

(a) The employee will, as a regular and recurring part of his or her assignment, lead three or more employees in: ZS (Support) career path in pay bands I through IV and/or ZT (Scientific and Engineering Technician) career path in pay bands I and II.

(b) The employee will, as a regular and recurring part of his or her assignment and for at least 25 percent of his or her duty time, lead a team of employees in at least one combination of the following: ZP (Scientific and Engineering) career path; ZA (Administrative) career path; ZS (Support) in pay band V or ZT (Scientific and Engineering Technician) in career path in pay bands III through V.

11. Added the following language for Position Classification Section II.A.5.f(3) Classification Appeals – Time Limits:

(3) If the employee is dissatisfied with the OPMB's decision, the employee may appeal to the CAPS Board Chair. The appeal must be filed no later than 15 calendar days after receipt of the OPMB Chair's decision.

12. Added the following language for Position Classification Section II.A.6.b.(4) Revising the System – New Occupational Series:

When the ACS user and the HR advisor agree on the need for an occupational series that is not already in the database, and not listed in Federal Registers, the servicing HR office will write a description for the series and justification to support the addition, and forward it through the OU

CAPS program manager to the Department's CAPS program manager. The Department's CAPS program manager or designee will conduct a classification review, obtain CAPS Board approval, publish series in the Federal Register, and enter into the ACS.

13. Replaced Language for Staffing Section II.B.2.(e) Definitions – Luevano Consent Decree with the following:

A legal decision requiring the establishment and application of an approved rating procedure for entry into professional and administrative occupations covered by Administrative Careers with America (ACWA) testing requirements at the GS-5 and GS-7 grade levels or equivalent band levels. The covered position must meet all of the following criteria:

1. Filled at the entry level, either GS-5 or GS-7;
2. Classified at a 2-grade interval; and
3. Offering promotion potential to the GS-9, or higher.

OPM either administers an approved examining instrument for these positions on a case-by-case basis or administers a written test for the agency upon request.

14. Replace Language for Staffing Section II.B.3(a) Direct Examination: Critical Shortage Occupations – General Coverage, II.B.4.(a) Direct Examination Critical Shortage Highly Qualified Candidates – General Coverage and II.B.5.(a) and (b) Agency-Based Staffing - General Coverage with the following:

Direct examination applies to status and non-status applicants. Positions at the pay band I (GS-5 equivalent) and pay band II (GS-7 equivalent) covered by the Luevano Consent Decree must be filled using the ACWA Assessment Instrument developed and administered by OPM. Positions in pay band II (GS-9 equivalent) may be filled using direct examination or agency based staffing only when the salary is commensurate with the GS-9, step 1 and above and the experience/ education requirements are qualifying for the GS-9 level, (i.e., 1 year specialized experience equivalent to the GS-7 level or meet the education requirements to qualify at the GS-9 level).

15. Replace Language for Staffing Section II.B.3.e.3 Direct Examination Critical Shortage Occupations – Rating and Ranking of Applicants, II.B.4e(3) Direct Examination Critical Shortage Highly Qualified Candidates – Rating and Ranking of Applicants and II.B.5.e(3) Agency Based Staffing – Rating and Ranking of Applicants with the following:

(3) When there are more than three qualified applicants or there is a mix of preference and nonpreference applicants, further rating and ranking occurs. A crediting plan with quality ranking factors is used and applicants are rated according to the plan. There are two methods that can be used for referral of applicants to the selecting official, the Traditional Method, and the Category Rating Method.

a. Traditional Method: Qualified applicants are assigned numerical scores; each qualified applicant is assigned a score of 70 for meeting the minimum qualifications requirements. The HR advisor or a rating panel rates each qualified applicant against the deferred crediting plan developed from the quality ranking factors. Up to 30 points may be assigned during the rating process. Applicants are ranked according to their scores. Preference eligibles receive an additional 5 or 10.

b. Replace Language for Staffing Section II.B.3.(h) Category Rating Method: Qualified applicants who meet the basic qualification requirements established for the position and whose job-related competencies or KSAs have been assessed, are ranked by being placed within one of three pre-defined quality categories (gold, silver, or bronze) instead of being ranked by individual numeric score order. Applicants are ranked according to their category. Preference eligibles receive preference within each quality category. If there are fewer than three eligible candidates in the highest quality category, there is the option of merging categories.

16. Replace Language for Staffing Section II.B.3.(f)(3)(4) Direct Examination Critical Shortage Occupations – Referral of Applicants, II.B.4.(f)(3)(4) Direct Examination Critical Shortage Highly Qualified Candidates – Referral of Applicants and II.B.5.(f)(3)(4) Agency Based Staffing – Referral of Applicants with the following:

(3) Using the Traditional Method when rating and ranking occurs, normally, the top three applicants are referred to the selecting official on a Certificate of Eligibles in rank order according to their scores, except that preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP), regardless of score, are given absolute preference over all other applicants for vacancies in the following career paths and pay bands: ZP bands I-II, ZT bands I-V, ZA bands I-V, ZS bands I-V.

(4) Using the Category Rating Method the "Rule of Three" does not apply. Names of all eligibles in the highest quality category will be referred to the selecting official for consideration, with preference eligibles listed ahead of non-preference eligibles in the highest category. Qualified preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP) move from the category in which they were originally placed, to the top of the highest quality category for vacancies in the following career paths and pay bands: ZP bands I-II, ZT bands I-V, ZA bands I-V, ZS bands I-V.

17. Replace Language for Staffing Section II.B.3.(h) Direct Examination Critical Shortage Occupations – Reconsideration, II.B.4.(h) Direct Examination Critical Shortage Highly Qualified Candidates – Reconsideration and II.B.5.(h) Agency Based Staffing – Reconsideration with the following:

Applicants may submit a written request to the principal HR manager asking for reconsideration of the qualifications, rating, and ranking determinations made by the servicing HR office staff. (The principal HR manager is not involved in initial qualifications, rating, and ranking determinations.) A request must explain why the original determination was improper and what factors were not

considered, and should provide any other pertinent information which would enable the servicing principal HR manager to reevaluate the decision. Applicants determined to have lost consideration receive priority referral for the next vacancy in the same commuting area, career path, series, and pay band for which qualified. In cases of lost employment consideration and lost certification, well-qualified Interagency Career Transition Assistance Plan (ICTAP) applicants must be selected before anyone on the certificate, including the eligible that is receiving priority consideration.

18. Revise language for Staffing Section II.B.5(c)1 Recruitment Procedures to the following:

Removed language stating what the current Department policy is regarding mandatory minimum length of time vacancies are required to be posted.

19. Replace Language for Staffing Section II.B 11.(a), (b), and (c) Recruitment and Retention Incentive – General, Authority, and References with the following:

a. General

As of May 1, 2006, recruitment and retention incentives in CAPS follow the same Department recruitment and retention policy that covers GS positions. The only deviation from Department policy pertains to (b) Authority as indicated below.

The use of recruitment, retention and relocation incentives should be limited to recruiting and retaining highly qualified candidates who would otherwise seek employment outside of the Federal government for similar positions in the private, non-profit and academic sectors. Per OPM guidelines, the use of recruitment, retention and relocation incentives are not to be used as a substitute for traditional recruiting efforts which could yield a competent and qualified employee without the use of such incentives. Specifically, recruitment, retention and relocation incentives should generally only be offered when a position requires knowledge, skills, abilities and education that are difficult to find in the Federal and non-Federal workforce. In determining whether to recommend the use of these incentives, Department officials should thoroughly weigh the financial costs associated with the approval of these incentives with the actual benefit.

b. Authority

Recruitment incentives for up to \$10,000 for individual employees are approved by the appropriate OPMB unless approval authority is redelegated. Recruitment incentives above \$10,000 must be approved by the Deputy Chief Human Capital Officer and Director for Human Resources Management (Director).

All recruitment incentives for groups or categories of employees must be approved by the appropriate OPMB, unless approval authority is redelegated, and the Director.

All retention incentives must be approved by the appropriate OPMB, unless approval authority is redelegated, and the Director (up to 25 percent for an individual and up to 10 percent for occupational group retention incentives).

c. References

For additional information on procedures and policy on using recruitment and retention incentives, please refer to the Department's, Office of Human Resources Management (OHRM), Recruitment, Retention, and Relocation Incentives Plan.

20. Replace Language for Staffing Section II.B 12.(a), (b), and (c) Relocation Incentives with the following:

a. General

Relocation incentives in CAPS follow the same Department policy that covers the General Schedule. The only deviation from Department policy pertains to (b) Authority as indicated below.

b. Authority

Relocation incentives for up to \$10,000 for individual employees must be approved by the appropriate OPMB, unless approval authority is redelegated. Relocation incentives above \$10,000 must also be approved by the Deputy Chief Human Capital Officer and Director for Human Resources Management.

All relocation incentives for groups or categories of employees must be approved by the appropriate OPMB, unless approval authority is redelegated, and the Deputy Chief Human Capital Officer and Director for Human Resources Management.

c. References

For additional information on policy and procedures on using relocation incentives, please refer to the Department's *OHRM Recruitment, Retention and Relocation Incentives Plan*.

21. Revised language for Reduction-in-Force Section II.C.1.d Link Between Performance and Retention

(1) An employee with an overall performance score in the top 30 percent of scores within the same pay pool is credited with 10 additional years of service to their RIF service computation date.

(2) An employee rated *eligible* with an overall performance score that does not fall within the top 30 percent of scores within a pay pool will be credited with five additional years of service to their RIF service computation date.

(3) An employee who received additional service to their RIF service computation date as a result of an increase in score due to a reconsideration or grievance will not affect any other employee in that same pay pool who previously received additional years of service to their RIF service computation date in that performance cycle.

(4) Employees who convert to CAPS from any other performance appraisal system within the Federal government will be credited with five additional years of service to their RIF service computation date that they had prior to converting to CAPS, for each performance rating of record equivalent to an eligible rating in CAPS.

22. Revised language for Reduction-in-Force Section II.C.3(a) Procedures

a. Managers have the responsibility to decide which programs and positions will be abolished. When that determination is made, the manager must:

- (1) Obtain written approval from the Deputy Chief Human Capital Officer and Director for Human Resources Management through the appropriate OU and bureau official;
- (2) Contact the servicing HR office for guidance on issuing specific notices to employees and exclusive representatives as appropriate;
- (3) Notify the servicing HR office to issue notices to the affected employees and exclusive representatives of the proposed RIF and request an updated resume from affected employees; and
- (4) Submit an SF-52 (Request for Personnel Action) form along with all RIF supporting documentation, including the RIF approval memo to the servicing HR manager.

23. Language Addition for Performance Appraisal Section II.E.4.a.(4) Performance Management Process – Performance Planning

The CAPS Board approved the use of the Summary Guidance for Benchmark Performance Standards in March 2005 as a tool to assist managers in evaluating employees with the Benchmark Performance Standards. This tool can be used by managers to help make distinctions between different levels of performance and help ensure greater consistency in the analysis and evaluation of performance ratings.

24. Language Addition for Performance Appraisal Section II.E.4.c.(4) Performance Management Process – Appraisal

For appraisal periods during which the employee was absent for the entire rating period, the rating will be based on either the employee's last rating of record or the modal rating received by all other employees in the same pay pool for the most recently completed appraisal period, whichever is most advantageous to the employee. The modal rating is the most frequently assigned rating in the pay pool. If there is more than one modal rating, the highest one shall be used.

25. Language Addition for Performance Appraisal Section II.E.4.c.(16)

Bargaining unit employees covered by the CAPS must follow the negotiated grievance procedures (NGP) in their respective collective bargaining agreements. Non-bargaining unit employees and those bargaining unit employees who are not covered by a collective bargaining agreement or the NGP specifically excludes these matters from its scope, must use the Administrative Grievance Procedure provisions of DAO 202-771.

26. Replace Language for System Management Section III.C. Conversion Back to the General Schedule (GS) System from the Commerce Alternative Personnel System with the following:

In accordance with Title 5, Code of Federal Regulations (CFR) §531.217, if an employee covered by the CAPS moves (without a break in service) to a GS position, the employee will be converted to a GS-equivalent rate immediately before leaving the non-GS system. As published in the CAPS Plan in the Federal Register on December 24, 1997, the following procedures will be used to convert the employee's pay band to an equivalent GS grade and the employee's rate of pay to equivalent GS rate of pay.

The converted GS grade and rate of pay must be determined before movement out of CAPS and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted GS grade and rate of pay will become the employee's actual GS grade and rate of pay, unless immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rate of pay will be deemed to be the employee's grade and rate of pay at the time of movement out of CAPS and will be used in applying applicable pay setting rules (i.e., rules for promotion under 5 CFR, Part 531).

The rules for determining the converted GS grade for pay administration purposes should not be used to determine whether an employee meets the Office of Personnel Management Qualification Standard (i.e., specialized experience) requirements of a position. Specialized experienced is used to determine qualifications and cannot be used to determine pay.

**Changes to Demonstration Project Operating Procedures Manual
on May 17, 2007**

Substantive changes were made to: incorporate modifications to retention and recruitment incentives as published in the Federal Register on May 1, 2006; accommodate Demonstration Project expansion as published in the Federal Register on August 28, 2006; add Team Leader classification designation as approved by the DPMB; and add language to exempt employees in specific circumstances from the 120-day requirement for receiving a performance appraisal and any resultant pay increase as approved by the DPMB. Other changes were made to clarify the operating procedures, but not change them substantively.

**Changes to Demonstration Project Operating Procedures Manual
on June 15, 2005**

1. Language Addition for Staffing Section II.B.12 Relocation Incentives

Relocation Incentives Section added to clarify relocation authority.

**Changes to Demonstration Project Operating Procedures Manual
Effective March 2005**

1. Language Addition for Performance Appraisal Section II.E.12 Pay Action Processing

Operating units have the option of freezing pay actions of a minimum required period of time to allow for pay for performance pay increases and bonuses to be processed without any interference from intervening actions.

Changes to Demonstration Project Operating Procedures Manual Effective July 2004

1. Language Addition for Position Classification Section II.A.6.b.(3) Revising the System – New Occupational Series

(3) When the user and the HR advisor agree on the need for an occupational series not in the database, the servicing HR office will write a description for the series and forward it to the Demonstration Project Manager, or designee, for review and entry into the database.

2. Replace Position Classification Section II.A.6.b.(3) Revising the System – New Occupational Series with the following:

(2) The Demonstration Project manager or designee approves new specialty descriptor additions to the database.

3. Replace Position Classification Section II.A.3.f.3.(d) Making Classification Decisions - Career Path Determinations with the following:

(d) Support (ZS): one-grade interval positions that provide administrative support through the application of typing, clerical, secretarial assistant, and similar knowledge and skills; positions that provide specialized support, such as guards and firefighters, and student trainee positions in these disciplines.

4. Replace Position Classification Section II.A.3.p.(5) - Making Classification Decisions with the following:

Users may prepare and recommend new specialty descriptors to their servicing HR office as needed. The servicing HR manager or designated staff may approve additional specialty descriptors that must then be forwarded to the Demonstration Project Manager for review and entry into the database. A specialty descriptor should be written in two sentences, the first sentence to reflect the Duties and Responsibilities factor and the second sentence to reflect the Knowledge, Skills, and Abilities factor.

5. Replace Awards Section II.F.2– Other Awards with the following:

Special Act Awards, Suggestion Awards, Cash-in-Your-Account, Time-Off, Department of Commerce Medal Awards and other awards may also be granted to demonstration project employees. Special Act Awards should be given for accomplishments beyond and outside of the employee's performance plan and funded from sources outside of the bonus pool.

6. Language Revision for Performance Appraisal Section II.E.2 Definitions

o. Peer Group – language is replaced with the following:

A group of rated employees in the same career path in an operating unit pay pool. If a career path in an organization contains only one employee, this employee will constitute his or her own pay pool. If insufficient funds exist in the pay pool, funds may be transferred from other pay pools according to existing procedures.

Changes to Demonstration Project Operating Procedures Manual Effective September 2003

1. Language Addition for Pay Administration Section II.D.3.b.(7) Pay Setting - Pay Adjustments

(7) Upon conversion from a General Schedule (GS) position to the Demonstration Project as a result of inclusion of an employee's organizational unit in the Demonstration Project, employees in career ladder positions may receive a within-band pay adjustment after completing a total of 52 weeks of servicing consisting of a combination of both time at their current GS grade level and time in the pay band level to which they were converted. The pay adjustment, if granted, must total the dollar amount of pay increase the employee would have received under the GS system.

Changes to Demonstration Project Operating Procedures Manual Effective August 2003

1. Language Addition for Reduction-In-Force (RIF) Section II.C.1.d.(2) Introduction - Link between Performance and Retention

(2) An employee rated *eligible* with an overall performance score that does not fall within the top 30 percent of scores within a pay pool will be credited with 5 additional years of service for retention credit. The total credit will be based on the employee's three more recent annual performance scores received during the 4-year period prior to the date of issuance of the RIF notice, accumulating a potential maximum total credit of 15 years for an employee.

(4) Employees who convert to this system from any other performance appraisal system within the Federal government will receive 5 additional years of service for retention credit for each performance rating of record equivalent to an eligible rating in the Demonstration Project.

Changes to Demonstration Project Operating Procedures Manual Effective July 3, 2003

1. Language Addition for Staffing Section II.B.3.a Direct Examination: Critical Shortage Occupations – General Coverage and II.B.4.a Direct Examination: Critical Shortage Highly Qualified Candidates – General Coverage

“salary is set at a rate that is equivalent to the GS 9 step 1 or above...”

2. Language Addition for Staffing Section II.B.5.c(1) Agency-Based Staffing – Recruitment Procedures

“minimum of 10 calendar days.”

Changes to Demonstration Project Operating Procedures Manual Effective June 2003

1. Correction in Pay Administration Section II.D.3.b.(7) Pay Setting – Pay Adjustments.

Changed from “servicing” to “service.”

2. Incorporated Retained Pay Language in Pay Administration Sections II.D.(4) Grade and Pay Retention

f. If a GS employee enters into the Demonstration Project and is currently on retained grade and is eligible for a within grade increase within the remainder of the two year retained grade period, they may be eligible to receive an incentive pay increase if they otherwise meet the incentive pay eligibility requirements.

g. Employees who enter the Demonstration Project who are on retained grade are eligible to receive a performance bonus if they otherwise meet the bonus eligibility requirements.

3. Language Addition for Performance Appraisal Section II.E.4.c.(9) Performance Management Process - Appraisal

In circumstances where an employee has had more than one rating official during the rating cycle, the current rating official should refer to a close out rating, if provided, or seek input from the previous rating official(s) as to the accomplishments of the employees when making recommendations on the employee’s appraisal. This process is referred to as a “shared rating.”

4. Revised Numbers under Performance Appraisal Section II.E.4.c.(10)–(16) Performance Management Process - Appraisal

Numbers revised from (9) to (10), (10) to (11), etc.

5. Added Language for Performance Appraisal Section II.E.4.c.(16) Performance Management Process - Appraisal

An employee may grieve the rating, performance score, and payout under a negotiated ... outlined in DAO-202-771. Under the Department *Administrative Grievance Procedure*, employees must submit a Request for Reconsideration (i.e., informal grievance) of their performance appraisal either orally or in writing to their pay pool manager within 15 calendar days of receipt of the appraisal from their rating official. The pay pool manager must provide a written decision back to the employee within 15 calendar days of receipt of the request for reconsideration insofar as practicable.

An employee who wants to submit a formal grievance of his or her performance appraisal must submit a written formal grievance to the servicing personnel officer (or designee), insofar as practicable, within 10 calendar days of the receipt of the pay pool manager's response to their request for reconsideration of their performance appraisal. A management official at least one level higher than the pay pool manager must provide a written decision of the employees formal grievance back to the employee within 45 days of the receipt of the formal grievance from the personnel officer (or designee). The Demonstration Project follows the procedures outlined in DAO 202-771.

Changes to Demonstration Project Operating Procedures Manual Effective February 2003

1. Added language for Staffing Section II.B.6.b Merit Assignment Program -Background

(3) An employee may be noncompetitively converted (i.e., reassigned) to a position within the Demonstration Project that has greater pay potential if the conversion is based upon a written management directive (e.g., an officially approved reorganization, directed reassignment, etc.).

2. Language Addition for Pay Administration Subchapter II.D.3.(i) Pay Setting – Conversion into the Demonstration Project

h. Conversion into the Demonstration Project

An employee who is noncompetitively converted (i.e., reassigned) to a position within the Demonstration Project based upon a written management directive will be given a one-time lump sum payment for time credited towards the next within grade increase (i.e., WIGI).

Changes to Demonstration Project Operating Procedures Manual Effective July 2002

1. Added Language for Performance Appraisal Section II.E.4.c.(15) Performance Management Process - Appraisal

An employee who received RIF service credit as a result of an increase in score due to a reconsideration or grievance will not affect any other employee's previous eligibility for RIF service credit for that performance cycle.

2. Added Language for Performance Appraisal Section II.E.4.c.(15) Performance Management Process - Appraisal

A change in an employee's score as a result of a request for reconsideration or formal grievance may also result in an increase in the employee's original performance pay increase. Such a change in an employee's score (and possible pay increase) will not affect other pay increases given.

3. Added Language for Performance Appraisal Section II.E.4.c.(3) Performance Management Process - Appraisal

Rating officials who leave their positions within the last 120 days of the rating cycle are responsible for completing closeout ratings for their employees. These ratings will be considered when determining performance appraisal recommendations to the pay pool manager.

4. Added Language for Performance Appraisal Section II.E.3.c.(6) Roles and Responsibilities

Added to the last sentence: "Including any required closeout ratings."

5. Added Language for Staffing Section II.B.6.b(2) Merit Assignment Program - Background

This restriction does not apply to the reassignment from a nonsupervisory position to a supervisory position that involves no higher pay potential other than supervisory pay.

I. INTRODUCTION

A. RESPONSIBILITIES

1. AUTHORITY

Title VI of the Civil Service Reform Act, now codified in Title 5, United States Code (U.S.C.) Chapter 47, authorizes the Office of Personnel Management (OPM) to conduct Demonstration Projects that experiment with new and different human resources management concepts to determine if they result in improved Federal human resources management. The Demonstration Project became a permanent system on December 26, 2007, with the passage of the Consolidated Appropriations Act, Fiscal Year 2008 (Public Law 110-161) and was renamed the Commerce Alternative Personnel System (CAPS).

2. DESIGN

CAPS was designed by the Department of Commerce (Department) with participation and review by OPM. CAPS was designed to meet several key objectives of the National Performance Review by simplifying the current classification system for greater flexibility in classifying work and paying employees; establishing a performance management and rewards system for improving individual and organizational performance; and improving recruiting and examining to attract highly qualified candidates and get new hires aboard faster.

CAPS was designed to replicate many of the features of the National Institute of Standards and Technology (NIST) Alternative Personnel System created by Congress pursuant to the National Bureau of Standards Authorization Act for Fiscal Year 1987 (Public Law. 99-574).

3. EXECUTION

a. Management

The Department CAPS Board manages the System. Each operating unit (OU) has its own Operating Personnel Management Board (OPMB) to oversee internal operations. The Deputy Chief Human Capital Officer and Director for Human Resources Management, Office of Human Resources Management (OHRM), serves as the Chair and a member of the CAPS Board. Voting members of the CAPS Board include one senior management official from the participating OU, with the exception of the National Oceanic and Atmospheric Administration (NOAA) who has two senior management officials due to the number of employees in NOAA covered under the CAPS. Each OPMB is chaired by a senior manager.

b. Timing

The duration of CAPS was initially for five years. In 2003, OPM extended CAPS for an additional five years to allow for further evaluation. CAPS became permanent on December 26, 2007.

4. DELEGATION OF PERSONNEL MANAGEMENT AUTHORITY

The CAPS Board delegates a number of human resources management authorities to the OPMBs. The OPMBs in turn, delegate authorities to managers within their OUs and can rescind authority when warranted.

5. EVALUATION

The Department arranged for annual evaluations through year nine of CAPS under an OPM approved evaluation plan and the evaluations were conducted by Booz Allen Hamilton Inc. (Booz Allen) an independent evaluator. The evaluations were designed to determine whether the interventions of CAPS achieved the goals and objectives within acceptable cost limits.

CAPS Accountability reviews are conducted by the Department's OHRM and CAPS is subject to OPM review as part of the OPM Center for Merit System Accountability Audit Program.

B. CONCEPTS AND OBJECTIVES

1. CONCEPTUAL FRAMEWORK

CAPS is built upon the concepts of:

- a. Market sensitivity, by linking entry salary to market forces by occupation, and selectively granting recruitment and retention payments;
- b. Pay for performance, by linking pay to performance for all covered positions;
- c. Administrative simplicity, by simplifying paperwork and processing in classification and other human resources systems; and
- d. Management flexibility and accountability, through the delegation of position classification and other authorities to line managers.

2. PERSONNEL MANAGEMENT OBJECTIVES

CAPS is designed to:

- a. Improve hiring and allow participating organizations to compete more effectively for high-quality employees, through direct examination and selective use of higher entry salaries and recruitment incentives;
- b. Motivate and retain staff through higher pay potential, pay-for-performance, more responsive human resources systems, and selective use of retention payments;

- c. Strengthen the manager's role in personnel management, through delegation of human resources authorities; and
- d. Increase the efficiency of human resources systems, through installation of a simpler and more flexible classification system based on pay banding; through reduction of guidelines, steps, and paperwork in classification, hiring, and other human resources systems, and through automation.

C. COVERAGE

1. PARTICIPATING ORGANIZATIONS

CAPS covers portions of Department organizations including:

- a. Economics and Statistics Administration
 - Bureau of Economic Analysis
- b. National Telecommunications and Information Administration
 - Institute for Telecommunication Sciences
- c. National Oceanic and Atmospheric Administration
 - (1) Units of the Office of Oceanic and Atmospheric Research
 - (2) Units of the National Environmental Satellite, Data, and Information Service
 - (3) Units of the National Marine Fisheries Service
 - (4) Program, Planning and Integration
 - (5) Space Weather Prediction Center, National Weather Service, Boulder, CO
 - (6) Office of the Under Secretary
 - (7) Office of Program Analysis and Evaluation
 - (8) Workforce Management Office
 - (9) Office of the Chief Financial Officer
 - (10) Units of the Office of the Chief Administrative Officer
 - (11) Units of the Office of Marine and Aviation Operations
 - (12) Units of the National Ocean Service
- d. Office of the Secretary
 - Units of the Chief Financial Officer and Assistant Secretary for Administration

2. PARTICIPATING EMPLOYEES

- a. CAPS covers all positions that would otherwise be in the General Schedule system (GS & GM).
- b. The following positions are excluded:
 - (1) Senior Executive Service

(2) Wage Grade

(3) Schedule C

(4) Department-sponsored Federal Career Intern Program (FCIP) interns **only** when the entire class of interns is not covered under the same pay system, (i.e., GS or alternative personnel system). These employees will be covered by the GS pay system. Service as a career intern confers no rights to further Federal employment upon the expiration of the internship period. If the intern is non-competitively converted, upon conversion, they will be placed in the appropriate pay system for their permanent position.

In accordance with Title 5, Code of Federal Regulations (CFR) § 213.3202 the conversion will be effective on the date the two-year service requirement is met or at the end of an agency or OPM extension. When an intern is entitled to a within-grade increase (WGI) that is effective at the same time as the conversion action, the WGI must be processed before processing the conversion action. Thus, interns converted from the GS pay system to CAPS on the date of the two-year service requirement will not be given a lump-sum cash payment for the time credited to the employee's next WGI.

In rare or unusual circumstances, when an intern is converted after the 2 year service requirement and has begun a new waiting period for his or her next WGI, upon conversion the employee will be given a lump-sum cash payment for the time credited to the employee toward what would have been the employee's next WGI in accordance with the policy published in the Federal Register Notice of December 24, 1997.

3. CONTINUING EFFECTS OF LAWS AND REGULATIONS

The Performance Management and Recognition System (PMRS) and GS categories no longer exist as identified categories under CAPS. Both were incorporated into the new pay for performance system. The step increases of the GS were replaced by the annual performance pay increases described under "Pay Administration."

Laws and regulations pertaining to the GS that were not waived for CAPS, (i.e., overtime pay) continue in force for all covered positions to which they now apply. For a list of waivers approved by OPM for CAPS, please refer to the *CAPS Plan* as published in the Federal Register on December 24, 1997.

4. UNION REPRESENTATION

Local unions of the American Federation of Government Employees, National Federation of Federal Employees, International Federation of Professional and Technical Engineers, International Brotherhood of Electrical Workers, National Association of Government Employees, and National Weather Service Employees Organization represent employees within NOAA.

The Washington Printing and Graphic Communications Union, Local 1-C of the Graphic

Communications International Union, AFL-CIO represents employees in the Publications and Graphics Division of the Office of Administrative Services, Office of the Secretary. The American Federation of Government Employees, Local 2186, AFL-CIO, represents Police Officers and Security Guards in the Office of Security, Office of the Secretary.

II. HUMAN RESOURCES SYSTEMS

A. POSITION CLASSIFICATION

1. INTRODUCTION

a. Coverage

The classification system covers all Department of Commerce (Department) positions under the Commerce Alternative Personnel System (CAPS).

b. Policy, Management, and Classification Authority

(1) The CAPS Board exercises overall authority, as set out in the CAPS plan and the CAPS Board Charter, for setting policy, managing CAPS, delegating authority, monitoring and adjusting classification practices, and reviewing and deciding broad classification issues.

(2) The CAPS Board delegates classification authority to Operating Personnel Management Boards (OPMBs), which delegates authority within their operating units (OUs).

(3) Individuals exercising delegated classification authority are accountable for:

(a) Complying with Department and the CAPS Board classification policies and guidelines; and

(b) Classifying positions in accordance with substantial differences in their duties and responsibilities and in the knowledge, skills, and abilities required, as established in the Department's CAPS classification standards.

(4) Supervisors are responsible for maintaining up-to-date position descriptions (PD) and classifications based on current duties and responsibilities.

(5) Classification review panels are established by authority of the OPMB as ad hoc advisory panels which review unvalidated classification actions referred to them by servicing human resources (HR) managers.

c. Objectives

The objectives of the classification system are to:

- (1) Provide an accurate, efficient, and an understandable process for categorizing or classifying positions by career path, occupational series, and pay band;
- (2) Provide an orderly grouping of positions in support of Department organizational planning and in support of human resources management, including recruiting, examining, placement, compensation, promotion, reassignment, training, and reduction-in-force; and
- (3) Increase management flexibility, authority, and accountability in human resources management.

d. Distinction between Classification and Pay

- (1) The classification system is not intended to solve pay problems affecting recruitment and retention. These problems are addressed by the new pay administration system.
- (2) The classification of a position must be based on CAPS classification standards, which are incorporated into the Automated Classification System (ACS).

2. CLASSIFICATION SYSTEM

Supervisors are required to use the ACS to classify positions while creating PDs.

a. Automated Classification System

- (1) Supervisors are the authorized users of the ACS.
- (2) Supervisors classify positions as they create PDs through the menu-driven ACS and get approval for the classifications in accordance with the Operating Personnel Management Board (OPMB) delegations of authority. The PD created through the ACS contains the classification of the position.
- (3) In addition to creating new PDs, the ACS stores PDs in a local user database and allows users to create a new PD based on one in the database; to revise, review, print, and copy PDs; or to review and report on the PDs in the database in their entirety or by one or a combination of career path, series, band, title, function, organization, action number, incumbent name, specialty descriptor, author name, date of creation or date of validation.

(4) The ACS prompts for classification and PD data in the following sequence of screens:

- (a) Principal Objective
- (b) Career Path (Descriptor Review Screen)
- (c) Series (Series Definitions Review Screen)
- (d) Pay Band (Standards Review Screen)
- (e) Official Position Title (multiple-title series only)
- (f) Function (ZP career path only)
- (g) Specialty Descriptors
- (h) Position-Specific Key Phrases
- (i) Supervision Exercised
- (j) Employee Name
- (k) Motor Vehicle Operation (Y/N)
- (l) Financial Disclosure (Y/N)
- (m) Physical Requirements (Y/N)
- (n) Position Sensitivity

b. Position Descriptions

- (1) Users classify positions and create PDs through the menu-driven ACS.
- (2) The term position retains the Office of Personnel Management (OPM) meaning of the work performed by a single employee.
- (3) The ACS produces a two-page PD based on the user's responses to screen prompts.
- (4) Validation of classified PDs must be accomplished by the servicing HR office. Validation is accomplished by reviewing the PD to ensure that the content (i.e., principal objective, specialty descriptors, and key phrases) is consistent with the classification and by signing and dating item #30 on the reverse side of the form

CD-516, "Classification and Performance Management Record." Once verified, the servicing HR office must validate the position description in ACS using the validation feature. This process requires the HR advisor to determine whether the position is covered or not covered by the Fair Labor Standards Act (FLSA) based on the actual duties of the position as follows:

- (a) A mandatory FLSA determination drop-down box will appear. The HR advisor will select the FLSA criteria from the drop down box.
- (b) If a non-exempt option is selected, then a default message will appear in the "FLSA Basis" dialogue box.
- (c) If an exempt option is selected the basis for the FLSA determination must be entered into the mandatory dialogue box that supports the determination.

After the FLSA determination is made, the HR advisor certifies that all parts of the classification action have been completed; that the action is signed by an authorized official; and that the action is ready for entry into the National Finance Center (NFC) payroll/personnel System.

(5) The HR advisor adds the following two numbers, which together constitute the official position number:

- (a) MR# (Master Record Number)
- (b) IP# (Individual Position Number)

(6) The servicing HR office manages the central storage of validated PDs.

3. MAKING CLASSIFICATION DECISIONS

a. Purpose of Classification

- (1) Classification categorizes or classifies a position by career path, occupational series, and pay band.
- (2) Classification also provides an orderly grouping of positions in support of Department organizational planning and in support of personnel management, including recruiting, examining, placement, compensation, promotion, reassignment, training, and reduction-in-force.

b. Classification Principles

The Department CAPS classification system was designed in accordance with the following principles:

- (1) Positions must be classified by career path, series, and pay band for merit treatment and organizational efficiency;

- (2) The classification system must support the mission of the organization;
- (3) Position classification must be carried out in a way that is rational, understandable, and acceptable to managers, employees, and the public;
- (4) The whole job or narrative approach to classification is the most rational and productive way of viewing jobs for human resources administration and management;
- (5) The criteria of (1) Duties and Responsibilities and (2) Knowledge, Skills, and Abilities (KSAs), are the most broadly accepted classification criteria; and
- (6) Performance is a broadly accepted compensation criterion and must be supported by the classification system.

c. Authority and Accountability

Individuals exercising delegated classification authority are accountable for:

- (1) Complying with the CAPS Board and OPMB classification policies and guidelines;
- (2) Classifying positions in accordance with substantial differences in their duties and responsibilities and in the KSAs required, as established in the CAPS classification standards; and
- (3) Maintaining up-to-date classified PDs, based on current duties and responsibilities.

d. Supervisory Responsibility

- (1) Supervisors are the intended users of the system. Whether or not they are delegated classification authority, supervisors are responsible for maintaining up-to-date PDs and classifications based on current duties and responsibilities.
- (2) Supervisors create and classify positions as they create PDs through the menu-driven ACS and obtain approval for them in accordance with OPMB delegations of authority. The PDs created through the ACS contain the classification of the position.
- (3) The supervisor who creates the PD must sign form CD-516, Part A, Position Description in the block labeled POSITION CERTIFICATION, SUPERVISOR'S SIGNATURE. This signature certifies that the PD is an accurate statement of the major duties and responsibilities of the position and its organizational relationships, and that the position is necessary to carry out Government functions.
- (4) The supervisor who is delegated classification authority, often a higher-level

manager than the supervisor who created the PD, must complete and sign form CD-516, Part A, Position Description in the block labeled CLASSIFICATION CERTIFICATION, NAME AND TITLE OF CLASSIFIER, SIGNATURE, AND DATE. This signature certifies that the position has been classified consistently with the most applicable published standards.

e. Classification Logic

(1) Classification logic begins with the principal objective. The purpose of the principal objective statement is to establish the essential and specific nature of the position. It also serves as an anchor to prepare the user for selections from the generic classification criteria. The principal objective, along with the broader nature of the position that the user considers in formulating the principal objective, is the foundation for classifying the position by career path, series, title, and pay band.

(2) The classification logic should flow from the principal objective into the definitions and narrative standards for career paths, series, title, and pay bands. The nature of work implied by the principal objective should lead the user to the appropriate occupational series definition. The major responsibility expressed by the principal objective and the paramount qualification requirement is inherent in that responsibility should lead the user to the commensurate pay band criteria expressed in the two classification factors of Duties and Responsibilities and KSAs.

f. Career Path Determination

(1) The principal objective of the position should suggest the appropriate career path. The four career path definitions below are based on the criteria of whether the position is technical or administrative and, within each of these, whether the position is at a one-grade or two-grade interval. Thus, two-grade interval professional technical work is Scientific and Engineering (ZP); one-grade interval technical work is Scientific and Engineering Technician (ZT); two-grade interval administrative work is Administrative (ZA); and one-grade interval administrative support work is Support (ZS).

(2) Career paths have the following advantages:

- (a) Similar treatment for similar occupations;
- (b) Staffing, classification, and pay by career category;
- (c) Broader and simpler classification standards;
- (d) Fewer resources required for development and application; and
- (e) Focuses on lines of work important to the agency.

(3) The full definitions of the four career paths are:

(a) Scientific and Engineering (ZP): two grade interval professional technical positions in the physical, engineering, biological, mathematical, computer, and social sciences, and student trainee positions in these disciplines.

(b) Scientific and Engineering Technician (ZT): one-grade interval nonprofessional technical positions that support scientific and engineering activities through the application of various skills and techniques in the electrical, mechanical, physical science, biological, mathematics, and computer fields, and student trainee positions in these disciplines.

(c) Administrative (ZA): two-grade interval positions in such administrative and managerial fields as finance, procurement, personnel, librarianship, public information, and program and management analysis; and student trainee positions in these disciplines.

(d) Support (ZS): one-grade interval positions that provide administrative support through the application of typing, clerical, secretarial, assistant, and similar knowledge and skills; positions that provide specialized facilities support, such as guards and firefighters, and student trainee positions in these disciplines.

g. Occupational Series Determination

(1) Each occupational series is assigned a numerical code, such as 830-Mechanical Engineer. The series are arranged in occupational groups, such as the 800-Engineering and Architecture Group and the 500-Accounting and Budget Group. The series code indicates the group to which it belongs. For example, 1310-Physicist and 1320-Chemist are both in the 1300-Physical Sciences Group.

(2) The Office of Personnel Management (OPM) series definitions were adopted for the CAPS with some modifications for brevity and clarity and to emphasize the two-factor classification criteria of (1) Duties and Responsibilities, and (2) KSAs.

h. Mixed-Series Positions

(1) When two or more series appear appropriate for a position, the user would usually select the series with the highest pay band classification. Occasionally, this is not the best series for the position. Other clues to proper series selection for these mixed-series positions are the principal objective, qualification requirements, sources of recruitment, and lines of promotion.

(2) The HR advisor should be consulted on difficult mixed-series issues.

i. Interdisciplinary Positions

- (1) Some vacant professional mixed-series positions may be treated as interdisciplinary, in that the nature of the work is such that individuals with education and experience in two or more professions may be considered equally well-qualified to perform the work. In such cases, the position would be advertised in two or more appropriate series, with the final classification of the position being determined by the qualifications of the person selected for the position.
- (2) This is both a classification and a staffing issue; therefore, the servicing HR advisor should be consulted.

j. Pay Band Determination

- (1) As depicted on the CAPS Pay for Performance Framework chart on the next page, pay bands replace the grades of the former General Schedule (GS) system. Each career path has five bands, each incorporating one or more of the GS grades. The table identifies career paths, pay bands, and corresponding GS grades.
- (2) The experienced user may know the appropriate pay band for a typical position and may enter the designator directly when prompted. When uncertain about the proper pay band for a position, the user may call up a help screen that displays the narrative pay band standards (Duties and Responsibilities; KSAs) for comparison and selection.

**Commerce Alternative Personnel System (CAPS)
Pay for Performance Framework**

Career Path		Pay Bands				
(ZP) Scientific & Engineering	ZP	I	II	III	IV	V
GS Equivalent	GS	1-6	7-10	11-12	13-14	15
(ZT) Scientific & Engineering Technician	ZT	I	II	III	IV	V
GS Equivalent	GS	1-4	5-8	9-10	11-12	13
(ZA) Administrative	ZA	I	II	III	IV	V
GS Equivalent	GS	1-6	7-10	11-12	13-14	15
(ZS) Support	ZS	I	II	III	IV	V
GS Equivalent	GS	1-2	3-4	5-6	7-8	9-10

- (3) The user determines the appropriate pay band by reviewing the definition or standard of each pay band and selecting the band most appropriate for the position, consistent with the principal objective. As a check on the selection, the user should bracket the appropriate pay band by reviewing the next lower band to make sure it is too low for the position and reviewing the next higher band to make sure it is too high. As a final check, the user should review the entire content of the completed PD to make sure it is consistent with the selected pay band.
- (4) Pay banding has the following advantages:
 - (a) Fewer, broader, and simpler classification standards;
 - (b) More understandable classification;
 - (c) Shorter PDs; easier to update;
 - (d) Fewer classification decisions;
 - (e) Less documentation and paperwork;
 - (f) Easier to automate; faster;
 - (g) Does not require trained specialists;
 - (h) Facilitates delegation to line managers;
 - (i) Complements pay for performance;
 - (j) Permits flexible pay setting;
 - (k) Facilitates pay progression within bands; and
 - (l) Better linkage with career stages.

k. Career Path and Pay Band Standards

- (1) Each pay band of each career path has a standard which consists of a narrative description of the pay band in two factors: (a) Duties and Responsibilities and (b) KSAs.
- (2) At each successively higher band, the Duties and Responsibilities factor describes a higher level of work performed under greater freedom from supervision. For example, in the ZP standard, supervision changes as follows:

- (a) Band I ... Close and detailed technical supervision...
 - (b) Band II ... Periodic technical supervision on all phases of assignments...
 - (c) Band III ... General direction and guidance on project objectives, limits, work plans, and conclusions...
 - (d) Band IV...General guidance on policy, resources, and planning...
 - (e) Band V ...General policy guidance...
- (3) Simultaneously, at each successively higher band, the KSA factor describes a higher level of KSAs that an incumbent must have to successfully perform the level of work described in the Duties and Responsibilities factor. Each higher band, therefore, requires a higher level of education, or more extensive experience in the occupation, or a combination of the two.
 - (4) The two factors of a pay band standard work together to define the band; they cannot be separated.
 - (5) Pay band standards are inclusive; each pay band standard builds on and subsumes the criteria of the lower pay band standards in the same career path.
 - (6) When a series of elements in a pay band standard are connected by the word “and” all elements are intended to apply to the model position being described. When the elements are connected by “or” each element is intended to refer to a different type of position.
 - (7) The classification standards for a career path consist of the individual pay band standards for that career path.
 - (8) The classification factor of KSAs has a different purpose from the OPM qualifications standards, which still apply. The classification factor describes a level of accomplishment in concise terms as a means of distinguishing that level from lower and higher levels, while the qualification standard lists a broader range of qualification requirements and provides a means for examining the backgrounds of applicants to determine whether they have the potential to perform the work successfully.

1. The Normal Career Pattern

Occupational standards describe the normal or typical career pattern found in each career path and define the career ladders for the career paths:

(1) The career pattern described by the Scientific and Engineering (ZP) standards: professional technical employees who begin their careers as trainees (band I), move through a developmental stage that builds on professional knowledge gained through undergraduate work (band II), proceed to independent research or operational work or to full-member status on a research team (band III), acquire program responsibility (band IV), and achieve broad peer recognition as an authority in the field (band V). New Ph.D. graduates enter this career path at Band III. This career progression may be combined with, but does not require, an increasing supervisory and managerial responsibility.

(2) The career pattern described by the Scientific and Engineering Technician (ZT) standards: scientific and engineering support staff who begin their careers as trainees (band I), then move through a developmental stage (band II) that prepares them for full-performance technician work (band III). Some technicians move to a senior technician level (band IV) because of their ability to acquire professional level knowledge and become creative members of research teams. In rare situations, a technician may supervise a group of technicians (band V).

(3) The career pattern, as described by the Administrative (ZA) standards, is as follows: administrative specialists who begin their careers as students or basic trainees (band I), then proceed through a developmental stage (band II) that eventually prepares them for independent full-performance work in all facets of an area of administration or program management (band III). Some full performance specialists then advance to positions of bureau or Department authorities in key areas of administration or to supervisory positions over other specialists (band IV). Finally, some become chiefs of major divisions or offices, heads of administration for large technical major subordinate organizations, or key program leaders under the direction of the OU Director (band V), or at the Department level.

(4) There is no single career pattern for the Support (ZS) career path. Each of the support standards has its own pattern.

m. Selecting an Official Position Title

(1) The official position titles in the ACS database are linked to the occupational series. For series that have only one official title, such as the ZP 1310 series with the single title of Physicist, the ACS automatically selects the title. For series that have more than one official position title, the user is prompted to make a selection from a title menu.

- (2) Position title definitions appear with the titles.
- (3) In the Technician and Support career paths, only those position titles appropriate to the occupational series and pay band appear.
- (4) Supervisory titles: Normally, the prefix “Supervisory” automatically appears as part of the official title, where appropriate, when the user indicates at the supervisory prompt that the position has full supervisory responsibilities requiring 25 percent or more of the employee's time. Exceptions are those positions that use the suffixes “Officer,” “Manager,” and “Administrator.” For further guidance on supervisory titles, see Section II.A.3.r., Designating Supervisory Responsibility.
- (5) Research title: The “Research” prefix is an option on many of the title screens in the ZP career path. This prefix is sometimes appropriate for position titles in scientific and engineering occupations to distinguish research positions from non-research positions. Examples are positions in the 0180-Psychologist and 1320-Chemist occupations, which cover both research and non-research positions. Other scientific and engineering occupations, such as 0403-Microbiologist and 1310-Physicist, are considered exclusively research in nature and therefore do not require the “Research” prefix.
- (6) Assistant title: The 341 Administrative Officer series has the optional titles of Administrative Officer and Administrative Assistant. The Assistant title is for trainee and developmental positions. Assistant should always be used for Band I. The Officer title should always be used for Band III and above. For positions in Band II, the title should be selected according to the nature of the position.
- (7) Officer and Manager title: The Officer or Manager title is a menu option in some Administrative career path occupations, along with one or more Specialist titles. The Officer or Manager title may be used only for the top managerial position in the occupation in the organization. The 341-Administrative Officer, the 391-Telecommunications Manager, and the 1654-Printing Officer titles are exceptions: Administrative Officer is the title for all positions in the series above the trainee and developmental levels.

n. Functional Code Determination

- (1) The user must select a single functional code for each position established in the ZP career path. The function selected should be the one in which the employee is primarily engaged - the one that occupies the largest proportion of the employee's time or which best reflects a combination of functions in terms of the paramount requirements of the job. The choices are:

- (a) 11 Research
 - (b) 12 Research Contract and Grant Administration
 - (c) 13 Development
 - (d) 14 Testing and Evaluation
 - (e) 21 Design
 - (f) 22 Construction
 - (g) 23 Production
 - (h) 24 Installation, Operations, and Maintenance
 - (i) 31 Data Collection, Processing, and Analysis
 - (j) 32 Scientific and Technical Information
 - (k) 41 Standards and Specifications
 - (l) 42 Regulatory Enforcement and Licensing
 - (m) 51 Natural Resource Operations
 - (n) 81 Clinical Practice, Counseling, and Ancillary Medical Services
 - (o) 91 Planning
 - (p) 92 Management
 - (q) 93 Teaching and Training
 - (r) 94 Technical Assistance and Consulting
 - (s) 99 Other - Not Elsewhere Classifiable
- (2) The user may view descriptions of any of these functional codes before making a selection.

o. Specialty Descriptor Determination

Specialty descriptors are used to further distinguish positions in the same occupation. They generally describe a specific type of work in an occupation and are intended to

be representative of a group of positions, rather than provide specific details on an individual position.

(1) Each occupational series may be further divided into specialties. Although the specialties are generally written at the full-performance level, they may be used for positions above or below the full-performance level.

(2) The ACS lists the most common specialties associated with the occupational series selected by the user. The user may select up to three specialties for a position.

p. The user may select specialties in three ways:

(1) From the list that appears with the occupation;

(2) From the general specialty database, by entering a key word or part of a word that the system uses to search through specialty titles in the database; for example, entering COMP lists all specialties having Computer, Computers, or Computing in their titles; and

(3) From a family of series, which allows the user to look at all the specialties within a broad occupational category of a career path; for example, in the Scientific and Engineering career path (ZP) the system lists the following suboptions:

(a) 0100 Social Sciences

(b) 0400 Biological Sciences

(c) 0800 Engineering and Architecture

(d) 1300 Physical Sciences

(e) 1500 Mathematics and Statistics

(f) 1550 Computer Science

(g) 2210 Information Technology

For example, typing 800 would list the codes and titles of all specialties in Engineering and Architecture.

(4) A user who cannot find an appropriate specialty in the database may choose to establish the PD without a specialty. This is a valid approach, particularly for positions which:

(a) have a common pattern and do not require differentiation (this is true of many lower and mid-level positions in the ZT and ZS career paths, which are

adequately described by the occupation and band descriptors); or

(b) can be differentiated through the free-form entries for Principal Objective and Position-Specific Key Phrases.

(5) Users may prepare and recommend new specialty descriptors to their servicing HR office, as needed, in coordination with the CAPS OU representative. The servicing HR manager or designated staff may approve additional specialty descriptors that must then be forwarded through the OU CAPS program manager to the Department CAPS manager or designee for review and entry into the database. A specialty descriptor should be written in two sentences, the first sentence to reflect the Duties and Responsibilities factor and the second to reflect the KSAs factor.

q. Entering Position-Specific Key Phrases

(1) The user has three lines to enter specific information about the position not already addressed by the principal objective or the specialty descriptors.

(2) The recommended approach is to express these phrases in terms of one or both of the two classification factors: (a) the Duties and Responsibilities of the position, and (b) the KSAs required of the incumbent.

(3) The phrases entered should be consistent with the classification of the position and fit the classification logic described above. After entering the position-specific key phrases, the user should compare them with the principal objective, occupational descriptor, and pay band descriptors entered earlier as a final check for proper classification.

r. Designating Supervisory Responsibility

(1) The ACS prompts the user whether:

(a) the incumbent of the position will spend 25 percent or more of his or her time performing supervisory duties; and

(b) the incumbent will perform the minimum duties for classification as a supervisor, including evaluating performance.

(2) Selecting Y (Yes) for both questions:

(a) prints Supervisory as the first word of the official position title, unless the basic title is already supervisory in nature, such as an Officer, Manager, or Administrator; and

(b) prints Incumbent's Supervisory Responsibilities on page 1 of the PD:

“Employee performs the full range of supervision at least 25 percent of the time.”

(3) Full supervisory authority includes assigning work to subordinates and formally evaluating the performance of the work; planning and revising work schedules; training and instructing subordinates; interviewing candidates; recommending appointments, promotions, reassignments, training, and awards; coordinating work with representatives of other units; planning resource needs; and reporting to higher level supervisors and managers on workload and accomplishments.

s. Designating Team Lead/Work Lead Responsibility

(1) The user is prompted to select all that apply in the ACS to determine if the person is a team or work lead. This is only for position classification, not compensation, purposes.

(a) The employee will, as a regular and recurring part of their assignment, lead three or more employees in:

ZS (Support) career path in pay bands I through IV and/or
 ZT (Scientific and Engineering Technician) career path in pay bands I and II

(b) The employee will, as a regular and recurring part of his or her assignment and for at least 25 percent of their duty time, lead a team of employees in at least one or more combination of the following:

ZP (Scientific and Engineering) career path
 ZA (Administrative) career path
 ZS (Support) in pay band V
 ZT (Scientific and Engineering Technician) in career path in pay bands III through V

(2) The employee is a Work Leader if box(es) in 1(a) are selected.

(3) The employee is a Team Leader if box(es) in 1(b) are selected.

(4) The employee is a Team Leader if boxes in both 1(a) and 1(b) are selected.

(5) The system will title the position “Lead” on the position description, as appropriate.

(6) The PD will reflect the following supervisory/team lead duties: Incumbent’s Team Lead Responsibilities: “Employee performs full range of team lead responsibilities.”

4. PROCESSING CLASSIFICATION ACTIONS

a. Action Package

The supervisor must send the following items with a classification action:

- (1) Standard Form (SF) 52, "Request for Personnel Action", completed and signed;
- (2) Form CD-516, "Classification and Performance Management Record", completed and signed; and
- (3) The PD.

b. Routing

After the official with classification authority has signed as classifier, the unit should route the action package to the servicing HR advisor in accordance with OU procedures.

c. HR Office Validation

The HR office checks the package for consistency and completeness, reviews the action for compliance with the CAPS Board and OPMB classification policies, validates the position description using the ACS validation feature and by signing the back of the CD-516, assigns an effective date, and enters the action into the NFC automated payroll/personnel system.

5. CLASSIFICATION APPEALS

a. Eligibility

Employees covered under CAPS may appeal the classification of his/her position at any time.

b. Appeal Levels

- (1) Employees wishing to formally appeal the appealable issues listed below, must first appeal to the Chair, OPMB, or designee.
- (2) Employees dissatisfied with the OPMB decision, may appeal further to the CAPS Board Chair or designee. The decision of the CAPS Board will be final.

c. Appealable Issues

The following issues are appealable under CAPS:

- (1) Occupational series;

- (2) Position title (if prescribed by OPM guidelines);
- (3) Pay band of the position the employee officially occupies; or
- (4) Fair Labor Standards Act (FLSA) determination.

d. Nonappealable Issues

The following issues are not appealable under the CAPS:

- (1) Accuracy of the official position description, including the appropriateness of specialty descriptors;
- (2) Accuracy, consistency, or applicability of pay band standards; or
- (3) An assignment or detail outside the scope of normally performed duties as outlined in the official position description.

e. Form and Content of Appeal

An employee's appeal must be in writing and must include the reasons why the employee believes his or her position is misclassified. In addition, the appeal should include the following information:

- (1) Employee's name, mailing address, and office telephone number;
- (2) Exact location of the position in the OU;
- (3) Employee's current classification(i.e., career path, series, title, and pay band);
- (4) Requested classification;
- (5) A copy of the official position description, along with a statement concerning its accuracy; and
- (6) A copy of the OPMB decision, if applicable.

f. Time Limits

(1) An employee may file an appeal at any time. However, if the employee appeals a reduction in pay band, time limits apply to preserve retroactive correction. In these cases, the employee must appeal to the OPMB Chair or designee within 15 calendar days after the effective date of the personnel action.

(2) The OPMB Chair or designee must render a decision on the appeal within 60 calendar days from the date of receipt.

(3) If the employee is dissatisfied with the OPMB's decision, the employee may appeal to the CAPS Board Chair. The appeal must be filed no later than 15 calendar days after receipt of the OPMB Chair's decision.

(4) The CAPS Board Chair will render a decision within 60 days from the date of receipt of the appeal from the employee.

g. Fact Finding

The employee or the OPMB, or both, must furnish, in writing, the necessary facts required to render a decision on the appeal.

h. Notification

The employee will be notified in writing of either the OPMB or the CAPS Board decision, or both, on his or her appeal.

i. Effective Date of Decision

The effective date of a classification appeal decision is not earlier than the date of the decision, and not later than the beginning of the fourth pay period following the date of the decision.

6. REVISING THE SYSTEM

a. Authority

(1) The OU classification coordinator may approve minor revisions to the database.

(2) The CAPS Board approves major revisions. When appropriate, OPM will be notified.

b. New Occupational Series

(1) Only those OPM occupational series being used in Department participating organizations, and that were listed in the CAPS plan and subsequent modifications as published in subsequent Federal Registers, are in the ACS database. Other OPM series may be available for use upon approval from the CAPS Board.

(2) When a user cannot find an appropriate occupational series in the database for an unusual position, the user should contact the servicing HR advisor for assistance.

(3) When the ACS user and the HR advisor agree on the need for an occupational series not in the database, but listed in the Federal Register, the servicing HR office will write a description for the series and forward it through the OU CAPS program manager to the Department's CAPS program manager, or designee for review and entry into the ACS.

(4) When the ACS user and the HR advisor agree on the need for an occupational series not in the database, and not listed in Federal Registers, the servicing HR office will write a description for the series and justification to support the addition, and forward it through the OU CAPS program manager to the Department's CAPS program manager. The Department's CAPS program manager or designee will conduct a classification review, obtain CAPS Board approval, publish series in the Federal Register, and enter into the ACS.

c. New Position Titles

When a user believes there is no appropriate position title provided by the database for the selected occupational series, the user should contact the servicing HR advisor for assistance. The servicing HR advisor proposes new official position titles for addition to the database. The OU Unit CAPS program manager is responsible for approving proposed titles and entering them in the ACS.

d. New Specialty Descriptors

(1) A user who wants to add a specialty descriptor to a position description, but cannot find an appropriate descriptor in the database, should contact the servicing HR advisor for assistance. The HR advisor will help the user write a specialty descriptor for the position.

(2) The Department CAPS program manager or designee approves new specialty descriptor additions to the database.

B. STAFFING

1. INTRODUCTION

a. Coverage

The staffing provisions apply to all positions covered by the Commerce Alternative Personnel System (CAPS).

b. Objectives

The objectives of the staffing provisions are:

- (1) Attract high-quality candidates;
- (2) Make the hiring process shorter and more efficient; and
- (3) Retain good performers.

c. Overview

- (1) New examining and hiring procedures coupled with simplified classification procedures shorten the hiring process. Other features, such as recruitment incentives, help attract candidates in essential occupations. Retention incentives are used to retain highly skilled and productive employees.
- (2) CAPS uses the staffing options of Direct Examination (shortage occupations and shortage: highly-qualified candidates), Agency-Based Staffing (delegated examining), and Merit Assignment Program (promotion, reinstatement and reassignment). Managers, working with human resources (HR) staff, determine the appropriate hiring strategy in each case.
- (3) All vacancies are treated on a case-by-case basis and managers have the option of choosing one or a combination of the applicable staffing options.
- (4) Examination and hiring procedures are administered by the servicing HR office.

2. DEFINITIONS

a. Accretion-of-Duties Promotion

A noncompetitive promotion of an employee whose position evolves to a higher pay band, with the "old" position being absorbed into the "new" position.

b. Critical Shortage Occupations

Hard-to-fill occupational series for which the Office of Personnel Management (OPM) authorizes a special pay rate, or hard-to-fill occupational series which require essential job-specific skills that are in short supply.

c. Critical Shortage: Highly Qualified Candidates

Candidates who meet high academic and training standards for direct hire into entry level positions, including:

(1) ZP career path: Pay bands I and II candidates having a bachelor's degree with at least a 2.9 GPA out of 4.0 in a job-related major, or having a master's degree in a job-related field.

(2) ZT career path: Pay band I candidates with at least a 2.9 GPA out of 4.0 in a job-related field in a two-year program in an accredited college, junior college, or technical institute; or pay band II candidates who have at least a 2.9 GPA in a job-related field in 4 years of college study.

d. Change to Lower Pay Band

Change of a CAPS employee to:

(1) A lower pay band in the same career path. The personnel action is processed as a change to lower grade. If a change to a lower pay band is accomplished competitively, it may involve a pay increase. In this case, the personnel action is processed as a change to lower grade/pay adjustment.

For example: An employee competes for a position in a different occupational series than their current position, and does not meet the qualifications of the position at their current grade level.

(2) A pay band in another career path in combination with a reduction in salary. In this case, the personnel action is processed as a change to lower grade.

e. Luevano Consent Decree

A legal decision requiring the establishment and application of an approved rating procedure for entry into professional and administrative occupations covered by Administrative Careers with America (ACWA) testing requirements at the GS-5 and GS-7 grade levels or equivalent band levels. The covered position must meet all of the following criteria:

- (1) Filled at the entry level, either GS-5 or GS-7;
- (2) Classified at a 2-grade interval; and
- (3) Promotion potential to the GS-9, or higher.

OPM administers an approved examining instrument for these positions on a case-by-case basis or administers a written test for the agency upon request.

f. Non-status applicant

A person who is outside the competitive Federal workforce or a Federal employee who does not have competitive service status, such as an employee on a term or temporary appointment.

g. Promotion

Change of a CAPS employee to:

- (1) A higher pay band in the same career path; or
- (2) A pay band in another career path in combination with any increase in the employee's salary.

h. Reassignment

Change of an employee from one position to another position, without a change in salary. This definition covers changes in career paths, as long as there is no change in salary (with the exception of locality pay).

i. Reassignment with a Pay Adjustment

The reassignment of an employee from one position to another within the same career path and pay band (i.e., ZP III to ZP III) in association with a pay increase. A reassignment with a pay increase may be a permanent or temporary action. A reassignment with a pay adjustment can only be done competitively unless done on a temporary basis for 120 calendar days or less. If on a temporary basis, a pay adjustment can only be given if the movement is from a non-supervisory to a supervisory position in the same pay band.

j. Status Applicant

A current or former Federal employee with eligibility for either a new appointment or reinstatement based on a career or career-conditional appointment.

k. Preference Eligibles

Preference awards additional points to the rating of a veteran or other eligibles, or both, who meet the eligibility requirements as outlined in the *OPM VetGuide*. The Guide defines the different types of veterans' preference (e.g., TP, CP, CPS, and XP).

3. DIRECT EXAMINATION: CRITICAL SHORTAGE OCCUPATIONS

a. General Coverage

Direct examination applies to status and non-status applicants. Positions at the pay band I (GS-5 equivalent) and pay band II (GS-7 equivalent) covered by the Luevano Consent Decree must be filled using the ACWA Assessment Instrument developed and administered by OPM. Positions in pay band II (GS-9 equivalent) may be filled using direct examination or agency based staffing only when the salary is commensurate with the GS-9, step 1 and above and the experience/education requirements are qualifying for the GS-9 level (i.e., 1 year specialized experience equivalent to the GS-7 level or meet the education requirements to qualify at the GS-9 level).

b. Occupational Coverage

Critical shortage occupations are identified when recruitment records maintained by the servicing HR office indicate that the following conditions exist:

- (1) There are no or insufficient eligibles with justifiable selective or quality ranking factors essential to agency staffing needs;
- (2) There are extensive patterns of declinations or failures to respond; or
- (3) Combinations of the above conditions exist that are expected to frequently recur.

c. Recruitment Procedures

- (1) Applications are received by operating units (OUs) in response to particular vacancy announcements or open continuous announcements, both of which are posted at a minimum on the Government-wide automated employment information system operated by OPM. Applications received from the open continuous postings using direct examination procedures must be maintained in the servicing HR office's applicant supply file.
- (2) For employment consideration, applicants must submit documentation outlined in

the vacancy announcement, which at a minimum consists of a resume and any requested supplemental documents.

d. Examination of Applicants

- (1) Authorized staff of the servicing HR offices is trained as examiners to review applications for completeness and to determine whether all legal and suitability requirements have been met.
- (2) The OPM *Operating Manual for Qualification Standards for General Schedule Positions* is used to determine an applicant's minimum qualifications.
- (3) Applicants are examined only for the occupation and level of the position being filled.
- (4) Selective placement factors are used when warranted.
- (5) Minimum qualifications of applicants are documented and maintained in the vacancy announcement file.

e. Rating and Ranking of Applicants

- (1) The OPM *Delegated Examining Operations Handbook* (DEOH) provides assistance on administering the delegated examining authority used for competitive examining.
- (2) When there are no more than three qualified applicants and no preference eligibles, no further rating or ranking occurs.
- (3) When there are more than three qualified applicants or there is a mix of preference and nonpreference applicants, further rating and ranking occurs. A crediting plan with quality ranking factors is prepared and applicants are rated according to the plan. There are two methods that can be used for referral of applicants to the selecting official, the Traditional Method and the Category Rating Method.
 - (a) Traditional Method: Qualified applicants are assigned numerical scores; each qualified applicant is assigned a score of 70 for meeting the minimum qualifications requirements. The HR advisor or a rating panel rates each qualified applicant against the deferred crediting plan developed from the quality ranking factors. Up to 30 points may be assigned during the rating process. Applicants are ranked according to their scores and preference eligibles receive an additional 5 or 10 points added to their score.
 - (b) Category Rating Method: Qualified applicants who meet the basic qualification requirements established for the position and whose job-related

competencies or knowledge, skills, and abilities (KSAs) have been assessed, are ranked by being placed within one of three pre-defined quality categories (gold, silver, or bronze) instead of being ranked by individual numeric score order. Applicants are ranked according to their category. Preference eligibles receive preference within each quality category. If there are fewer than three eligible candidates in the highest quality category, then there is the option of merging categories.

(4) If quality-ranking factors are listed in a vacancy announcement, all applicants must be rated and ranked using a crediting plan containing the quality ranking factors. Exceptions to this rule are situations described in paragraph (2) above. Ratings are documented and maintained in the vacancy announcement file.

f. Referral of Applicants

(1) Prior to referral, all OPM and Department priority consideration programs are checked for the availability of qualified candidates.

(2) Using the Traditional Method when there are no more than three qualified applicants and no preference eligibles, no further rating or ranking occurs. All three qualified applicants are referred on a Direct Hire Referral List.

(3) Using the Traditional Method when rating and ranking occurs, normally, the top three applicants are referred to the selecting official on a Certificate of Eligibles in rank order according to their scores, except that preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP), regardless of score, are given absolute preference over all other applicants for vacancies in the following career paths and pay bands:

(a) ZP: Bands I-II

(b) ZT: Bands I-V

(c) ZA: Bands I-V

(d) ZS: Bands I-V

(4) When using the Category Rating Method the "Rule of Three" does not apply. Names of all eligibles in the highest quality category will be referred to the selecting official for consideration, with preference eligibles listed ahead of non-preference eligibles in the highest category. Qualified preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP) move from the category in which they were originally placed, to the top

of the highest quality category for vacancies in the following career paths and pay bands:

(a) ZP: Bands I-II

(b) ZT: Bands I-V

(c) ZA: Bands I-V

(d) ZS: Bands I-V

g. Passing Over a Preference Eligible

Selecting officials may request to pass over a preference eligible, based on an appropriate justification in accordance with the DEOH and Department of Commerce (Department) policy. The manager should contact the servicing HR advisor for guidance on this process.

h. Reconsideration

Applicants may submit a written request to the principal HR manager asking for reconsideration of the qualifications, rating, and ranking determinations made by the servicing HR office staff. (The principal HR manager is not involved in initial qualifications, rating, and ranking determinations.) A request must explain why the original determination was improper and what factors were not considered, and should provide any other pertinent information that would enable the servicing principal HR manager to reevaluate the decision. Applicants determined to have lost consideration receive priority referral for the next vacancy in the same commuting area, career path, series, and pay band for which they are qualified. In cases of lost employment consideration and lost certification, well-qualified Interagency Career Transition Assistance Plan (ICTAP) applicants must be selected before anyone on the certificate, including the eligible that is receiving priority consideration.

i. Retention of Records

Direct examination case files are retained for two years after completion of the selection process or longer, as directed by management.

4. **DIRECT EXAMINATION: CRITICAL SHORTAGE HIGHLY QUALIFIED CANDIDATES**

a. General Coverage

Direct examination applies to status and non-status applicants. Positions at the pay band I (GS-5 equivalent) and pay band II (GS-7 equivalent levels) covered by the Luevano Consent Decree must be filled using the ACWA Assessment Instrument developed and administered by OPM. Positions in pay band II (GS-9 equivalent) may be filled using direct examination or agency based staffing only when the salary is commensurate with the GS-9, step 1 and above and the experience/education requirements are qualifying for the GS-9 level (i.e., 1 year specialized experience equivalent to the GS-7 level or meet the education requirements to qualify at the GS-9 level).

b. Applicant Coverage

Applicants who meet high academic and training standards are critical-shortage highly qualified candidates. They are eligible for direct hire into the Scientific and Engineering (ZP) and Scientific and Engineering Technician (ZT) career paths at pay bands I and II. The following career paths and pay bands are currently covered under the Critical Shortage: Highly Qualified Candidate category:

(1) ZP career path: Candidates for pay band I and II positions that have a Grade Point Average (GPA) of at least 2.9 out of 4.0 in a job-related major or a Master's Degree in a job-related field.

(2) ZT career path: Candidates for pay band I and II positions who have a GPA of at least 2.9 out of 4.0 in a job-related field in two (band I) or four (band II) years of study.

c. Recruitment Procedures

(1) Applications are received by OUs units in response to particular vacancy announcements or open continuous announcements, both of which are posted at a minimum on the Government-wide automated employment information system operated by OPM. Applications received from the open continuous postings using direct examination procedures must be maintained in the servicing HR office's applicant supply file.

(2) For employment consideration, applicants must submit documentation outlined in the vacancy announcement, which at a minimum consists of a résumé and any requested supplemental documents.

d. Examination of Applicants

- (1) Authorized staff of the servicing HR office are trained as examiners to review applications for completeness and to determine whether all legal and suitability requirements have been met.
- (2) The OPM *Operating Manual for Qualification Standards for General Schedule Positions* is used to determine an applicant's minimum qualifications.
- (3) Applicants are examined only for the occupation and level of the position being filled.
- (4) Selective placement factors are used when warranted.
- (5) Minimum qualifications of applicants must be documented and maintained in the vacancy announcement file.

e. Rating and Ranking of Applicants

- (1) The OPM DEOH provides assistance on administering the delegated examining authority used for competitive examining.
- (2) When there are no more than three qualified applicants and no preference eligibles, no further rating or ranking occurs.
- (3) When there are more than three qualified applicants or there is a mix of preference and nonpreference applicants, further rating and ranking occurs. A crediting plan with quality ranking factors is used and applicants are rated according to the plan. There are two methods that can be used for referral of applicants to the selecting official, the Traditional Method and the Category Rating Method.
 - (a) Traditional Method: Qualified applicants are assigned numerical scores; each qualified applicant is assigned a score of 70 for meeting the minimum qualifications requirements. The HR advisor or a rating panel rates each qualified applicant against the deferred crediting plan developed from the quality ranking factors. Up to 30 points may be assigned during the rating process. Applicants are ranked according to their scores. Preference eligibles receive an additional 5 or 10 points.
 - (b) Category Rating Method: Qualified applicants who meet the basic qualification requirements established for the position and whose job-related competencies or KSAs have been assessed, are ranked by being placed within one of three pre-defined quality categories (gold, silver, or bronze) instead of being ranked by individual numeric score order. Applicants are ranked according to their category. Preference eligibles receive preference within

each quality category. If there are fewer than three eligible candidates in the highest quality category, there is the option of merging categories.

(4) If quality ranking factors are listed in a vacancy announcement, all applicants must be rated and ranked using a crediting plan containing the quality ranking factors. Exceptions to this rule are situations described in (2) above. Ratings are documented and maintained in the vacancy announcement file.

f. Referral of Applicants

(1) Prior to referral, all OPM and Department priority consideration programs are checked for the availability of qualified candidates.

(2) Using the Traditional Method when there are no more than three qualified applicants and no preference eligibles, no further rating or ranking occurs. All three qualified applicants are referred on a Direct Hire Referral List.

(3) Using the Traditional Method when rating and ranking occurs, normally, the top three applicants are referred to the selecting official on a Certificate of Eligibles in rank order according to their scores, except that preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP), regardless of score, is given absolute preference over all other applicants for vacancies in the following career paths and pay bands:

(a) ZP: Bands I-II

(b) ZA: Bands I-V

(c) ZT: Bands I-V

(d) ZS: Bands I-V

(4) When using the Category Rating Method, the "Rule of Three" does not apply. Names of all eligibles in the highest quality category will be referred to the selecting official for consideration, with preference eligibles listed ahead of non-preference eligibles in the highest category. Qualified preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP) move from the category in which they were originally placed, to the top of the highest quality category for vacancies in the following career paths and pay bands:

- (a) ZP: Bands I-II
- (b) ZA: Bands I-V
- (c) ZT: Bands I-V
- (d) ZS: Bands I-V

g. Passing Over a Preference Eligible

Selecting officials may request to pass over a preference eligible, based on an appropriate justification in accordance with the OPM DEOH and Department policy. The manager should contact the servicing HR advisor for guidance on this process.

h. Reconsideration

Applicants may submit a written request to the principal HR manager asking for reconsideration of the qualifications, rating, and ranking determinations made by the servicing HR office staff. (The principal HR manager is not involved in initial qualifications, rating, and ranking determinations.) A request must explain why the original determination was improper and what factors were not considered, and should provide any other pertinent information which would enable the servicing principal HR manager to reevaluate the decision. Applicants determined to have lost consideration receive priority referral for the next vacancy in the same commuting area, career path, series, and pay band for which qualified. In cases of lost employment consideration and lost certification, well-qualified Interagency Career Transition Assistance Plan (ICTAP) applicants must be selected before anyone on the certificate, including the eligible that is receiving priority consideration.

i. Retention of Records

Direct examination case files are retained for two years after completion of the selection process or longer as directed by management.

5. AGENCY-BASED STAFFING

a. General Coverage

Agency-based staffing applies to status and non-status applicants.

b. Position Coverage

All positions in all occupations and pay bands are covered by agency-based procedures. However, agency-based procedures are primarily used to hire non-status candidates into positions not covered by direct examination authority. Positions at the pay band I (GS-5 equivalent) and pay band II (GS-7 equivalent) covered by the Luevano Consent Decree must be filled using the ACWA Assessment Instrument developed and administered by OPM. Positions in pay band II (GS-9 equivalent) may be filled using direct examination or agency based staffing only when the salary is commensurate with the GS-9, step 1 and above and the experience/education requirements are qualifying for the GS-9 level (i.e., 1 year specialized experience equivalent to the GS-7 level or meet the education requirements to qualify at the GS-9 level).

c. Recruitment Procedures

- (1) Each position filled under agency-based procedures is advertised in conformance with Department policy. Vacancies filled by agency-based procedures will be advertised at a minimum through the Government-wide automated employment information system operated by OPM. Vacancies may receive wider distribution.
- (2) For employment consideration, applicants must submit documentation outlined in the vacancy announcement, which at a minimum consists of a resume and any requested supplemental documents.

d. Examination of Applicants

- (1) Authorized staff of the servicing HR office is trained as examiners to review applications for completeness and suitability, and to rate applicants for employment eligibility.
- (2) The OPM *Operating Manual for Qualification Standards for General Schedule Positions* is used to determine an applicant's minimum qualifications.
- (3) Applicants are examined only for the occupation and level of position being filled.
- (4) Quality ranking factors and selective placement factors are used where warranted.
- (5) Minimum qualifications of candidates are documented in the vacancy

announcement file.

e. Rating and Ranking of Applicants

- (1) The OPM DEOH provides assistance on administering the delegated examining authority used for competitive appointments.
- (2) When there are no more than three qualified applicants and no preference eligibles, no further rating or ranking occurs.
- (3) When there are more than three qualified applicants or there is a mix of preference and nonpreference applicants, further rating and ranking occurs. A crediting plan with quality ranking factors is used and applicants are rated according to the plan. There are two methods that can be used for referral of applicants to the selecting official, the Traditional Method and the Category Rating Method.

(a) Traditional Method: Qualified applicants are assigned numerical scores; each qualified applicant is assigned a score of 70 for meeting the minimum qualifications requirements. Under Agency-Based Staffing, a crediting plan should be submitted with the vacancy announcement. The HR advisor or a rating panel rates each qualified applicant against the deferred crediting plan developed from the quality ranking factors. Up to 30 points may be assigned during the rating process. Applicants are ranked according to their scores. Preference eligibles receive an additional 5 or 10 points added to their scores.

(b) Category Rating Method: Qualified applicants who meet the basic qualification requirements established for the position and whose job-related competencies or KSAs have been assessed, are ranked by being placed within one of three pre-defined quality categories (gold, silver, or bronze) instead of being ranked by individual numeric score order. Applicants are ranked according to their category. Preference eligibles receive preference within each quality category. If there are fewer than three eligible candidates in the highest quality category, there is the option of merging categories.

- (4) If quality ranking factors are published in a vacancy announcement, applicants must be rated against the quality ranking factors, except when the conditions in (2) above exist. Ratings are documented and maintained in the vacancy announcement file.

f. Referral of Applicants

- (1) Prior to referral, all OPM and Department priority consideration programs are checked for the availability of qualified candidates.
- (2) Using the Traditional Method when there are no more than three qualified

applicants and no preference eligibles, no further rating or ranking occurs. All three qualified applicants are referred on an Agency-Based Staffing referral list.

(3) Using the Traditional Method when rating and ranking occurs, normally, the top three applicants are referred to the selecting official on a Certificate of Eligibles in rank order according to their scores, except that preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP), regardless of score, is given absolute preference over all other applicants for vacancies in the following career paths and pay bands:

(a) ZP: Bands I-II

(b) ZT: Bands I-V

(c) ZA: Bands I-V

(d) ZS: Bands I-V

(4) Using the Category Rating Method the "Rule of Three" does not apply. Names of all eligibles in the highest quality category will be referred to the selecting official for consideration, with preference eligibles listed ahead of non-preference eligibles in the highest category. Qualified preference eligibles with a compensable service-connected disability of 30 percent or more (CPS) and those with a compensable service-connected disability of more than 10 percent but less than 30 percent (CP) move from the category in which they were originally placed, to the top of the highest quality category for vacancies in the following career paths and pay bands:

(a) ZP: Bands I-II

(b) ZA: Bands I-V

(c) ZT: Bands I-V

(d) ZS: Bands I-V

g. Passing Over a Preference Eligible

Selecting officials may request to pass over a preference eligible, based on an appropriate justification in accordance with the OPM DEOH and Department policy. The manager should contact the servicing HR advisor for guidance on this process.

h. Reconsideration

Applicants may submit a written request to the principal HR manager asking for reconsideration of the qualifications, rating, and ranking determinations made by the servicing HR office staff. (The principal HR manager is not involved in initial qualifications, rating, and ranking determinations.) A request must explain why the original determination was improper and what factors were not considered, and should provide any other pertinent information which would enable the servicing principal HR manager to reevaluate the decision. Applicants determined to have lost consideration receive priority referral for the next vacancy in the same commuting area, career path, series, and pay band for which they are qualified. In cases of lost employment consideration and lost certification, well-qualified Interagency Career Transition Assistance Plan (ICTAP) applicants must be selected before anyone on the certificate, including the eligible that is receiving priority consideration.

i. Retention of Records

Agency-based case files are retained for two years after completion of the selection process or longer as directed by management.

6. MERIT ASSIGNMENT PROGRAM

a. General Coverage

The Merit Assignment Program (MAP) covers status applicants only.

b. Background

(1) The MAP is used for filling vacancies requiring MAP competition for promotion, reassignment, and pay adjustment within the pay band or other competitive personnel actions.

(2) Reassignment procedures allow managers to select status candidates for positions that have no known promotion potential beyond the comparable grade or pay band of the applicant's current position. However, an employee cannot be reassigned without competition to a different position in the same or different pay band with higher pay potential. This restriction applies to positions in the same or a different career path. For example, an employee in pay band II of the ZT career path (which covers grades 5-8) cannot be noncompetitively reassigned to a position at pay band II in the ZP career path (which covers grades 7-10). This restriction does not apply to the reassignment from a nonsupervisory position to a supervisory position that involves no higher pay potential other than supervisory pay.

(3) An employee may be noncompetitively converted (i.e., reassigned) to a position within the CAPS that has greater pay potential if the conversion is based upon a written management directive (i.e., an officially approved reorganization, directed reassignment, etc.).

c. Career Ladders

In accordance with the CAPS plan, OPMBs are authorized to determine when career ladders should be established in their respective OU. When career ladders are established, they will follow the pattern described in II.A.3.1.

7. ACCRETION OF DUTIES PROMOTIONS

Specific guidelines and restrictions apply to promotions based on accretion of duties.

a. Documentation

A request to effect an accretion-of-duties promotion must be accompanied by a short memorandum explaining the changes in the position that warrant the proposed higher band. In addition, the supervisor must submit a signed statement affirming the following:

- (1) The "old" position has been absorbed into the new position; and
- (2) Either of the following conditions is present: (a) the employee continues to perform the same basic functions, and the duties represent an outgrowth, over a significant period of time, (i.e., six months to a year, of the "old" position) or (b) a program change requires the immediate performance of new duties that only one employee is capable of performing.

b. Restrictions

Accretion of duties promotions from nonsupervisory to supervisory positions at a higher pay band are prohibited. Accretion of duties promotions across career paths are discouraged. Such cases are subject to close review and validation by the servicing HR office.

8. PAID ADVERTISING

a. Methods

Paid advertising in journals, professional magazines, and newspapers may be used as one of the first steps in recruitment to expand recruiting sources and attract the best candidates.

b. Authority

Selecting officials have authority for paid advertising, including authority to use paid advertising in the initial stages of recruitment. The servicing HR office reviews the content of the advertisement for regulatory compliance.

9. THREE-YEAR PROBATIONARY PERIOD

The probationary period for new appointees in research and development (R&D) positions in the ZP career path is three years.

a. Coverage

The extended probationary period applies only to non-status employees hired after conversion to the CAPS who do not have reemployment or reinstatement rights.

b. Exclusions

(1) If a selectee to be appointed under direct examination, agency-based procedures, or the merit assignment program is already in the Federal Service, has status, and has completed a probationary period, no new probationary period is required.

(2) If a selectee to be appointed under direct examination, agency based, or merit assignment program authority is already in the Federal Service and has status, but has not completed a probationary period, the employee is required to complete the one-year probationary period but is not required to begin a new probationary period.

c. Options

Annually during the probationary period of the ZP R&D employee, the responsible manager is required to submit to the servicing HR office a written decision on whether to:

(1) End probation (change the employee from probationary to non-probationary status);

(5) Continue the employee on probation; or

(6) Terminate the appointment.

The three-year probationary period may be ended by the responsible manager at any time after the first year.

10. QUALIFICATION REQUIREMENTS

a. The qualifications required for placement within a pay band and within a career path are based on present qualification requirements in the OPM *Operating Manual for Qualification Standards for General Schedule Positions*. The Superior Academic Achievement criterion will be defined as a 2.9 GPA (on a 4.0 scale).

b. The minimum qualification requirements for a position are the OPM requirements for the occupational series and for the lowest GS grade incorporated in the pay band.

c. Time-in-band requirements will apply. Minimum requirements may be met on the basis of

time spent in the next lower band or a combination of time spent in the next lower band and an equivalent next lower grade. When a band consists of more than one grade, minimum time-in-band requirements can be met on the basis of time spent in the next lower band, but not solely on the basis of minimum time spent in the lowest grade of the band. For example, an employee who spends one year in pay band IV meets the minimum time-in-band requirements for pay band V; however, an employee who spends one year at the GS-13 grade level does not meet the minimum time-in-band requirement for promotion to pay band V.

d. The CAPS Board may authorize new or modified qualification standards to reflect current practices in the scientific, engineering, and computer science fields and to reflect modern curricula in recognized degree programs. When new occupational series are defined, new minimum qualification standards are written following the pattern of the OPM *Operating Manual for Qualification Standards for General Schedule Positions*.

11. RECRUITMENT AND RETENTION INCENTIVES

a. General

As of May 1, 2006, recruitment, and retention incentives in CAPS follow the same Department recruitment and retention policy that covers GS positions. The only deviation from Department policy pertains to (b) Authority, as indicated below.

The use of recruitment, retention, and relocation incentives should be limited to recruiting and retaining highly qualified candidates who would otherwise seek employment outside of the Federal government for similar positions in the private, non-profit and academic sectors. Per OPM guidelines, the use of recruitment, retention, and relocation incentives are not to be used as a substitute for traditional recruiting efforts which could yield a competent and qualified employee without the use of such incentives. Specifically, recruitment, retention, and relocation incentives should generally only be offered when a position requires knowledge, skills, abilities, and education that are difficult to find in the Federal and non-Federal workforce. In determining whether to recommend the use of these incentives, Department officials should thoroughly weigh the financial costs associated with the approval of these incentives with the actual benefit.

b. Authority

(1) Recruitment incentives for up to \$10,000 for individual employees must be approved by the appropriate OPMB, unless approval authority is redelegated. Recruitment incentives above \$10,000 must also be approved by the Deputy Chief Human Capital Officer and Director for Human Resources Management.

(2) All recruitment incentives for groups or categories of employees must be approved by the appropriate OPMB, unless approval authority is redelegated, and the Deputy Chief Human Capital Officer and Director for Human Resources Management.

(3) All retention incentives must be approved by the appropriate OPMB, unless

approval authority is redelegated, and the Deputy Chief Human Capital Officer and Director for Human Resources Management (up to 25 percent for an individual and up to 10 percent for occupational group retention incentives).

c. References

For additional information on procedures and policy on using recruitment and retention incentives, please refer to the Department's, Office of Human Resources Management (OHRM), *Recruitment, Retention, and Relocation Incentives Plan*.

12. RELOCATION INCENTIVES

a. General

Relocation incentives in CAPS follow the same Department policy that covers GS positions. The only deviation from Department policy pertains to (b) Authority as indicated below.

b. Authority

(1) Relocation incentives for up to \$10,000 for individual employees must be approved by the appropriate OPMB, unless approval authority is redelegated. Relocation incentives above \$10,000 must also be approved by the Deputy Chief Human Capital Officer and Director for Human Resources Management.

(2) All relocation incentives for groups or categories of employees must be approved by the appropriate OPMB, unless approval authority is redelegated, and the Deputy Chief Human Capital Officer and Director for Human Resources Management.

c. References

For additional information on policy and procedures on using relocation incentives, please refer to the Department's OHRM, *Recruitment, Retention and Relocation Incentives Plan*.

13. TRAVEL EXPENSES

a. General

Within OPMB guidelines, travel and transportation expenses, advancement of funds, per diem expenses incident to travel, and/or relocation expenses may be provided to new hires in the same manner as is authorized in §§ 5723, 5724, 5724a, 5724b, and 5724c of Title 5, United States Code (U.S.C.).

b. Authority

The selecting official, within OPMB guidelines, makes decisions on payment of travel expenses.

c. Service Agreement

- (1) Recipients must sign service agreements indicating commitment to at least 12 months continued service.
- (2) Service agreements contain a repayment obligation in the event the recipient separates from Federal service before the end of the agreed-upon period.
- (3) The service agreement must be maintained as a permanent document on the right side of the employee's Official Personnel File.
- (4) Actions to collect repayment may be terminated under appropriate circumstances and in accordance with generally applicable standards for termination.

C. REDUCTION-IN-FORCE

1. INTRODUCTION

The Department of Commerce (Department) follows all reduction-in-force (RIF) procedures contained in current law and regulation, except as provided in the Commerce Alternative Personnel System (CAPS) project plan in the Federal Register Notice of December 24, 1997, and any subsequent modifications as published in the Federal Register, and in this document.

a. Career Paths and Pay Bands:

(1) RIF procedures have been adjusted in the context of the career path and pay band classification system.

(2) Under CAPS, employees may bump into positions, either in the same career path at their same pay band or one pay band below that is currently held by another employee in a lower retention subgroup. Employees may retreat into positions in the same career path at the same pay band or one pay band below that currently held by another employee in their same subgroup who has a lower RIF service computation date.

(3) Operating units (OU) are not required to fill vacant positions through RIF procedures, but when a vacant position is filled with a displaced employee, the guidelines and procedures in this section will be followed.

b. Competitive Areas

(1) Within a geographic area, each of the four career paths in each project OU will be a separate competitive area.

(2) Bump and retreat occurs only within the competitive area and only to positions for which employees are qualified in their same or next lower pay band.

c. Competitive Level

The definition and function of "competitive level" were not changed by CAPS and continue to be applied as described in Title 5, Code of Federal Regulations (CFR), Part 351.

d. Link between Performance and Retention

(1) An employee with an overall performance score in the top 30 percent of scores within the same pay pool is credited with 10 additional years of service to their RIF service computation date.

(2) An employee rated *eligible* with an overall performance score that does not fall within the top 30 percent of scores within a pay pool will be credited with five additional years of service to their RIF service computation date.

(3) An employee who received additional service to their RIF service computation date as a result of an increase in score due to a reconsideration or grievance will not affect any other employee in that same pay pool who previously received additional years of service to their RIF service computation date in that performance cycle.

(4) Employees who convert to CAPS from any other performance appraisal system within the Federal government will be credited with five additional years of service to their RIF service computation date that they had prior to converting to CAPS, for each performance rating of record equivalent to an eligible rating in CAPS.

The total credit will be based on the employee's three most recent annual performance scores received during the four-year period prior to the date of issuance of the RIF notice.

2. RIF ASSIGNMENT PANEL AND SUBPANELS: MEMBERSHIP

The RIF assignment panel consists of representatives from the OU appointed by the Chair, Operating Personnel Management Board (OPMB). A servicing Human Resources (HR) advisor serves as technical advisor and executive secretary to the Panel. A RIF Subpanel consists of two general subject matter specialists appointed by the Chair, RIF Assignment Panel. An HR advisor serves as technical advisor and executive secretary to a RIF Subpanel.

3. PROCEDURES

a. Managers have the responsibility to decide which programs and positions will be abolished. When that determination is made, the manager must:

- (1) Obtain written approval from the Deputy Chief Human Capital Officer and Director for Human Resources Management through the appropriate OU and bureau official;
- (2) Contact the servicing HR office for guidance on issuing notices to affected employees and exclusive representatives of the proposed RIF and request an updated resume as appropriate;
- (3) Notify the servicing HR office to issue notices to the affected employees and exclusive representatives of the proposed RIF and request an updated resume from affected employees; and
- (4) Submit an SF-52 (Request for Personnel Action) form along with all RIF supporting documentation, including the RIF approval memo to the servicing HR manager.

- b. The HR advisor determines whether the employee is released from his or her competitive level, and conducts a survey of positions in the OU for which the employee meets the minimum Office of Personnel Management (OPM) qualifications within the employee's career path at his or her pay band and one pay band lower. The survey is based on the employee's retention standing and the HR advisor's analysis of the employee's qualifications.
- c. The HR advisor convenes appropriate subpanels as needed. The number of subpanels to be convened is determined by the number of different occupational series for which the displaced employee qualifies. Also, additional subpanels may be convened if the number of positions to be reviewed in a specific series is more than can be adequately handled by one subpanel. The subpanels review the affected employee's qualifications and the qualifications required for the positions under consideration. Positions for which the subpanels determine the employee is not qualified are eliminated from further consideration. Other positions are referred to the RIF Assignment Panel.
- d. The OPMB Chair convenes the RIF Assignment Panel. The Panel:
 - (1) Reviews the positions referred; and
 - (2) Determines which positions, if any, require further information to determine whether the displaced employee can perform the duties of the position without undue disruption.

The Panel notifies the organization in which the incumbent of the affected position is located. As appropriate, the Panel requests information and documentation that will assist the Panel in making its recommendations. Also as appropriate, the servicing HR manager and the Panel meet to discuss the recommendations.

- e. The Panel is responsible for making final recommendations to the servicing HR manager of the best offer, if any. As appropriate, the servicing HR manager and the Panel meet to discuss the recommendations. The HR manager makes the final decision on the action.

D. PAY ADMINISTRATION

1. INTRODUCTION

a. Objective

The objective is to establish a pay system that will improve the ability of participating operating units to attract and retain quality employees.

b. Delegation of Authority

The authority to set pay is delegated to supervisors, within the delegations issued by each Operating Personnel Management Board (OPMB) and by this document.

2. DEFINITIONS

a. Basic Pay

The rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

b. Equivalent Increase

An increase in an employee's rate of basic pay, or an opportunity for such an increase. An equivalent increase is considered to occur at the time of any of the following personnel actions:

(1) A promotion to a higher band (unless the promotion is cancelled and the employee's rate of basic pay is re-determined as if the promotion had not occurred);

or

(2) An opportunity to receive an increase that results in (or would have resulted in) forward movement in the applicable range of rates of basic pay (including an increase granted immediately upon movement to the Commerce Alternative Personnel System (CAPS) from another pay system, i.e., to account for the value of the accrued within-grade increase under the former pay system or to provide a promotion equivalent increase), where "forward movement in the applicable range" means any kind of increase in the employee's rate of basic pay other than an increase that is directly and exclusively linked to:

a. The annual general increase (including the adjustment of a range minimum or maximum); or

b. The employee's placement under a new pay schedule within CAPS (e.g., special rate schedule) when such placement results in a nondiscretionary basic pay increase to account for occupational differences.

c. Pay Adjustment

An adjustment in base salary within the same career path and pay band.

d. Pay Band

A range of pay and a level of classification within each career path. Pay bands replace the grades of the General Schedule (GS). A pay band may be equivalent to one or more GS grades. (See career paths and pay bands chart under Section II.A., Position Classification.)

e. Pay for Performance

Pay for performance has three components:

(1) the annual adjustment to basic pay, which includes the annual general increase and the locality pay increase; and

(2) annual performance pay increases; and (c) bonuses.

f. Pay Intervals

A portion of the full pay range of a pay band. The normal range of pay in a band is divided into three intervals, the normal range being defined as the range from the minimum rate of the band to the nonsupervisory ceiling, which is the highest pay rate of the highest GS grade in the band, including any special rates for occupations in the band. The maximum rate of Interval 1 is 4/9 of the normal range of the band, the maximum rate of Interval 2 is 7/9 of the normal range of the band, and the maximum rate of Interval 3 is equivalent to the nonsupervisory ceiling of the band. The maximum rate of Interval 4 is 3 percent above the nonsupervisory ceiling of the band. The maximum rate of Interval 5 is 3 percent above the maximum rate of Interval 4.

g. Supervisor

An employee who spends 25 percent or more of his/her time performing the full range of supervisory duties. Full supervisory authority includes tasks such as assigning work, evaluating performance, approving leave, providing training and instruction to subordinates, revising work schedules, recommending or taking appointment and promotion actions, coordinating work with other units, and planning resource needs.

h. Supervisory Performance Pay

The amount by which a supervisor's pay exceeds the maximum rate of a pay band, up to six percent, attained through performance (i.e., intervals 4 and 5).

3. PAY SETTING

a. New Appointments

- (1) Initial salaries for new appointees may be set at any point within the pay band except for intervals 4 and 5, which are reserved for supervisory performance pay.
- (2) Pay setting criteria includes salary comparability, special rates, special qualification requirements, turnover rates, scarcity of qualified candidates, or programmatic urgency.
- (3) The minimum starting salary rate for positions in pay band I of the ZP and ZA career paths is not less than the rate of GS-5, step 1, except for students.
- (4) Special rates will only be used as authorized by the Office of Personnel Management (OPM) for either occupations or geographic locations, or both, for which there are existing or likely difficulty in the recruitment or retention of well-qualified personnel. The minimum starting salary rate for special rate occupations must be at least the minimum special rate of the lowest grade in the pay band to which the employee is appointed.
- (5) For a law enforcement officer (LEO) covered by special base rates under section 403 of the Federal Employees Pay Comparability Act of 1990 (section 529 of Public Law 101-509, November 5, 1990, as amended), when the minimum or maximum grade in the LEO's band is any one of grades GS-3 through GS-10 (i.e., ZA bands I and II), the band's minimum and maximum rate of pay will be set for that LEO using applicable LEO special base rates, as adjusted by the applicable locality payment.

b. Pay Adjustments

Adjustments to base pay within the pay band may be given under the following circumstances:

- (1) Competitive movement of an employee from one position to another within the same career path and pay band as a result of a selection for a vacancy;
- (2) Noncompetitive temporary reassignment of an employee from a nonsupervisory position to a supervisory position in the same pay band;
- (3) Granting of the annual comparability increase;

(4) Granting of pay adjustments to employees under Student or Faculty appointments upon completion of another academic school year, or additional year of teaching or research;

(5) Granting of a performance pay increase;

(6) A pay change, of either an increase or decrease, to compensate for an increase/decrease in locality pay in conjunction with a move to another geographic area; or

(7) Upon conversion from a GS position to CAPS as a result of inclusion of an employee's organizational unit in CAPS, employees in career ladder positions may receive a within-band pay adjustment after completing a total of 52 weeks of service consisting of a combination of both time at their current GS grade level and time in the pay band level to which they were converted. The pay adjustment, if granted, must total the dollar amount of pay increase the employee would have received under the GS system.

c. Conversion Actions

Management may adjust pay upon conversion to permanent appointments. A conversion action from a temporary or excepted appointment to another temporary or excepted appointment may include an increase in pay only if the conversion action is to a different pay band. Faculty and student appointees may be converted at the same pay band and given an increase to base pay when they meet the requirements outlined under II.D.9.

d. Promotions

The new basic pay rate upon promotion may be set at any level in the new band, but the employee must receive at least a six percent minimum pay increase. If the move is to a different career path, any band in the new career path would be considered a "new band." The salary of a promoted special rate employee must be at least the minimum special rate of the lowest grade in the pay band to which the employee is promoted.

e. Change to Lower Pay Band

(1) Automatic - Loss of Comparability Increase

An employee whose performance rating is "Unsatisfactory" will not receive the comparability increase or a performance increase. Because the minimum pay rate for each pay band will be increased each year by at least the amount of the comparability increase, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee who did not receive the comparability increase, although there is no actual reduction in pay. As a result, the employee will automatically be placed in

the next lower pay band with a pay range commensurate with the employee's basic pay. This action is not an adverse action, and there is no right of appeal. The nature of action is 713, Change to Lower Grade. The employee may subsequently reach the higher pay band through performance pay increases.

(2) Voluntary - Request of Employee

A voluntary change to a lower pay band occurs at the request of the employee. Pay may be set based on the Department of Commerce's (Department) highest previous rate policy. Decisions on granting highest previous rate are made in accordance with operating unit guidelines.

(3) Involuntary - Performance or Conduct

An employee who is changed to a lower pay band based on a performance or conduct decision will be placed in the lower pay band and pay will be set within the pay range of that pay band, based on the pay band and pay decisions contained in the performance or conduct decision letter. Appropriate notification procedures and appeal rights apply, depending on whether the action is taken for performance or for cause.

(4) Reclassification of position to a lower pay band.

f. Change to Lower Interval

As in e. (1) above, the base pay of an employee who does not receive the comparability increase may fall into a lower pay interval, although no actual reduction in pay takes place.

g. Pay Ceilings

(1) The maximum rate of basic pay authorized under any pay band is the rate payable for Level IV of the Executive Schedule.

(2) The maximum aggregate amount any employee may receive in basic pay, bonuses, and allowances in a calendar year is the rate payable for Level I of the Executive Schedule.

(3) Basic pay for nonsupervisory positions is limited to the maximum rate of Interval 3.

(4) Basic pay for supervisory positions is limited to the maximum rate of Interval 5.

(5) The maximum rate for a band (excluding supervisory performance pay) will be equal to the maximum rate - GS rate, LEO special base rate, locality rate, or special

rate, as applicable - payable to GS employees for the grades corresponding to the band. An employee's basic pay may not exceed the maximum rate of the employee's band, except for employees receiving retained rates of pay.

(6) The minimum and maximum rates of pay bands and the maximum rates of pay band intervals are adjusted annually by the percentage of the comparability increase granted in January (including locality pay), or by applicable special rate increases. The maximum rates of pay bands which include occupations and GS grades for which OPM has approved special rates are changed to reflect OPM special rate increases.

h. Calculating the Annual Comparability Increase

(1) Standard Pay Tables – The calculation method used for employees covered by CAPS Standard Pay tables is outlined in the Federal Register, Vol. 62, No. 247, dated December 24, 1997.

(2) Special Rate Pay Tables – On November 3, 2004, the CAPS Board approved a new calculation method for calculating the annual comparability increase for employees covered by a special rate. This new calculation method was first used for the January 2005 increase and thereafter. The formula is outlined below.

$$\text{New salary} = \text{new pay minimum} + (\text{prior salary} - \text{prior pay minimum}) \times \frac{(\text{new pay maximum} - \text{new pay minimum})}{(\text{prior pay maximum} - \text{prior pay minimum})}$$

The pay minimum and pay maximum are the minimum dollar amount and the maximum dollar amount of the pay band Interval. For example, for an employee in pay band III, Interval 1 use pay band III, Interval 1 minimum and maximum from the current year and previous year pay table that cover the employee's position.

i. Conversion into CAPS

An employee who is noncompetitively converted (i.e., reassigned) to a position within CAPS based upon a written management directive will be given a one-time lump sum payment for time credited towards the next within-grade increase (i.e., WGI).

4. **GRADE AND PAY RETENTION**

Grade and pay retention will follow current law and regulation, with the following modifications:

a. Bands will be substituted for grades;

b. No band retention is allowed if the reduction in band is a result of an employee's pay being exceeded by the minimum rate of a band;

- c. No pay retention is appropriate as a result of a reduction in pay caused solely by geographic movement;
- d. No pay retention is appropriate upon conversion to GS, as long as the employee's total rate of pay is not reduced;
- e. No pay retention is appropriate when an employee's pay is reduced as a result of the cancellation of supervisory pay;
- f. If a GS employee enters into CAPS and is currently on retained grade and is eligible for a within-grade increase within the remainder of the two year retained grade period, they may be eligible to receive an incentive pay increase if they otherwise meet the incentive pay eligibility requirements; and
- g. Employees who enter CAPS who are on retained grade are eligible to receive a performance bonus if they otherwise meet the bonus eligibility requirements.

5. RECRUITMENT, RETENTION AND RELOCATION INCENTIVES

See Section II.B. Staffing.

6. SUPERVISORY PERFORMANCE PAY

The initial salary of a supervisor upon appointment or promotion may be set no higher than the maximum rate of Interval 3 of a pay band. Supervisors in all career paths will be eligible for salaries up to six percent higher than the maximum rate of their pay bands. The amount by which a supervisor's pay exceeds the maximum rate of the band constitutes supervisory performance pay. The higher salaries shall be reached through performance pay increases granted in connection with the regular performance appraisal cycle.

a. Entry Statement

At the time a supervisor becomes eligible for supervisory performance pay, the supervisor must sign the following statement:

I understand that the supervisory performance pay will be terminated at the time I leave or am reassigned from this supervisory position and, upon reassignment; my pay will not exceed the cap of Interval 3 of the nonsupervisory pay band.

b. Reassignment Out of a Supervisory Position

- (1) Upon leaving a supervisory position, the supervisory performance pay is removed from the employee's basic pay.
- (2) The new salary will be set as follows:

When a supervisor is reassigned to a nonsupervisory position, the new salary will be no greater than the maximum rate in the pay band. If, at the time of the reassignment, the supervisor's salary is greater than the maximum rate of the band, the new salary is set at the maximum rate of the band. If at the time of the reassignment, the supervisor's salary is equivalent to or less than the maximum rate of the band, there is no reduction of pay.

(3) The cancellation of supervisory performance pay does not constitute a demotion or a reduction in pay under Title 5, United States Code (U.S.C.) Chapter 75. Therefore, there is no right of appeal.

7. LOCALITY PAY

Locality pay is considered a part of basic pay and is applied to the minimum and maximum rates of each band. When an employee moves from one locality pay area to another locality pay area, the employee's basic pay will be adjusted to reflect the difference in the locality pay rates.

8. HIGHEST PREVIOUS RATE

Pay may be set based on Department's highest previous rate policy. Decisions on granting highest previous rate are made in accordance with OU guidelines.

9. FACULTY AND STUDENT APPOINTMENTS

a. Faculty

Employees on faculty appointments may be given adjustments to base pay at the completion of each academic school year or each additional year of teaching or research. They may be rated if they have worked 120 days in the performance cycle; however, they do not receive a performance pay increase or bonus.

b. Students

(1) Employees hired under the Student Temporary Employment Program (STEP) are not eligible for performance pay increases or bonuses during the regular payout cycle. These students may be given a pay increase at the end of the academic year. They may be rated if they have worked 120 days in the performance cycle.

(2) Employees hired under the Student Career Experience Program (SCEP) are eligible for ratings, scores, performance pay increases, and bonuses.

E. PERFORMANCE APPRAISAL

1. INTRODUCTION

a. Coverage

- (1) The policies contained in these Operating Procedures apply to all employees covered by the Commerce Alternative Personnel System (CAPS).
- (2) Employees from other pay systems detailed to positions covered by CAPS are not covered.
- (3) Employees occupying covered positions as a result of a temporary promotion are subject to the policies of this plan for the duration of the temporary promotion.
- (4) An employee whose service is temporarily interrupted by service in any Federally sponsored program, (i.e., Intergovernmental Personnel Act (IPA), which calls for the employee's return to the same or like position continues to be covered by the CAPS performance management plan while on the approved assignment).

b. Objectives

- (1) Establish critical elements and related performance standards for each covered position, which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the position;
- (2) Use performance plans to communicate and clarify operating unit (OU) and Department of Commerce (Department) goals and objectives and to identify accountability for their accomplishment;
- (3) Use performance appraisal results as a basis for paying, rewarding, promoting, training, reassigning, retaining, and assisting employees in improving unacceptable performance, and reducing in pay band or removing employees when such action is warranted; and
- (4) Increase the productivity of all covered employees and their organizations.

2. DEFINITIONS

a. Annual Comparability Increase

An annual Government-wide adjustment to base pay, approved by Congress and the President, for the purpose of making Federal pay rates comparable to non-Federal pay rates for the same levels of work. Under CAPS pay for performance system, all employees except

those with Unsatisfactory ratings and those on a Performance Improvement Plan will receive the comparability increase.

b. Appraisal

The act or process of evaluating an employee's performance against the described performance standards.

c. Appraisal Period

The period of time established for which an employee's performance is reviewed. The official appraisal period begins October 1 of each year and ends on September 30 of the following year. The minimum appraisal period is 120 days.

d. Benchmark Performance Standards

Defined levels of performance used to evaluate the accomplishment of critical elements.

e. Career Path

Categories of occupations grouped by similarities in work, qualification requirements, pay ranges, and career progression.

f. Close-Out Rating

A rating provided to an employee who was promoted or received a pay adjustment within the last 120 days of the rating cycle.

g. Critical Element

A component of an employee's job consisting of one or more duties and responsibilities, which contributes toward accomplishing organizational goals and objectives and which is of such importance that acceptable performance on the element is necessary for acceptable performance in the position.

h. Eligible

Rating for performance above the "Unsatisfactory" level; the level of acceptable performance; the level of performance that must be attained and sustained for consideration for comparability increase, performance pay increase and bonus, and retention in the position.

i. Evaluation Feedback Meeting

The second of two required appraisal meetings conducted by a rating official with an employee. The purpose of this meeting is to discuss the final rating and payout decisions.

j. Major Activity

A task, duty, or project that needs to be accomplished in support of a critical element.

k. Modal Rating

The modal rating is the most frequently assigned rating in the pay pool.

l. Performance Management Record

CAPS Performance Management Record, CD-541, which documents an employee's performance plan, progress review(s), and appraisal.

m. Objective

A brief statement that defines what a critical element is intended to accomplish.

n. Payout

Term used to describe the decision made regarding performance pay increases.

o. Pay Pool

The organizational level in which employees in similar career paths (i.e., ZP, ZA, ZT, and ZS) are combined for performance decisions including ratings, scores, pay increases, bonuses, and additional Reduction-in-Force (RIF) service retention credit. If a career path in an organization contains only one employee, this employee will constitute his or her own pay pool. If insufficient funds exist in the pay pool, funds may be transferred from other pay pools according to existing procedures.

p. Pay Pool Manager

The manager who controls the pay pool for his or her organization and who is responsible for rendering the final decisions on ratings, scores, performance pay increases, and bonuses.

q. Performance Bonus

A one-time cash award based on the performance cycle, which does not affect base pay.

r. Performance Improvement Plan

A plan given to an employee for the purpose of identifying performance deficiencies and how to correct them to attain and sustain performance at the Eligible level.

s. Performance Management

A process which:

(1) Integrates systems for appraising, rewarding, and correcting individual employee performance with organizational planning and management systems; and

(2) Results in increased productivity for individuals and organizations.

t. Performance Pay Increase

An adjustment to base pay tied to the employee's rating, performance score, and career path and interval.

u. Performance Plan

The document developed at the beginning of the appraisal period which defines the critical elements and performance standards against which an employee's performance is evaluated.

v. Performance Review Meeting

The first of two required appraisal meetings between a rating official and employee. The purpose of this meeting is to discuss the employee's accomplishments and give the employee an opportunity to present an assessment of the results achieved against the critical elements and standards established in the approved performance plan.

w. Progress Review

A formal meeting between the rating official and employee at the midpoint of the appraisal cycle at which the employee's progress toward meeting the objectives in his or her performance plan is discussed. If necessary, changes to the plan are discussed at this meeting, and the supervisor makes any necessary changes and obtains approval from the pay pool manager or, if appropriate, the reviewing official. Any performance deficiencies the rating official has noted are also discussed at this meeting along with recommendations for improvement.

x. Rating

The written record of the appraisal of each critical element and the assignment of a rating level (Eligible or Unsatisfactory).

y. Rating Official

The person responsible for developing the performance plan with employee involvement, establishing performance standards for each element, appraising performance, and

recommending ratings, scores and payouts. Normally, this is the employee's immediate supervisor.

z. Reviewing Official

The person at an organization level above the pay pool manager responsible for reviewing the decisions of the pay pool manager when the pay pool manager serves as the rating official.

(1). Shared Rating

When an employee has had more than one rating official during the rating cycle, the current rating official should refer to accomplishments and recommendations, if provided, or seek input from the previous rating official(s) as to the accomplishments of the employee when making recommendations on the employee's appraisal.

(2) Unsatisfactory

The level of performance in which the employee failed to meet the minimum benchmark of Eligible performance in one or more critical elements and has failed to complete a Performance Improvement Plan satisfactorily. An Unsatisfactory rating renders an employee ineligible for a comparability increase, performance pay increase, and bonus, and subjects the employee to one of the following: reassignment, reduction in pay band, or removal from the Federal service.

3. ROLES AND RESPONSIBILITIES

a. CAPS Board

- (1) Approves CAPS performance evaluation policies; and
- (2) Approves CAPS-wide documents for performance plans and appraisals and for recording outcomes.

b. Operating Personnel Management Boards (OPMBs)

- (1) Establish OU performance evaluation guidelines within the CAPS plan, Operating Procedures, and CAPS Board policies.
- (2) Oversee the OU annual performance appraisal process, from development of plans to individual performance pay increases and bonuses.
- (3) Establish OU guidelines on performance elements.
- (4) Delegate rating, review, and pay pool management authorities.

- (5) Establish OU bonus guidelines within the CAPS plan, Operating Procedures, and CAPS Board policies.
- (6) Establish OU performance pay increase pools.
- (7) Delegate bonus limits to pay pool managers.
- (8) Propose changes in performance appraisal policies to the CAPS Board.

c. Rating Official

- (1) Informs employees of the overall mission, objectives, goals, long-range plans and activities of the work unit and informs employees of their related duties and responsibilities.
- (2) Develops performance plans with employee participation and may have final authority to determine the content of the plan. Signs and dates plans.
- (3) Provides employees with a copy of their performance plans.
- (4) Conducts and documents at least one formal performance progress review at approximately the mid-point of the appraisal cycle. Conducts and documents additional reviews as deemed appropriate or when requested by the employee.
- (5) Modifies performance plans as necessary; acquires pay pool manager's and employee's signature on revised plan; provides employee with a copy of the revised plan and conducts a performance review meeting with employee to discuss accomplishments.
- (6) Completes performance appraisals, including determining, documenting, and evaluating employees' actual accomplishments including any required close-out ratings.
- (7) May use the automated Performance Payout System to provide recommendations for ratings, scores, performance pay increases and/or performance bonuses to the pay pool manager. Does not discuss recommendations with employee.
- (8) Conducts evaluation feedback meetings with employees to discuss the performance evaluation and the final payout decisions after receipt of the pay pool manager's decisions.
- (9) Signs and dates performance summary rating sheets.
- (10) Recommends other personnel actions based on the employee's performance.

d. Pay Pool Manager

- (1) Reviews critical elements and standards developed by subordinate rating officials to ensure that they are integrated into the total management process and are consistent with overall organizational objectives.
- (2) Approves, signs, and dates performance plans developed by subordinate rating officials to ensure equity and consistency within the organization.
- (3) Receives recommendations from rating officials; makes appropriate adjustments; and determines final ratings, scores, performance pay increases, and bonuses. Recommendations may be received via the Performance Payout System. Requests additional funds from the OPMB if necessary.
- (4) Forwards decisions to reviewing official, if appropriate, for review.
- (5) Completes and signs performance summary rating sheet; returns completed forms to rating officials.
- (6) Makes and communicates decisions in writing in response to employee's written comments on performance decisions.
- (7) Reviews and evaluates the effectiveness of CAPS performance management plan within the organization; forwards recommendations for change to the OPMB.

e. Reviewing Official

When the pay pool manager and the rating official is the same person, the reviewing official reviews the decisions of the pay pool manager.

f. Employee

- (1) Participates with rating official in developing his or her performance plan.
- (2) Participates in progress review(s).
- (3) Must provide a list of accomplishments for the end-of-cycle performance review meeting with the rating official.
- (4) Signs and dates performance plan cover sheet, progress review(s), and performance Summary Rating Sheet.
- (5) May request reconsideration of performance decisions, as outlined under II.E.4.c.(16).

g. Servicing HR Manager

- (1) Communicates the purpose and procedures of the performance management process and its relationship to the overall management system to managers, supervisors, and employees.
- (2) Coordinates with the OUs system administrator and/or designee and/or Department, Office of Human Resources Management (OHRM), to ensure users are sufficiently trained in operating the automated Performance Payout System.
- (3) Provides assistance, as required, to managers and supervisors in identifying critical elements and related performance standards.
- (4) Ensures that performance plans and appraisals are maintained by the OU in accordance with the provisions of the Privacy Act, Freedom of Information Act, and other legislative and regulatory requirements.
- (5) Works with the Department, OHRM to resolve any discrepancies prior to transmission of performance appraisal and payout data to the National Finance Center (NFC).
- (6) Once data has been transmitted to NFC by the Department, takes corrective action to resolve any errors, ensuring performance pay increases, bonus payouts and scores are accurately reflected in the NFC data base.
- (7) Decides on requests for extensions of advance notice periods for performance-based actions.

4. PERFORMANCE MANAGEMENT PROCESS

The performance management process has three distinct stages: performance planning, progress review, and appraisal. The annual appraisal cycle begins October 1 and ends September 30. The performance plan is used to communicate organizational goals and employee expectations, and is a tool for creating employee accountability. The performance appraisal is used to measure an employee's progress in accomplishing organizational goals. There are two performance ratings: Eligible and Unsatisfactory. These performance ratings determine employee eligibility for comparability increases, performance pay increases, and performance bonuses. Supervisors also use performance appraisal results as a basis for making decisions on training, reassignment, promotion, retention, improving performance and, if necessary, reduction in pay band or removal.

a. Performance Planning

- (1) Each year, approximately 30 days before the start of the appraisal period (October 1), rating officials and employees begin developing written performance plans for the coming performance cycle. If a rating official and employee disagree on

the contents of the performance plan, the rating official makes the final decision regarding the contents of the plan. Performance plans must be recorded on the Form CD-541. Performance plans must be signed in the following order: rating official, pay pool manager, reviewing official (if appropriate), and employee within 60 days of the beginning of the appraisal cycle. Employees must be given a copy of the signed performance plan including the Element Point Ranges and Benchmark Performance Standards.

(2) Only critical elements are used. A critical element is a component of an employee's job consisting of one or more duties and responsibilities, which contributes toward accomplishing organizational goals and objectives and which is of such importance that acceptable performance on the element is necessary for acceptable performance in the position. An employee must sustain a level of performance in all critical elements at the minimum level of the Eligible Benchmark Performance Standard in order to be retained in his/her position. Critical elements reflect an employee's major duties and responsibilities and must be consistent with current job assignments and with the level of duties described in the employee's position description. Performance plans should have a minimum of two critical elements and a maximum of six. Elements may be drawn from a number of sources, including but not limited to mission and functional statements, position descriptions, planning documents, operating budget justifications, and affirmative action plans.

Critical elements must include only those aspects of the work over which the employee has control. An objective, specifying the overall result expected, along with the major activities the employee must undertake to accomplish each element, must be communicated in writing in the employee's performance plan. Managerial or supervisory duties such as recommending or approving personnel actions, developing and appraising subordinates, fulfilling equal opportunity and affirmative action responsibilities, etc., must be included as a critical element or as major activities of a critical element. (Generic critical elements are acceptable.)

(3) A weight must be assigned to each critical element on the basis of the importance of the element and/or the time required to accomplish it. Each single element may be assigned a minimum weight of 5 points and a maximum weight of 60 points. The weight of all elements must total 100 points. Assigning weights to the individual major activities listed under an element is not permitted.

(4) Benchmark Performance Standards define levels of performance used to evaluate the accomplishment of critical elements. The CAPS Board approved the use of the *Summary Guidance for Benchmark Performance Standards* in March 2005 as a tool to assist managers in evaluating employees with the Benchmark Performance Standards. This tool can be used by managers to help make distinctions between different levels of performance and help ensure greater consistency in the analysis and evaluation of performance ratings. Supplemental standards should be developed as needed and should define performance in terms of results (what is to be accomplished) and

process (how it is to be accomplished). Supplemental standards must be expressed in terms of quality, quantity, timeliness, cost-effectiveness, or other relevant measures. Such standards must be written at the minimum level of Eligible performance and may be written only at that level.

(5) A performance plan must be established and approved for an employee who enters a covered position, moves from one covered position to another after the start of the appraisal period, or serves on a detail or temporary promotion of 120 days or more. Plans must be in place within 60 days of the effective date of the personnel action.

b. Progress Review

(1) At a minimum, rating officials must conduct a formal progress review with their employees at approximately the midpoint of the appraisal cycle. Additional progress reviews may be conducted at the request of the employee or when the rating official determines them to be necessary.

(2) The progress review must include discussion of:

(a) The employee's progress toward meeting the objectives of the critical elements in the performance plan;

(b) The rating official's identification of any performance deficiencies and guidance on how to improve performance; and

(c) If appropriate, the need for changes in the plan to reflect changes in responsibilities. A rating official must submit any changes in writing to the pay pool manager or, if appropriate, the reviewing official. All changes must be initialed or signed and dated by the rating official, pay pool manager, reviewing official, if appropriate, and the employee, in that order. Changes can be made directly to the plan or attached to it. Pen-and-ink changes must be initialed and dated by the rating official, pay pool manager, reviewing official (if appropriate), and the employee, in that order. In both cases, the employee must be given a copy of the revised plan.

A record of the progress review, including any deficiencies, must be recorded on the Form CD-541 and initialed by both the rating official and the employee. If deficiencies are identified, the rating official should contact the servicing human resources (HR) office to receive advice on handling the performance problem.

A progress review should also be initiated by the rating official as soon as it is recognized that an employee's performance of one or more critical elements is not acceptable. The rating official must contact the servicing HR office to receive advice on handling the performance problem.

c. Appraisal

(1) Approximately 30 days before the end of the appraisal cycle (September 30), rating officials and employees should begin to prepare for the appraisal. However, at any time of the year, a supervisor may determine that an employee's performance is not acceptable on one or more critical elements and place the employee on a Performance Improvement Plan (PIP).

(2) Every employee who is ratable as of September 30 must receive an annual performance rating. An employee is ratable if:

(a) He or she occupies a covered position on the last day of the performance cycle; and

(b) He or she has worked at least 120 days in one or more covered positions during the appraisal cycle.

(3) If an employee is permanently promoted or competitively reassigned (with a pay adjustment) from one covered CAPS position to another during the last 120 days of the rating cycle, the supervisor of the position from which the employee was promoted or competitively reassigned from will prepare a "close-out" rating within 30 days of the promotion or pay adjustment. At the end of the rating cycle, the recommended rating and score will be submitted to the pay pool manager for the position which served as the basis for the rating, and upon approval by the pay pool manager, that score will be interleaved with the scores of other employees in that pool. The employee's relative score within the pool will be used as a basis for determining the employee's eligibility for additional RIF service retention credit.

(4) Employees on long-term absences as a result of conditions outlined within Title 5, Code of Federal Regulations (CFR) § 531.406 including:

(a) call-up to active military service;

(b) receiving injury compensation;

(c) being temporarily employed by another agency;

(d) being assigned to a State or local government; or

(e) being assigned to an institution of higher learning are exempted from the 120-day coverage requirement for the purpose for receiving a performance appraisal and any resultant pay increase.

For appraisal periods during which the employee was absent for the entire rating period, the rating will be based on either the employee's last rating of record or the

modal rating received by all other employees in the same pay pool for the most recently completed appraisal period, whichever is most advantageous to the employee. The modal rating is the most frequently assigned rating in the pay pool. If there is more than one modal rating, the highest one shall be used.

(5) Rating officials who leave their positions within the last 120 days of the rating cycle are responsible for providing accomplishments for their employees and making recommendations on the employee's appraisal. These recommendations will be considered when making performance appraisal recommendations to the pay pool manager as indicated under II.E.4.c.(9).

(6) An employee is unratable if one of the following applies:

(a) The employee did not work at least 120 days in one or more covered positions during the appraisal cycle except for those exempt employees in special circumstances as indicated under II.E.4.c.(4); or

(b) The employee has been placed on a PIP because the rating official has determined that the employee's performance fails to meet the minimum level of acceptable performance in one or more critical elements.

Unratable employees will not receive an annual performance appraisal or be considered for a performance pay increase or additional RIF credit until completion of the next rating cycle, provided all the requirements for being ratable are met.

If the employee was unratable because he or she was on a PIP, the rating period will be extended for the duration of the PIP. Upon completion of the PIP, the rating official will assign a rating. If the employee is rated Eligible, he or she will be granted the annual comparability increase, the effective date of which will be the beginning of the first pay period after the Eligible rating is documented. The rating must be documented and signed by the rating official, the pay pool manager, the reviewing official if appropriate, and the employee. A copy of the Summary Rating Sheet must be given to the employee, and a copy must be forwarded to the servicing HR office.

(7) Performance appraisals are conducted in two stages. The rating official is required to conduct a performance review meeting and an evaluation feedback meeting with each employee. The rating official provides advance notice to the employee of the date and time for each meeting.

(8) The purpose of the performance review meeting is to provide for an exchange of information between the employee and supervisor. The employee must provide a list of accomplishments and is given an opportunity to:

(a) Present his or her assessment of results achieved against the critical elements and Benchmark Performance Standards established in the

performance plan;

(b) Inform the rating official of aspects of his or her work of which he or she may not be aware; and

(c) Identify changes he or she would like to include in the performance plan for the next appraisal period.

During the performance review meeting, the rating official clarifies his or her understanding of the employee's performance, and discusses the employee's accomplishments. Rating officials may not discuss the recommended score, rating, performance pay increase, or bonus at this meeting.

(9) In circumstances where an employee has had more than one rating official during the rating cycle, the current rating official shall refer to accomplishments and recommendations, if provided, or seek input from the previous rating official(s) before his or her departure as to the accomplishments of the employee when making recommendations on the employee's appraisal. This process is referred to as a "shared rating." If the departing rating official leaves before 120 days into a new rating cycle, input is not required, but may be provided.

(10) Upon completion of the performance review meeting, the rating official submits recommendations on scores, ratings, performance pay increases, and bonuses to the pay pool manager.

To obtain the overall summary rating, rating officials must rate each element using the point-range scale on the performance appraisal form that corresponds to the weight assigned to the element. The scale ranges from 40 percent of the element weight to the full element weight at the top of the scale. For example, a critical element assigned a weight of 20 will be scored on a scale of 8 points (40% x 20) to 20 points. The minimum score for Eligible performance on this scale is 8 points and the maximum score is 20 points, equaling the full weight of the element. Points assigned to individual elements are totaled to determine the tentative overall score.

If performance on an element does not warrant the minimum score, the element is unsatisfactory. The element is not given a score, and no total score for the performance appraisal is assigned. The overall rating is Unsatisfactory. To be considered for a performance pay increase and a performance bonus and to receive the annual comparability increase, an employee must have an Eligible rating with an overall point score between 40 and 100.

(11) The pay pool manager reviews the scores recommended by subordinate rating officials and discusses any discrepancies or need for score adjustments, or both. Once the pay pool manager makes a final decision on ratings, and scores, he or she uses the automated Performance Payout System to interleave scores within the pay pool.

Consistent with current pay tables, the system identifies a potential pay increase range for the employee based on pay band and interval.

The pay pool manager selects a payout for each employee, considering recommendations from the employee's rating official, and makes adjustments until the total dollar increases do not exceed the pay pool. Each individual in a pay pool must receive a payout that, relative to interval ranges, is proportionately equal to or greater than the payout for the next lower score. That is, within a pay pool, an employee may not receive a higher proportion-of-range than a higher-scoring employee or a lower proportion-of-range than a lower-scoring employee. Proportion-of-range is the percentage of the maximum pay increase allowed for a particular interval of a pay band (i.e., a percent of a percent).

(12) The pay pool manager presents the decisions to the reviewing official, if appropriate, for review.

(13) The pay pool manager records decisions on the performance appraisal form, signs the Summary Rating Sheets, and returns appraisals to the rating official.

(14) The rating official completes and signs the written performance appraisals.

(15) The rating official conducts an evaluation feedback meeting with each employee. The purpose of the evaluation feedback meeting is to present the final appraisal decisions to the employee. The employee signs and dates the Summary Rating Sheet to indicate that it has been discussed. Refusal to sign the rating does not negate the rating or the payout decisions. However, the rating official must document on the summary rating sheet that the appraisal was discussed with the employee and that the employee refused to sign. A copy of the completed summary rating sheet must be given to the employee.

(16) An employee may grieve the rating, performance score, and payout under the Department of Commerce (Department) Administrative Grievance Procedure outlined in DAO 202-771. Bargaining unit employees covered by CAPS must follow the negotiated grievance procedures (NGP) in their respective collective bargaining agreements. Non-bargaining unit employees and those bargaining unit employees who are not covered by a collective bargaining agreement or the NGP specifically excludes these matters from its scope, must use the Administrative Grievance Procedure provisions of DAO 202-771.

Under the Department Administrative Grievance Procedure, an employee who grieves the performance rating, score, or payout must submit a request for reconsideration (i.e., informal grievance) of his or her performance appraisal, either orally or in writing, to the pay pool manager within 15 calendar days after being informed of the evaluation (evaluation feedback meeting). Bonus decisions are not grievable. The pay pool manager must provide a written decision back to the employee within 15 calendar days of receipt of the Request for Reconsideration insofar as practicable.

Under the Department *Administrative Grievance Procedure* outlined in DAO 202-771, an employee who wants to submit a formal grievance of his or her performance appraisal must submit a written formal grievance to the servicing HR manager (or designee), insofar as practicable, within 10 calendar days of the receipt of the pay pool manager's response to the request for reconsideration of the performance appraisal.

A management official at least one level higher than the pay pool manager must provide a written decision of the employee's formal grievance back to the employee within 45 days of the receipt of the formal grievance from the HR manager (or designee).

A change in an employee's score as a result of a request for reconsideration or formal grievance may also result in an increase in the employee's original performance pay increase. Such a change in an employee's score (and possible pay increase) will not affect any other pay increases given.

An employee who received additional RIF service retention credit as a result of an increase in score due to a Request for Reconsideration or grievance will not affect any other employee's previous eligibility for additional RIF service retention credit for that performance cycle.

(17) Employees who are unratable because they did not meet the minimum appraisal period requirement or were appointed to a covered position from June 4 through September 30 will be considered ineligible for performance pay increases. These employees may be eligible to receive bonuses if they have on file a CAPS rating of Eligible or a Department performance rating of at least Fully Successful or equivalent that is no more than 13 months old at the end of the rating cycle.

(18) Employees who receive a promotion or pay adjustment during the last 120 days of the rating cycle are eligible to receive performance scores (via close-out ratings) but are ineligible to receive performance pay increases. These employees are eligible to receive bonuses.

(19) Employees who successfully complete a PIP after September 30 will not receive RIF credit.

5. ACTIONS BASED ON UNSATISFACTORY PERFORMANCE

a. An action based on unsatisfactory performance in any critical element may be taken at any time, provided the requirements of II.E.5.b. below are met.

b. An employee whose performance is unacceptable in any critical element must be given an opportunity to improve in the form of a written PIP. This PIP must:

- (1) Identify the critical element(s) in which the employee's performance is deficient;
- (2) Provide a description of the types of improvements that the employee must demonstrate to attain an Eligible level of performance;
- (3) Inform the employee of the performance standards which must be met for retention in the position;
- (4) Give the employee a reasonable period of time to demonstrate Eligible performance;
- (5) Include a statement of the steps the rating official intends to take or to offer to assist the employee to improve;
- (6) Include a statement of the consequences of failure to improve and sustain performance at the Eligible level; and
- (7) Be approved for regulatory compliance by the servicing HR manager or designee prior to issuance.

c. An employee cannot grieve being placed on a PIP or its contents.

d. If, after an opportunity to improve, an employee's performance is still not satisfactory, the rating official will give a rating of Unsatisfactory and must take action to reassign or remove the employee, or place the employee in a lower band in accordance with performance action provisions in current law and regulation. An employee who successfully completes a PIP but subsequently fails to maintain an acceptable level of performance in the critical elements addressed by the PIP for a one-year period following the completion of the PIP can be reassigned or given a proposal of removal from the Federal service or a proposal of reduction in pay band without being placed on another PIP.

e. Reduction in Pay Band or Removal Based on Unsatisfactory Performance

- (1) An employee whose reduction in pay band or removal is proposed must be provided with a 30-day advance written notice of the proposed action. The employee cannot grieve receipt of the advance written notice or its contents.
- (2) The advance written notice of proposed reduction in pay band or removal must:
 - (a) Identify specific instances of unsatisfactory performance occurring within the one-year period prior to the issuance of the advanced notice and the critical elements on which performance is Unsatisfactory;
 - (b) Give the employee at least 15 calendar days to respond to the notice either orally or in writing, or both, and to furnish affidavits in support of the reply;

(c) Inform the employee of the right to be represented and to receive a written decision; and

(d) Be approved for regulatory compliance by the servicing HR manager or designee prior to issuance.

(3) The servicing HR manager may extend the advance notice period for 30 days without prior approval of the Department or OPM for the following reasons:

(a) To obtain and/or evaluate medical information when the employee has raised a medical issue in the answer to a proposed reduction in pay band or removal;

(b) To arrange for the employee's travel to make an oral reply to an appropriate agency official, or to permit the travel of an agency official to hear the employee's oral reply;

(c) To consider the employee's answer if an extension to the period for an answer has been granted (e.g., because of the employee's illness or incapacitation);

(d) To consider reasonable accommodation of a handicapping condition;
or

(e) To comply with a stay ordered by the Merit Systems Protection Board (MSPB).

(4) OPM approval is required if the advance notice period must be extended beyond the 30-day extension approved by the servicing HR manager and the reason for extension does not meet the requirements as cited in II.E.5.e(3) above.

(5) The OU shall issue its final decision within 30 days after expiration of the advance notice period, unless extended by the servicing HR manager at the request of the deciding official. The written decision must:

(a) Be made by a management official at a higher organization level than the rating official who proposed the action unless the action was proposed by the head of the OU;

(b) Be based on only those instances of unsatisfactory performance that occurred within the one-year period ending on the date of the advance notice of proposed action;

(c) Be issued on or before the time the action will be effective;

(d) Specify the instances of unsatisfactory performance upon which the action is based; and

(e) Inform the employee of the right to file an appeal with the MSPB.

6. FUNDING

a. Performance Pay Increase Pool

The formula used to allocate funds to performance pay increase pools is approved by the CAPS Board. The formula is derived from a base assessment of the OU pre-project costs computed as annual averages over three pre-project years as outlined in the Federal Register notice published December 24, 1997, and in subsequent Federal Register modifications authorizing expansion. The costs of all personnel actions of the types that are being replaced by project systems are totaled and averaged.

The results of the base cost assessment provide a basis for: (1) setting maximum spending limits; and (2) constructing performance pay increase pools by organization, career path, band, and salary. This payroll figure is adjusted to reflect population changes stemming from attrition, reorganization, expansion, or RIF. As appropriate, it is adjusted to include monies that will be expended on annual comparability increases and performance increases to covered employees in the current fiscal years.

OPMBs may authorize pay pool managers to move a maximum of \$5,000 in performance pay increase funds between pay pools. This means that no more than a total of \$5,000 in performance pay increase funds can be transferred between one or all pools under the same pay pool manager. Other Object funds may not be converted to payroll funds. Unspent performance pay increase funds may be used to supplement performance bonus pool authorizations. There is no limit on the dollar amount that can be transferred from the performance pay increase pool to bonus pool or bonus pool to bonus pool. Bonus pool funds may not be added to the performance pay increase pool.

In 1998, the CAPS Board granted an exception that OPMBs may exceed performance pay spending limits determined by the base cost assessment to the extent necessary to accommodate three situations: (1) Supervisory performance pay up to six percent for supervisors who are currently at the Step 10 of their grade; (2) Performance Pay for employees at Step 10 of their grades thus increasing their pay potential; and (3) Employees who are temporarily promoted to positions covered by CAPS.

b. Performance Bonus Pool

The CAPS Board delegates bonus limits to OPMBs, which in turn, delegate bonus limits to pay pool managers. Bonus authorization pools are derived from the base cost assessment of cash awards granted during three pre-project years as outlined in the Federal Register published December 24, 1997, and subsequent Federal Register notices. Keeping in mind

cost discipline, bonus pools may be adjusted as appropriate, by the appropriate OPMB. Unspent bonus pool funds cannot be used to supplement performance pay increase authorizations.

7. **PERFORMANCE PAY INCREASES**

a. A performance pay increase is an adjustment to basic pay. A performance pay increase may be granted only at the end of the performance appraisal cycle. Employees must receive an Eligible rating at the end of the appraisal cycle to be considered for a performance pay increase. A performance pay increase is based on the employee's rating, score, career path, pay band, and interval.

b. A performance pay increase for an employee on temporary promotion at the end of the appraisal cycle is calculated as follows:

(1) If the temporary promotion was effective prior to June 4 and terminates after September 30:

(a) The employee is rated at the end of the cycle on the temporary position; any performance pay increase assigned is based on the matrix for the temporary job.

(b) Upon termination of the temporary promotion, the employee's salary for the base position is adjusted by the actual dollar amount of the increase received in the temporary promotion up to the maximum rate of the pay band.

(2) If the temporary promotion was effective on or after June 4 and terminates after September 30:

(a) The employee will be rated at the end of the cycle on the permanent position; any performance pay increase assigned is based on the pay matrix for the permanent position. The performance pay increase is made effective only upon termination of the temporary promotion and the employee's return to the permanent position.

(b) If the temporary promotion is made permanent, the employee's base salary will be adjusted by the performance pay increase, and the promotion is recalculated using the new base salary.

c. The following employees covered by the CAPS performance management process cannot receive a performance pay increase:

(1) Temporary Faculty appointees;

(2) Student Temporary Employment Program (STEP) appointees; and

- (3) Employees with fewer than 120 days in a duty status during the performance cycle;
- (4) Employees whose salaries are at the maximum rate of the pay band or supervisory pay band ceilings;
- (5) Employees on retained pay; and
- (6) CAPS employees who were permanently promoted or reassigned with a pay adjustment within the last 120 days of the rating cycle (between June 4 and September 30).

8. PERFORMANCE BONUSES

A performance bonus is a one-time award that does not affect base pay. The decision to grant a bonus is made concurrently with the performance rating decision. Therefore, a performance bonus can only be given in conjunction with the annual performance rating and pay decisions unless an unratable employee meets the requirements set forth in II.E.8.b.(3).

a. Performance bonuses may be granted in accordance with the following:

- (1) An employee must receive an Eligible rating;
- (2) Bonuses must be approved by pay pool managers; and
- (3) Pay pool managers are delegated the authority to award bonuses in amounts up to the \$10,000 limit (per employee) in accordance with the following general guidelines and any additional supplementary guidance provided by the governing OPMB:
 - (a) Bonuses may be used to reward employees for special accomplishments not specifically covered by their performance plans (i.e., special projects or assignments performed as a member of special task forces).
 - (b) Bonuses may be used to reward performance that is covered by the performance plan and is worthy of a performance pay increase, but because of its value to the organization, is also worthy of a cash award.
 - (c) Bonuses may be used to reward deserving employees who cannot be granted a performance pay increase because their salaries are already at the maximum rates of the pay band.
- (4) The granting of a bonus must be recorded on the performance appraisal form, together with the performance rating and performance pay increase.

b. All positions covered by CAPS performance management process are eligible for

performance bonuses except:

- (1) Student Temporary Employment Program (STEP) appointees;
- (2) Temporary Faculty appointees; and
- (3) Employees who are unratable at the end of the annual performance cycle, unless they have a CAPS or Department of Commerce rating of at least Fully Successful or equivalent that was effective within 13 months prior to the rating cycle's conclusion.

c. The amount of a performance bonus or the failure to receive a performance bonus is not grievable.

9. ANNUAL COMPARABILITY INCREASE

The annual comparability increase is the annual adjustment to basic pay that is effective the first full pay period on or after January 1. The percentage of annual comparability increase approved by the President and Congress is applied directly to the basic pay of all employees, except those who are rated Unsatisfactory and are on a PIP, as outlined in II.E.5. Because the minimum pay rate for each pay band is increased each year by at least the amount of the annual comparability increase—which includes any general or locality pay increase, or both—it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee in that pay band who did not receive the annual comparability increase. When this happens, the employee will be placed in the next-lower pay band. CAPS specifically allows for this and provides that it will not be considered an adverse action under Title 5, United States Code, Chapter 75. It is, therefore, not appealable. Employees on retained pay are entitled to receive only 50 percent of the annual comparability increase.

10. EVALUATION

The CAPS Board manages, evaluates, and makes policy and procedural changes to the CAPS. In this regard, the CAPS Board evaluates the performance management system with input from the OPMBs. Accountability reviews of CAPS will be conducted by the Department's OHRM and CAPS is subject to OPM review as part of the OPM Center for Merit System Accountability Audit Program.

11. RECORD KEEPING

a. OUs must retain the original performance plan and summary rating sheet of each employee in the OU for a period of four years. Each OU is responsible for destroying (shredding or burning) the above documents after four years.

b. When an employee transfers from one OU to another and remains covered by the CAPS performance management process, the employee's performance records for the last four years will be transferred to the gaining organization. If the employee transfers from one OU to another and does not remain covered by the CAPS performance management process, all performance records will be transmitted to the gaining OU office for filing.

c. When an employee transfers from a CAPS OU to another Department organization or to another Federal agency, the last four years of performance records will be transferred with the employee's Official Personnel Folder. The transfer of performance plans and summary rating sheets will be coordinated by the servicing HR office.

d. All provisions and restrictions of the Privacy Act and Freedom of Information Act apply.

12. PAY ACTION PROCESSING

Operating units have the option of freezing pay actions for a minimum required period of time to allow for pay for performance pay increases and bonuses to be processed without any interference of intervening actions.

F. AWARDS

1. PERFORMANCE BONUS

See Section II.E.8.

2. OTHER AWARDS

Special Act Awards, Suggestions Awards, Cash-in-Your-Account, Time-Off, Department of Commerce Medal Awards, and other awards may be granted to CAPS employees. Special Act Awards should be given for accomplishments beyond and outside of the employee's performance plan. The awards mentioned above are funded from sources outside of the bonus pool.

G. EMPLOYEE RELATIONS

1. PLACEMENT IN A LOWER PAY BAND

a. Automatic (based on an unsatisfactory rating) - An employee whose performance rating is unsatisfactory will not receive the annual comparability increase or a performance increase. Because the minimum pay rate for each pay band will be increased each year by at least the amount of the annual comparability increase, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee who did not receive the comparability increase. As a result, the employee will automatically be placed in the next lower pay band with a pay range commensurate with the employee's basic pay. This action is not an adverse action, and there is no right of appeal.

b. Voluntary - A voluntary change to lower pay band occurs at the request of the employee. Pay is set based on the Department of Commerce's (Department) highest previous rate policy but no higher than the maximum salary of the lower pay band. Decisions on granting highest previous rate are made in accordance with operating guidelines (OU) guidelines.

c. Involuntary (based on a performance or conduct decision) - An employee who is changed to a lower pay band based on a performance or conduct decision will be placed in the lower pay band and pay will be set within the pay range of that pay band, based on the pay band and pay decisions contained in the performance or conduct decision letter. Appropriate notification procedures and appeal rights apply, depending on whether the action is taken for performance or for cause.

2. LOSS OF SUPERVISORY PERFORMANCE PAY

a. When an employee receiving supervisory pay no longer performs supervisory duties, the supervisory pay is removed in accordance with procedures described under Section II. D.6.b(2) Pay Administration.

b. The cancellation of supervisory pay does not constitute a demotion or a reduction in pay under Title 5, United States Code (U.S.C.), Chapter 75. Therefore, there is no advance

notification or appeal right.

III - SYSTEM ADMINISTRATION

A. SYSTEM MANAGEMENT

1. INTRODUCTION

Authority – Title 5, United States Code (U.S.C.) § 4703

a. Section 4703, under which Demonstration Projects are conducted, was the authority granted to OPM in the Civil Service Reform Act to approve and evaluate the Department of Commerce's Demonstration Project. On December 26, 2007, with the passage of the Consolidated Appropriations Act, Fiscal Year 2008, the Demonstration Project was extended indefinitely with allowances to expand participation to more than the limits set during the Demonstration project time period and the Project was changed to an Alternative Personnel System.

b. Section 4703 allows OPM to approve personnel management procedures, for demonstration purposes, that would otherwise be prohibited by law or regulation.

2. COMMERCE ALTERNATIVE PERSONNEL SYSTEM BOARD

a. OPM has delegated management and oversight of the system by charter to the CAPS Board.

b. The CAPS Charter can be found on the Department OHRM CAPS website.

3. OPERATING PERSONNEL MANAGEMENT BOARDS

Each operating unit (OU) will establish its own OPMB to oversee internal operations. Each OPMB will establish OU project guidelines within the parameters of the CAPS plan, the Operating Procedures, and overall policies of the CAPS Board. The OPMBs will manage authorities delegated to them by the CAPS Board, delegate authorities to OU managers and supervisors, and ensure that adequate resources are available to implement and operate the CAPS.

B. MODIFICATION AND REVISION

The CAPS Board has the authority to make minor modifications, such as changes in the occupational series in a career path, without further notice. Major changes, such as a change in the number of career paths, will require OPM approval and will be published in the Federal Register.

C. CONVERSION BACK TO THE GENERAL SCHEDULE (GS) SYSTEM THE COMMERCE ALTERNATIVE PERSONNEL SYSTEM (CAPS)

In accordance with Title 5, Code of Federal Regulations (CFR), § 531.217 if an employee covered by the CAPS moves (without a break in service) to a GS position, the employee will be converted to a GS-equivalent rate immediately before leaving the non-GS system. As published in the CAPS Plan in the Federal Register on December 24, 1997, the following procedures will be used to convert the employee's pay band to an equivalent GS grade and the employee's rate of pay to equivalent GS rate of pay.

The converted GS grade and rate of pay must be determined before movement out of CAPS and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted GS grade and rate of pay will become the employee's actual GS grade and rate of pay, unless immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rate of pay will be deemed to be the employee's grade and rate of pay at the time of movement out of CAPS and will be used in applying applicable pay setting rules (i.e., rules for promotion under 5 CFR Part 531).

The rules for determining the converted GS grade for pay administration purposes should not be used to determine whether an employee meets the Office of Personnel Management Qualification Standard (i.e., specialized experience) requirements of a position. Specialized experienced is used to determine qualifications and cannot be used to determine pay.

1. GRADE-SETTING PROVISIONS

An employee in a band corresponding to a single GS grade is converted to that grade. An employee in a band corresponding to two or more grades is converted to one of those grades according to the following rules:

- a. The employee's basic rate of pay is compared with step 4 rates in the highest applicable GS rate range (including a rate range in the GS base schedule or LEO special base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation). If the series is a two-grade interval series, only odd-numbered grades are considered below GS-11 (i.e., 201-HR Specialist series, compare step 4 rates in the GS-9, GS-7, etc. rate range).
- b. If the employee's pay rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.
- c. If the employee's pay rate is lower than the applicable step 4 rate of the highest grade, the pay rate is compared with the step 4 rate of the second-highest grade in the employee's band. If the employee's pay rate equals or exceeds step 4 of the second-highest grade, the employee is converted to that grade.

- d. This process is repeated for each successively lower grade in the band until a grade is found in which the employee's rate of basic pay equals or exceeds the applicable step 4 rate of the grade. The employee is then converted at that grade. If the employee's rate of pay is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.
- e. Exceptions are as follows:
 - (1) If the employee's pay rate exceeds the maximum rate of the grade assigned under the above-described "step 4" rule but fits in the rate range for the next higher applicable grade in the band (i.e., between steps 1 and 4), then the employee shall be converted to that next higher applicable grade.
 - (2) An employee will not be converted to a lower grade than that held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer in the CAPS, unless since that time the employee has undergone a reduction in band.
 - (3) In band I of the ZP and ZA career paths, students without a bachelor's degree or comparable experience are converted no higher than GS-4.

2. PAY-SETTING PROVISIONS

An employee's pay within the converted GS grade is set by converting the CAPS rate to GS pay rates in accordance with the following rules:

- a. The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement out of the CAPS.
- b. An employee's CAPS rate is converted to a rate on the highest applicable rate range for the converted GS grade (including a rate range in the GS base schedule or LEO special base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation).
- c. If the highest applicable rate range is a locality pay rate range, the CAPS rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS rate of basic pay is the GS base rate or LEO special base rate corresponding to the converted GS locality rate (i.e., same step position).
- d. If the highest applicable rate range is a special rate range, the CAPS rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS rate of basic pay will be the GS rate corresponding to the converted special rate (i.e., same step position).
- e. Exception: If an employee's CAPS rate exceeds the maximum rate of the highest

applicable rate range upon conversion to GS, the affected employee's rate will be converted to a retained rate under Title 5, United States Code (U.S.C.) § 5363.

f. After conversion or movement out of the CAPS, an employee's converted GS rate will be used in applying GS pay administration rules, as necessary, in lieu of using his or her CAPS rate. Thus, for example, the converted GS rate will be used in applying GS rules for promotions, maximum payable rate determinations, and pay retention, as appropriate. For conversions upon termination of the CAPS and for lateral reassignments, the converted GS rate will become the employee's GS rate immediately after movement out of the CAPS (before processing any accompanying geographic move).

3. EVALUATION OF CLASSIFICATION

Once these conversions have taken place, evaluations will be conducted to ensure proper position classification.