



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

December 16, 2009

Mr. John Greenewald, Jr.
[REDACTED]

Tracking No.: OGE FOIA FY10/7

Dear Mr. Greenewald:

The Office of Government Ethics (OGE) has reviewed your December 10, 2009 E-mail responding to this Office's November 18, 2009 reply letter concerning the possible FOIA duplication fee involved for the processing of your October 20, 2009 Freedom of Information Act (FOIA) request, in which you sought a copy of OGE's employee manual, handbook or equivalent. Our November 18 letter indicated that OGE had checked and considered the OGE Human Resources Manual to be responsive to your request. Upon review of your December 10 E-mail, this Office has decided not to charge any fees for filling your FOIA request. Accordingly, enclosed is a copy of the entire OGE Human Resources Manual that we have printed out double-sided in order to save paper and postage costs for OGE (again, there is no charge to you).

Sincerely,

William E. Gressman
William E. Gressman
OGE FOIA Officer

Enclosure

Office of Government Ethics Human Resources Manual

- **General Information**
 - Chapter 250 - Human Capital Management in the U.S. Office of Government Ethics
- **Employment**
 - Chapter 330 - Recruitment, Selection and Placement
 - Chapter 335 - Promotion and Internal Placement (Subchapter 1)
 - Chapter 335 - Upward Mobility (Subchapter 2)
 - Chapter 335 - Rotational Assignment Program (Subchapter 3)
 - Chapter 340 - Other Than Full-Time Career Employment (Part-Time & Intermittent)
 - Chapter 351 - Reduction In Force (RIF)
- **Employee Performance and Utilization**
 - Chapter 410 - Training
 - Chapter 430 - Performance Appraisal System for General Schedule Employees
 - Chapter 451 - Incentive Awards
- **Position, Classification, Pay, and Allowances**
 - Chapter 531 - Pay Under General Schedule
 - Chapter 537 - Repayment of Student Loans
- **Attendance and Leave**
 - Chapter 610 - Hours of Duty
 - Chapter 630 - Absence and Leave
 - Chapter 650 - Time & Attendance
- **Personnel Relations and Services (General)**
 - Chapter 751/752 - Disciplinary and Adverse Actions
 - Chapter 771 - Administrative Grievance System
 - Chapter 792 - Health and Counseling Programs
 - Chapter 810 - Workers' Compensation Program
- **General and Miscellaneous**
 - Chapter 920 - Senior Executive Service
 - Subchapter 1. SES Performance Appraisal System
 - Subchapter 2. SES Recruitment Program
 - Chapter 1020 - Telecommuting
 - Telework: A Management Priority
A Guide for Managers, Supervisors, and Telework Coordinators (Taken from www.telework.gov)
- **Equal Employment Opportunity**
 - EEO Complaint Procedures

THE UNIVERSITY OF CHICAGO

CHICAGO, ILL.

DECEMBER 15, 1911

TO THE EDITOR

OF THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION

CHICAGO, ILL.

DEAR SIR:

I have the honor to acknowledge the receipt of your letter of the 11th inst.

and in reply to inform you that the same has been forwarded to the

proper authorities for their consideration.

I am, Sir, very respectfully,
Yours truly,
J. H. HARRIS, M.D.

Professor of Medicine

University of Chicago

Chicago, Ill.

Enclosed for you are two copies of the

report of the Committee on the

Medical Education of the American

Medical Association.

I am, Sir, very respectfully,
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OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 250

**HUMAN CAPITAL MANAGEMENT IN THE
U.S. OFFICE OF GOVERNMENT ETHICS**

January 2006

CHAPTER 250

HUMAN CAPITAL MANAGEMENT IN THE U.S. OFFICE OF GOVERNMENT ETHICS

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SUBCHAPTER 1

BASIC POLICY AND FUNCTIONS

1-1. Definition. Human capital management encompasses the recruitment, selection, motivation, leadership, understanding, and utilization of people as individuals and as members of the work force employed to accomplish the work for which the Office of Government Ethics (OGE) is responsible.

1-2. Framework. Human capital management is an integral function of management and is the responsibility of all managers and supervisors. It is carried out within a framework of laws, Executive orders relating to human resource matters, Office of Personnel Management regulations, and OGE's internal human resources policies. In this regard, OGE's senior staff will:

- a. analyze present and future program directions;
- b. identify short-range staffing requirements in terms of numbers, skills, and levels of employees and develop general statements of long-range requirements;
- c. develop sources to be used in meeting staffing needs; and
- d. communicate overall human resource plans and policies to OGE supervisors and employees.

1-3. Goals and Objectives. It is the goal of OGE's human capital management program to attract and retain a highly effective and efficient workforce. To meet that goal, the program must strive to meet five objectives. Specific measures used to monitor OGE's progress in achieving those five objectives (identified below) are detailed in the OGE Human Resources Plan:

- a. human capital policies support the accomplishments of the Agency's mission, vision, goals and strategies;
- b. recruit, hire, and retain employees with needed competencies;
- c. ensure leadership in the Agency motivates and guides employees;
- d. promote high performance from employees; and
- e. promote continuous learning and improvement, thus, optimizing employees' knowledge, skills, abilities, potential, and competence.

1-4. Public Policy Considerations. The role of carrying out public policy adds a special dimension to Federal human capital management. This policy may be expressed in law, regulations, court decisions, Presidential directives, tradition, or the Constitution. There is also a strong and continuing public interest in good human capital management in the Federal service, not only in the economical use of the taxpayer's dollar resulting from modern, efficient ways of doing business, but also in principles governing how people are hired, paid, trained, promoted, separated, and treated; in the standards of conduct they must meet as public servants; in the means by which equal opportunity is provided for all citizens; and in other considerations of how the government accomplishes its mission through people.

1-5. Functions of the Human Resources Office. Broadly stated, the functions of the Human Resource Office are to:

- a. develop policies, procedures, and guidelines for an equitable and enlightened human resources program;
- b. advise management officials on the regulatory and technical aspects of human resources administration;
- c. assist management in the human relations aspects of human capital management; and
- d. carry out those support activities necessary to fulfill the objectives of the human capital management program of OGE.

1-6. Responsibilities for Human Capital Management.

- a. Director, OGE is vested with the ultimate responsibility for effective human capital management.
- b. Deputy Director for Administration and Information Management is responsible for coordinating, documenting, and monitoring the linkage of OGE's strategic and annual performance plans with the Human Capital Management program. Assistance to the Deputy Director is provided by the Associate Director for Administration who oversees the activities of the Human Resources Office.
- c. Human Resources Officer is the principal human resources advisor to the Director, managers and supervisors with responsibility for formulating human resource policies and programs and advising top levels of management concerning their application.

d. Managers and Supervisors are responsible for effective human capital management within their organizations in accordance with established policies and procedures. Managers have the responsibility for providing guidance and direction to subordinate supervisors in the performance of human capital responsibilities. First level supervisors are an essential link in the human capital chain. Human capital management is exercised to some degree by all who plan, direct, or supervisor the work of others. Success of a human capital management program, therefore, is in large measure determined by the extent to which supervisory officials manage their employees in accordance with sound human resource principles and practices. This requires that established human resource policies and programs be made an integral part of day-to-day operations. Management's daily decision affecting employees set the basic tone of management-employee relations.

1-7. Basic Human Capital Authorities. The human resource authorities delegated to OGE officials are described in the various chapters of OGE's Human Resource Manual.

SUBCHAPTER 2

HUMAN CAPITAL MANAGEMENT EVALUATIONS

2-1. General. Human Capital Management evaluations are designed to measure how well management officials are carrying out their human resources responsibilities. Such evaluations involve the audit activities of the U.S. Office of Personnel Management (OPM) as well as reviews conducted by OGE.

2-2. Objectives of Human Capital Management Evaluations Whether conducted by OPM or OGE, the primary objectives of these reviews are to:

- a. Evaluate human capital management to identify areas of strength and weakness and to make sound and logical suggestions and recommendations for overall improvement.
- b. Provide management officials with evaluations concerning the effectiveness of their human capital management program.
- c. Determine the extent of compliance with human resource laws and regulations, and assure corrective action in cases of noncompliance.
- d. Provide advice, assistance and guidance on human capital management matters to OGE officials.

2-3. Schedule.

- a. In general, OPM audits are conducted every four years. Those audits focus on regulatory compliance, leadership, maintenance of records, recruitment actions, agency policies, employee development, employee recognition, and performance evaluation. In addition, OPM assists Federal agencies in conducting human capital surveys to gather employee input into the management of human resources.
- b. Internal OGE reviews of specific activities such as employee development, telecommuting, employee recognition, and performance evaluation (as required by OGE Human Resource Manual Chapters) are conducted on an annual basis. Reviews of OGE's minority representation are also done on an annual basis (also see OGE's Equal Employment Opportunity Program Plan). Special reviews of selected elements of the Human Capital Management program may be conducted as required.

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 330

RECRUITMENT, SELECTION AND PLACEMENT

June 2006

CHAPTER 330

RECRUITMENT, SELECTION AND PLACEMENT

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SUBCHAPTER 1. POLICIES AND PRINCIPLES

1-1. Recruitment Policy and Aims.

- a. It is the policy of the Office of Government Ethics to utilize all effective and proper methods of recruitment from all available sources of qualified applicants, without regard to race, creed, color, national origin, sex, physical handicap, political belief, or other irrelevant factors.
- b. The primary aims of OGE's recruitment activity are:
 - to provide a competent and stable workforce for the accomplishment of its mission;
 - to support the principles and objectives of the Federal merit system; and
 - to meet the requirements and promote the objectives of public policy for Federal employment.

1-2. Sources of Applicants.

- a. OGE's programs for promotion and internal placement, plus outside recruitment from appropriate sources, normally provide an adequate supply of applicants for position vacancies.
- b. A continuing program of positive recruitment to meet identified hiring needs will be carried out through a variety of sources to ensure attracting high-quality applicants. OGE managers will take an active part in recruiting, to include, when necessary, college recruitment, developing and maintaining effective relations with colleges, high schools, and other organizations and institutions which may produce or refer quality applicants. The principles and requirements of CFR Parts 332 and 720 concerning equal opportunity in recruitment will be fully observed.

1-3. Responsibilities for Recruitment. Formal recruiting activity is the responsibility of the Human Resources Officer. Specific functional responsibilities may be assigned to a specialist/assistant.

1-4. Referrals, Recommendations and Endorsements. Occasionally, applicants seeking employment with OGE will solicit or submit with their applications, personal referrals, recommendations or endorsements from prominent persons, including members of the U.S. Congress. Recommendations and endorsements on behalf of an applicant for employment received from a U.S. Senator or Representative must be handled under the following guidelines:

a. Section 3303 of Title 5, United States Code states:

"An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant."

b. When an OGE employee receives a letter, or other type of communication from a U.S. Senator or Representative recommending or endorsing an applicant for employment or appointment, that information must not be used or considered in processing the specific staffing action in which the applicant is interested.

c. When the recommendation or endorsement received from a member of Congress is either a verification of the applicant's residence or attests to the character (suitability) of the applicant it may be used only for that purpose in processing the application.

d. When the correspondence received from a U.S. Senator or Representative is a personal endorsement, recommendation or sponsorship of the applicant, the correspondence must be sent to the Human Resources Officer who will respond to the sender with a letter explaining the procedures which must be followed for entry into a Federal civil servant position and thanking the sender for the interest shown. The correspondence and response will be retained in a separate file in the Human Resources Office.

1-5. Quality Staffing Concept. As the operations of OGE and the Government in general become increasingly complex, the need for the best possible personnel to perform the functions of the organization grows constantly more acute. This need is continuously emphasized in OGE's recruiting and staffing operations. Recruitment, retention, and relocation bonuses are authorized by 5 USC 5753 and 5754 to help the Government remain competitive in its recruitments and to maintain a high quality workforce. Assistance in this regard is available from the Human Resources Officer.

SUBCHAPTER 2. BASIC HIRING PROGRAMS

2-1. Purpose of Hiring. OGE's major asset is its people. The continuity and efficiency of its functions depend upon a continuing supply of competent high quality employees. It is the purpose of OGE's hiring programs to insure and provide this supply.

2-2. Recruitment.

a. Selections for OGE positions will be based solely on merit, without discrimination as to race, color, religion, sex, national origin, political affiliation, marital status, handicap, or age.

b. The selection procedures contained in this chapter will be used to fill OGE positions except when the position is filled by the appointment of a former employee entitled to reemployment benefits; when a person entitled to priority consideration is selected for the position; or when the position is filled by promotion of an OGE employee or former employee exercising reemployment rights.

c. All applications for employment for which OGE has direct hire authority will be maintained in an applicant supply file. To solicit applications for the applicant supply file, recruitment notices in the form of a vacancy announcement, will be distributed when the file contains insufficient applications from which to make a selection. Such sources may include placement offices of schools, bar associations, professional journals, professional organizations, and various other job opportunity newspapers and publications.

d. Evaluation Process. In the rating process, applications are initially screened for eligibility, with applicants categorized as "eligible for consideration" or "ineligible". Any applicant that satisfies the applicable minimum qualifications standards is eligible for consideration.

e. Rating.

(1) The Human Resources Officer will rate or participate in the rating of applications along with OGE personnel sufficiently knowledgeable of the organization's staffing needs and position requirements to rate applications. In certain situations, such rating/ranking may be done via outsourcing to other Federal agencies.

(2) When more than ten applications are rated eligible for a specific vacancy, applications will be rated against the job-related factors described in vacancy announcements. When fewer than ten applications are rated eligible for a specific vacancy, no further rating process will be done. Eligibles will be listed alphabetically on a selection certificate and forwarded to the selecting official. Applications which do not meet minimal qualifications do not receive any further review. Applicants with preference eligibility will be given first

consideration within each category. Applicants from the reemployment eligible list will be listed on a selection certificate and may be considered ahead of all other regular candidates.

(3) Candidates rated qualified or best qualified may be interviewed and may have references checked depending on the number of vacant positions to be filled.

(4) See Chapter 335 for use of category ranking.

(5) Applicants will be notified of their status.

SUBCHAPTER 3. STAFFING PROCEDURES

3-1. Basic Staffing Methods.

- a. There are two basic staffing methods: Outside hiring and internal placement. Each presents a variety of specific ways in which vacancies may be filled. Hiring from outside OGE may be accomplished through appointment, transfer from another Government agency, reinstatement based on previous Government service, or reemployment of former OGE employees. Internal placement is the movement of present employees by reassignment, promotion, change to lower grade, or detail.
- b. This chapter treats these hiring and placement actions individually, emphasizing the policy which governs the use of each rather than the mechanics of hiring new employees and making position changes.

3-2. Outside Hiring.

- a. Outside sources of qualified candidates are utilized when necessary to insure that the best-qualified available persons are considered for vacancies. Outside candidates may be considered concurrently with qualified OGE employees. Eligibles on OGE's reemployment priority list will be given preference over other outside candidates.
- b. Except for seasonal and temporary hiring, most appointments to OGE positions are career-conditional.
- c. Transfer is the term normally applicable when persons are hired directly from other Government agencies or offices. A transfer is an action which moves an employee from one Government agency to another without a change in grade. When the position to which the employee is transferred is at the same grade or has no promotion potential than that to which he/she has previously competed, the transfer is a noncompetitive action; as such, it is not subject to most of the procedures which must be observed in making competitive appointment. When the position has promotion potential higher than that which the employee has held or for which he/she has competed, then the action will follow competitive procedures.
- d. Reinstatement and reemployment are also noncompetitive actions which may be used in hiring. Reinstatement is appropriate for bringing in former Government employees into a position at the same grade as that which he/she last held. Reemployment involves rehiring former OGE employees who have statutory reemployment rights or who were granted these rights by OGE when they went to work for an international organization, for example. Although reemployment is more compulsory than selective in nature, it is regarded as a staffing method because of the effect it can have on plans to fill vacancies.

3-3. Internal Placement. There are four ways to make internal placements: reassignment, promotion, change to lower grade, and detail. Reduction in force is not included because placements which may result from this action are of secondary importance. The following paragraphs describe the basic limitations of these placement techniques and the provisions of OGE policy which must be observed in their application.

a. Reassignment is the movement of an employee from one position to another with no change in grade. Reassignments may be effected at the discretion of operating officials in the interest of good management. While reassignments can be effected at management's discretion without the employee's formal consent, it is OGE's policy to discuss such actions with the employee involved prior to taking official action.

b. Promotion is a personnel action through which an employee is moved upward in grade and salary. As used here, the term describes only actions taken within OGE. Upgradings which may occur when employees are transferred from other agencies are not regarded as promotions for purposes of internal policy. Actions of this type are no different from other outside hires as far as staffing policy is concerned. Promotions will be made in accordance with the provisions of OGE's promotion guidelines as established in OGE's Human Resources Manual Chapter 335.

c. A change to lower grade can be the result of: (1) a reduction in force; (2) because of misconduct or unsatisfactory work performance; or (3) at the employee's own request. All but the last are covered in other chapters and consequently are not dealt with here. If an employee asks to be assigned to a job at a lower grade than his/her present position, the manager to whom the request is made should ascertain the reasons and discuss the matter with the employee. An employee will not be permitted to go into a lower-grade job voluntarily until he/she has been fully apprised of the significance of the decision to do so. A request for downgrading must be obtained in writing and placed in the employee's personnel folder.

d. In addition to permanent changes, employees may be detailed or temporarily assigned from their regular positions to other positions. Details of employees will be done in accordance with CFR Part 300, Subpart C.

3-4. Procedures.

a. Authority to make the official offer of employment in OGE rests with the Human Resources Officer. Offers or commitments made by any other party will be regarded as having no binding effect on OGE. No selection or commitment may be made until all preappointment processing requirements have been met. Reporting dates for transfers to OGE from other agencies and changes internal to OGE will be arranged by the Human Resources Officer to insure timely resolution of all essential issues.

b. Recruiting for Competitive Positions.

(1) Upon receipt of approval for filling a position in the competitive service the Human Resources Officer and the selecting official must insure that a maximum outreach to all potential sources of high quality candidates will be set in motion, whether the position is proposed to be filled by selection from within OGE or through outside recruitment. Our efforts must demonstrate success in seeking out and reaching all segments of the public for consideration, including minority groups and women's organizations as well as other sources of talent.

(2) The Human Resources Officer is responsible for implementing and coordinating the recruiting activities of OGE and will insure that selecting officials are provided with information on highly qualified candidates for vacant positions. Because of the nature of OGE's mission, many OGE supervisors and managers have a unique opportunity to become associated with the local much-needed technical and professional talent for our manpower needs. The Human Resources Officer, while responsible for coordinating recruitment efforts, relies on OGE supervisors and managers to identify both sources of candidates and persons to consider in our recruitment activities.

c. When a vacancy has been identified, the supervisor will:

(1) Prepare a Request for Personnel Action, SF-52.

(2) Identify whether recruitment is recommended internally or from all sources outside OGE.

(3) Prepare documentation of any special qualifications required for the position to be filled and attach it to the SF-52.

(4) Sign the SF-52. For those positions to be filled within established staffing patterns, forward the SF-52 to the Human Resources Officer for action. For those positions to be filled which are new to the organizational unit, the SF-52 and the proposed position description with a completed cover sheet will be routed through the appropriate Deputy Director for approval to establish and recruit for the new position, before forwarding to the Human Resources Officer for action.

d. All applications received from prospective candidates will be submitted to the Human Resources Officer for consideration for appropriate vacancies. Applications will be screened for eligibility, rated and ranked in accordance with procedures established under Chapter 335 of this manual, and the most highly qualified will be certified to the selecting official for review.

e. Selecting officials will carefully review and consider all applications referred, and interview or have interviewed by an appropriate designee, candidates which are considered to be best qualified for the position. Selecting officials may interview all, none or as many as he/she would like in making selection decisions.

f. Selecting officials may make a tentative offer of employment to the selected applicant, but no offer will be considered official and binding until it is made by the Human Resources Office.

g. The Human Resources Officer will:

(1) Ensure that a thorough comprehensive search is done to obtain information on potential candidates of high quality through appropriate distribution of vacancy announcements and screening of working file applications of potentially interested candidates.

(2) Ensure that selecting officials promptly receive appropriate information and certificates of eligibles.

(3) Certify compliance with the recruiting plan when endorsing the selection official's selection on the certificate of eligibles.

SUBCHAPTER 4. PLACEMENT EVALUATION

4-1. Placement Followup.

- a. It is a continuing responsibility of each supervisor to aid a new employee in adjusting satisfactorily to his/her new job and new working conditions. During a new employee's first days and weeks on the job, supervisors will as a matter of course give him/her as much attention and assistance as possible. In addition, supervisors will meet with a new employee to discuss his/her adjustment to and progress in the job at least once within the employee's first 60 days on the job, and more often as appropriate.
- b. In these discussions, the supervisor should attempt to find out how the employee feels about the new job in general, whether the orientation and training received are satisfactory and effective, and whether there are any specific areas in which further training is needed for satisfactory performance. Effort should be made to resolve any problems of adjustment or job performance that may be disclosed.
- c. If a placement is found to be unsatisfactory, or if other job-related problems exist, the supervisors should take necessary remedial steps. These steps may range from counseling, using the assistance of the Human Resources Officer as needed, to separation of the employee, as noted below.

4-2. Probationary Period.

- a. For those new employees who must serve a probationary period, the continuing placement followup described above provides a foundation for the required 12-month probationary appraisal. Basic instructions on the evaluation, retention, and separation of probationers are in CFR 315, Subpart H.
- b. It should be noted especially that these instructions make it a distinct obligation of each supervisor, when it becomes evident that a probationary employee is unsatisfactory and unsuccessful in his/her job, to initiate promptly suitable remedial action. At the first indication that an employee is performing in such a manner that separation during the probationary period is considered a possibility, supervisors are to meet with the Human Resources Officer to obtain advice and guidance to ensure that the employee is given every opportunity to improve and that proper procedures are followed.

4-3. Annual Performance Appraisal.

- a. The preparation and submission of the 12-month probationary evaluation must be completed, but does not satisfy the statutory requirements for an annual performance appraisal.

- b. Detailed instructions on performance appraisals are covered in OGE HR Manual Chapter 430 for General Schedule (GS) employees and Chapter 920 for the Senior Executive Service (SES) employees.

SUBCHAPTER 5. EXIT INTERVIEWS AND EMPLOYEE LOSSES

5-1. Purposes of Interviews.

- A. To the extent practicable, employees who leave OGE by transfer or resignation will be given exit interviews. In addition to providing some measurement of the success of the employee's placement in OGE these informal discussions afford the Human Resources Officer and overall management improved insight into internal operations and help in identifying needed improvements to personnel practices and employee relations.
- B. Exit interviews are to be conducted by the second level supervisor. By providing a firsthand and current look at employee reasons for leaving, exit interviews may disclose causes of unnecessary turnover and provide a basis for remedial action.
- C. The interviewer will document the reason for leaving and any information pertinent to personnel policies and practices. Documentation will be given to the Human Resources Officer for review and retention.
- D. Reasons for untoward losses of satisfactory employees are of concern to OGE, and will be transmitted to the appropriate management officials.

5-2. Discussion with Employees.

- A. Although first level supervisors do not conduct exit interviews as such, they are not relieved of basic responsibility for discussing the matter with an employee who indicates his/her intention to leave. It is normal to express an interest in the employee's plans for the future. At this point it is sometimes possible to prevent the loss of a satisfactory employee.
- B. An employee who feels the need to resign because of personal business or other responsibilities may be counseled to take a leave of absence instead, when workload permits. And, sometimes, a departure because of dissatisfaction or misunderstanding may be averted through discussion and resolution of the problems involved.

- 5-3. **Exit Clearance.** All departing employees must complete the exit clearance process. To do so, they must submit a completed OGE Form 110, Entrance/Exit Clearance Sheet, to the Administration Division, HR staff. Failure to complete the exit clearance process, could result in postponement of the employee's final pay check until required Government property, credit cards, keys, etc., have been received.

SUBCHAPTER 6. POSITIVE PLACEMENT PROGRAMS

6-1. Policy. OGE is committed to maintaining a high quality workforce. Federal employee's are more productive when employment is stable and morale is high. When exigencies occur that result in adverse actions against OGE employees through no fault of their own, OGE will provide as many opportunities as is possible to those who suffer adverse affects. OGE will utilize all internal and OPM outplacement program opportunities, and to a practical extent, provide advice and assistance to employees to assist them in finding employment elsewhere.

6-2. Reemployment Priority List. OGE will establish and maintain a Reemployment Priority List in accordance with 5 CFR 330 Subpart B.

6-3. Prior Consideration for Placement.

a. OGE will refer employees who are entitled to prior consideration for placement before taking any action to fill a vacant position, either competitively or noncompetitively (except for placement of an employee with statutory or regulatory rights). The following groups of employees, listed in order of their precedence for referral, are entitled to prior consideration:

(1) To be eligible for referral, employees under pay or salary retention must have been demoted for reasons other than personal cause or request. Therefore, priority consideration does not extend to those employees who accept a change to lower grade as a result of solicitation for a hard-to-fill position, or to enter a formal developmental or upward mobility position. Eligible employees are referred for each position in the pay plan and at the grade level of the saved or former position, or any intervening grade for which the employee is fully qualified, and in which the employee is interested. However, prior consideration rights do not apply to positions which offer higher promotion potential. Eligibility for prior consideration for employees in this category terminates when entitlement to pay retention terminates.

(2) Employees who did not receive proper consideration for promotion in a prior case due to a procedural, regulatory, or program violation will be given prior consideration for the next similar vacancy of the same grade and pay plan, and with no higher promotion potential than the position for which consideration was lost. Eligibility for prior consideration for this category of employees terminates when the employee is referred one time for bona fide consideration. Likewise, eligibility terminates when an employee is promoted to a position at the same or higher grade level as that for which consideration was lost. This privilege normally will be granted for one year.

(3) A Priority Placement List will be developed when necessary because of a pending Reduction-in-Force or Furlough for 6 months or more is imminent. Employees will be placed on the Prior Consideration List in the following priority categories:

(1) Priority 1. Employees scheduled for separation by reduction-in-force without an offer of continued employment; involuntary furloughed for 6 months or more.

(2) Priority 2. Employees entitled to grade retention following a change of positions or reclassification under section 5362 of title 5, United States Code.

b. Prior consideration is not a guarantee of selection, promotion, or repromotion for employees identified above.

c. The Human Resources Officer will:

(1) advise employees regarding their possible eligibility for prior consideration;

(2) refer qualified prior consideration eligibles to management in response to a request (SF-25) to fill a vacancy;

(3) advise employees when their entitlement to prior consideration terminates; and

(4) register employees in the Priority Placement Program.

d. Selecting Officials will give careful consideration to all eligibles referred to them, and may select any of the eligibles for noncompetitive placement in the position to be filled. Selections and nonselections will be documented on the form provided by the Human Resources Officer.

e. Prior Consideration Eligibles will:

(1) submit two current copies of a resume, the Personal Qualification Statement (Standard Form 171), or optional qualification statement forms to the Human Resources Office. This will assist in identifying positions for which employees are qualified. To insure that the resume contains up-to-date qualification information, it should be revised annually or whenever there are significant changes to qualifications;

(2) assist the Human Resources Officer in registering for the Priority Consideration Program; and

(3) contact the Human Resources Officer, if there are any questions concerning prior consideration eligibility or the above procedures.

SUBCHAPTER 7. FEDERAL CAREER INTERN PROGRAM

7-1. Background.

The Office of the Government Ethics (OGE) has an increasing need to hire highly qualified candidates at entry level positions. This policy is established to encourage use of the Federal Career Intern Program (FCIP) within OGE to meet specific Agency hiring needs and to provide the opportunity for increased hiring flexibilities. Accordingly, this subchapter constitutes the OGE Federal Career Intern Program.

7-2. Authority. 5 C.F.R. 213.3202(o).

7-3. Federal Career Intern Program.

- A. The FCIP was designed to help recruit for entry level positions at the GS-5, 7 and 9 levels. In July 2000, President Clinton signed Executive Order 13162 authorizing the Federal Career Intern Program as a tool to speed up hiring in a number of different occupations. This program allows individuals to be appointed to a two-year internship that provides formal training and development assignments as established by the Agency. After completing the internship, the interns are eligible for conversion to a career-conditional appointment.
- B. Under the FCIP, interns will be hired into the excepted service, receive the same pay and benefits as regular career-conditional and career employees at their grade levels, and be eligible to receive pay increases and promotions.
- C. Applicants with diverse professional experiences, academic backgrounds, and/or relevant skills are eligible for the program. Participants may be promoted to the next higher level provided they meet all qualification and eligibility requirements necessary for promotion, have successfully completed applicable training requirements and are recommended for promotion by their supervisor.
- D. Appointments made under the FCIP may not exceed two (2) years. However, OGE is delegated authority to extend the appointments, without Office of Personnel Management approval, for up to an additional 120 days. The request to extend, with specific reasons for the extension, must be submitted in writing to the Administration Division, Human Resources staff (HR) for review and approval.

- E. At the end of the two-year internship period, supervisors may request that HR convert the intern, with no break in service, to a career-conditional appointment. The interns must complete their internships and meet all qualification, suitability and performance requirements in order to be converted. If in fact an employee is not converted to a career-conditional appointment, the career intern appointment terminates and the intern is separated.
- F. Participants selected for the FCIP may be recruited from within the Agency as well as other sources outside the Agency, e.g., professional organizations, various colleges and/or institutions of higher education. Agencies may hire career interns anytime, and no public notice of job openings is required (such as a vacancy announcement).

7-4. Implementing Policies and Procedures.

- A. Supervisors may request to fill a position with a FCIP intern by using a vacancy announcement. Alternatively, they may request or submit an application or a number of applications for review by HR. Selecting officials are responsible for ensuring that selections are made in accordance with merit system principles.
- B. Employees appointed to the Federal Career Intern Program **must** have a formal training and development plan established in writing at the time of employment that covers the entire two-year developmental period. This plan is signed by the supervisor and the employee. HR will review the plan and sign it to show that it meets regulatory requirements.
- C. To ensure merit system principles, OGE diversity requirements, fair treatment and veterans' preference, FCIP should not be the only source for hiring, nor should it be restricted to certain groups and/or persons considered and appointed to Federal jobs.
- D. Employees selected under FCIP will sign a Federal Career Intern Opportunity form (see Appendix A), acknowledging that he/she understands the action that will be taken if he or she fails to complete the program.

- 7-5. Program Review.** The Administration Division, HR staff, will review the OGE FCIP program once every two years, and report to the OGE Associate Director for Administration, the effectiveness of the program and any program deficiencies and suggested changes, improvements or corrective actions.

- 7-6. Inquiries.** Questions concerning the Government-wide FCIP or this policy should be referred to the Administration Division, Human Resources staff.

Appendix A**OFFICE OF GOVERNMENT ETHICS****FEDERAL CAREER INTERN TRAINING OPPORTUNITY**

I, _____, fully understand that I am offered the opportunity to complete a two-year internship in the Office of Government Ethics (OGE) Federal Career Program. After the two-year period, OGE may elect to convert my appointment to a career-conditional appointment. If OGE does not elect to convert my appointment, the Federal career intern appointment terminates and my employment at OGE also terminates.

I understand that within 30 days of my appointment, I will receive a formal, written training and development plan covering the entire two-year development period.

(Signature of Appointee)

(Date)

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 335

PROMOTION AND INTERNAL PLACEMENT

AUGUST 2005

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SUBCHAPTER 1 - PROMOTION AND INTERNAL PLACEMENT**I. POLICY**

A. This plan establishes the Office of Government Ethics (OGE) competitive procedures to select the best qualified persons to fill vacancies on the basis of merit, fitness and qualifications and without regard to political, religious or union affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap, or age and based solely on job-related criteria. The plan does not guarantee promotion but is intended to ensure that qualified available employees receive fair consideration for positions filled under competitive procedures. This plan is designed to:

1. Provide management on a timely basis the best qualified candidates from whom to choose;
2. Give employees opportunities to receive fair and appropriate consideration for promotions;
3. Assure the maximum utilization of employees, professions and skills;
4. Provide attractive career opportunities for employees; and
5. Provide management maximum flexibility in obtaining well-qualified candidates to fill vacancies.

B. Management may fill a vacancy by promotion, demotion, noncompetitive conversion, reassignment, transfer, reinstatement, appointment from an Office of Personnel Management (OPM) certificate or other appropriate source of applicants. Applicants may be considered concurrently or consecutively from any or all recruitment sources. Subject to laws and regulations, OGE management makes the final decision on all selections.

C. Employees who are absent for legitimate reasons as outlined in 5 C.F.R. § 335.103 and wish to be considered for other positions shall provide their supervisors with an application package and a list of the types of positions for which they wish to be considered during their absence, in order to be considered. The supervisor

is responsible for submitting the application package for these individuals to the Human Resources Office by the closing date.

II. COVERAGE

A. SCOPE

This plan applies to merit promotion actions involving OGE positions in the competitive service, at the GS-1 through GS-15 level. Positions in the Senior Executive Service are excluded from the provisions of this policy.

B. ACTIONS COVERED

The requirements and competitive procedures described in this plan are applicable to all promotion actions made under title 5 of the Code of the Federal Regulations (5 C.F.R.).

C. The following are examples of personnel actions subject to competitive procedures. Please note that these are not all inclusive, a complete list of actions is available in 5 C.F.R. § 335.103:

1. Temporary promotion or detail to a higher-grade position for more than 120 calendar days. A temporary promotion may be made permanent without further competition provided it was originally made under competitive procedures and the announcement stated that it could be made permanent. Service during the preceding 12 months under all details to higher graded positions and temporary promotions is included when computing the 120-day period.
2. Promotion, reassignment, or demotion of an employee to a position with greater promotion potential than any position previously held.
3. Reinstatement or transfer to a higher-grade position. Employment in a permanent or temporary position at a higher grade than any non-temporary grade previously held in the competitive service.
4. Selection of a person from the Re-employment Priority List (RPL) for a position at a higher grade than that previously held.

D. ACTIONS EXCEPTED

The following actions do not require the use of competitive procedures and therefore are excepted from

the provisions of this plan:

1. Temporary promotion or detail to a higher-graded position for 120 calendar days or less. Service during the preceding 12 months under all details to higher graded positions and temporary promotions is included when computing the 120-day period.
2. A promotion resulting from reclassification to a higher-level position, without significant change in the duties and responsibilities, due to issuance of a new classification standard or the correction of an initial classification error.
3. A position change permitted under reduction-in-force regulations. (see 5 C.F.R. § 351).
4. A promotion of a candidate not given proper consideration in a previous competitive promotion action. An employee who was not given proper consideration due to a procedural violation or error in a previous competitive placement action must be given advance consideration for the next appropriate vacancy. The employee must be referred to the selecting official for consideration before using the competitive procedures of this plan. Refer to Section VII.A for more information. An employee is entitled to only one consideration under this provision.
5. Accretion Of Duties. A promotion resulting from an employee's position being classified at a higher grade because of added duties and responsibilities, provided the new position is a clear successor to the former position and no additional position is created as a result of the promotion.
6. Career Ladder. A promotion without current competition when at an earlier stage an employee was selected from an Office of Personnel Management certificate or under competitive procedures for an assignment intended to prepare the employee for the position being filled (the intent must be documented in the promotion file). The promotion may be accomplished when all other requirements are met. The potential for future promotion must be made known to all potential applicants.

7. Noncompetitive Conversion. A career ladder promotion following noncompetitive conversion of a student in the Student Educational Employment Program, Veterans Readjustment appointee, Presidential Management Intern, or other authorized program or action.
8. A change from a position having known promotion potential to one of the same or lower grade having no known promotion potential.
9. Promotion to a grade or position from which an employee was involuntarily demoted without personal cause and not at his/her request.
10. Trainee. The promotion of a trainee in a well-defined training program subsequent to a determination of satisfactory completion of the required training.
11. EEO settlements. Promotion as a result of settlements of Equal Employment Opportunity complaints under Equal Employment Opportunity Commission regulations.

E. ACTIONS IN LIEU OF COMPETITIVE PROCEDURES IN SECTION II

Management has the right, subject to the provisions of the Veterans Employment Opportunity Act (VEOA) and the Interagency Career Transition Assistance Program (ICTAP) to take the following actions in lieu of the competitive procedures described in Section II above:

1. Selection of an eligible from an OPM certificate;
2. Reinstatement of a former employee to the same or lower grade level than the last-held permanent grade level;
3. Reassignment or demotion of an employee to a position with no higher potential than the currently-held position;
4. Selection from the OPM Reemployment Priority List at the same or lower grade level than the position from which separated; and
5. Transfer of an employee of another Federal agency to the same or lower grade level with no higher potential than the currently-held position.

III. DEFINITIONS

A. APPOINTABLE EMPLOYEES WITHIN THE AREA OF CONSIDERATION

This applies to those individuals who can be given appointments without OPM certification. These include such groups as career or career-conditional employees (including reassignment or change-to-lower-grade eligibles), temporary employees with reinstatement, Veterans Readjustment Appointment (VRA) eligibility, employees serving under VRA, and veterans eligible for a Veterans Equal Opportunity Act (VEOA) appointment, etc.

B. AREA OF CONSIDERATION

The area in which the activity directs its search for candidates (where it is anticipated that highly qualified candidates can be located, where the vacancy announcement is distributed, and from which candidates' applications will be accepted). Because of the OGE's small size and the geographic location of all employees, the minimum area of consideration for all actions covered under this plan must be agency-wide.

C. BEST-QUALIFIED CANDIDATES

Eligible candidates who rank highest when rated against the job evaluation criteria and who are referred to the selecting official on a merit promotion certificate.

D. CATEGORY RANKING

OGE has the flexibility to develop two or more predefined categories to assess applicants. Those candidates are divided into those categories based upon the predetermined criteria. Any candidate in the highest category may be selected for the position in question. In contrast, the previous "rule of three" narrowed the pool of candidates until the selecting official had only three candidates from which to choose.

E. CAREER LADDER

A group of progressively responsible positions within an occupation from entry level to the grade established as the full performance level as set by management and documented for the record.

F. CREDITING PLAN

A product of the job analysis that provides a method of assessing a candidate's background in relation to the position being filled.

G. DEMOTION

The change of an employee to a lower grade when both the old and the new positions are under the General Schedule or under the same Wage Grade Schedule, or to a position with a lower representative rate when both the old and new positions are under the same type of non-graded wage schedule or in different pay-method categories.

H. EVALUATION OF CANDIDATES

The process of assessing candidates' qualifications for a vacancy and the degree to which they possess the knowledge, skills, and abilities (KSA's) needed for successful performance in the job to be filled. For each qualified/eligible candidate, the end product of the evaluation is an assessment indicative of the candidate's demonstrated and/or potential to do the job.

I. HIGHLY QUALIFIED CANDIDATES

Eligible/qualified candidates whose documented experience and training exceed the qualification standard for the position to a degree that indicates future successful performance in the position to be filled.

J. JOB ANALYSIS

A job analysis identifies the competencies, knowledge, skills and abilities directly related to performance on the job. It is a systematic procedure for gathering, documenting, and analyzing information about the content, context, and requirements of the job.

K. KNOWN PROMOTION POTENTIAL

A situation in which a career promotion may be made without further competition because adequate competition was held at an earlier stage. These include career ladder positions, apprentice positions, trainee positions, and positions filled competitively at a grade level below the established or projected

grade. Also included are positions that are designated as bridge positions to higher-graded positions.

L. EVALUATION PANEL

A group of three or more officials or employees who evaluate and/or rank competing candidates prior to selecting official consideration of the best qualified. The panel may be advised by a representative of the Administration Division who acts as a merit promotion program technical advisor to the group. An Administration Division representative serving solely as an advisor has no vote in a panel's determinations. The panel will include a representative of the Division/Office other than the one in which the position to be filled is located, and at least one person who is familiar with the work of the position to be filled.

M. MERIT PROMOTION CERTIFICATE

The prescribed form used to submit the names of candidates for consideration to a selecting official and to document selection decisions.

N. MERIT PROMOTION VACANCY ANNOUNCEMENT

The prescribed form used to publicize the fact that applications are being accepted for consideration for current or anticipated OGE vacancies.

O. PANEL INTERVIEW

A personal interview conducted by a small group of individuals consisting of at least one subject-matter expert, to assess the qualifications, personal attributes and characteristics of a candidate as they relate to the requirements of the position to be filled.

P. PROMOTION

The change of an employee to a position at a higher grade level within the same job classification system and pay schedule or to a position with a higher rate of basic pay in a different job classification system and pay schedule.

Q. QUALITY RANKING FACTORS

The knowledge, skills, or abilities that are expected to significantly enhance performance, but which could not reasonably be considered necessary for satisfactory performance.

R. QUALIFIED ELIGIBLE CANDIDATES

Applicants who meet the qualification standards for a position, including any appropriate selective factors and all legal and regulatory requirements.

S. RANKING OF CANDIDATES

The process of arranging eligible candidates, in order of merit, relative to each other in accordance with their ratings.

T. REASSIGNMENT

The change of an employee from one position to another without promotion or demotion. The position that an employee is changed to must have no known promotion potential beyond that of the position from which the employee is changed.

U. REINSTATEMENT

The appointment of a former career or career-conditional employee.

V. SELECTIVE PLACEMENT FACTORS

Knowledge, skills, and abilities (KSA's) that are essential for satisfactory performance on the job and represent an addition to the basic qualification standard for a position. These must be required by and documented in the position description.

W. SELECTING OFFICIAL

A management official who has authority to select a candidate for assignment to a position, subject to the final approval of an Appointing Officer.

X. TRANSFER

The movement of a career or career-conditional employee from one Federal agency to a position in another agency without a break in service of one (1) full workday.

IV. RESPONSIBILITIES

A. ASSOCIATE DIRECTOR FOR ADMINISTRATION

Ensures that the OGE human resources management program is based on concepts of merit, efficiency, and mission support.

B. HUMAN RESOURCES OFFICER

1. Administers the Merit Promotion Program Plan;
2. Informs employees about the program and career opportunities;
3. Maintains required records to allow the reconstruction of any promotion action for two years; and
4. Provides guidance to the Director, Deputy Directors and General Counsel, managers, and supervisors in the development, implementation and evaluation of the Merit Promotion Program Plan.

C. SELECTING OFFICIALS, MANAGERS AND SUPERVISORS

1. Must provide the Administration Division the following: a completed Request for Personnel Action, SF-52; a current Position Description; Crediting Plan, and if applicable a Category Ranking Plan - job-related evaluation criteria needed in order to initiate a recruitment action.
2. Must consult the Administration Division when planning for, recruiting, and promoting employees;
3. Consider all candidates certified for selection and choose objectively from the list of eligibles;
4. Provide prompt appraisals of performance and potential when asked by subordinates who are candidates for merit promotion;
5. Promote equal employment opportunities under the OGE's Equal Employment Opportunity Program; and
6. Be knowledgeable of, and adhere to, merit system principles set forth in 5 U.S.C. § 2302.

D. EMPLOYEES

Submit a completed application with required information by the closing date specified on the vacancy announcement, in order to be considered for the vacant position.

V. VACANCY ANNOUNCEMENTS

A. The area of consideration must be sufficiently broad to ensure the availability of a reasonable number of high quality candidates, taking into account the nature and level of the position to be filled, merit principles, EEO Affirmative Action goals and objectives, and applicable regulations and requirements. The area of consideration will be identified in the Merit Promotion Vacancy Announcements. The area of consideration may be extended beyond the minimum area at any time in the recruitment process. However, this requires an amended vacancy announcement and an extension of the closing date.

B. All vacancy announcements are posted on the OPM's Government-wide job vacancy website and remain posted until the position(s) has closed. The information on the vacancy announcement shall include position title, series, grade, and salary range. Vacancy announcements also state opening and closing dates for receipt of applications. Job advertisements/announcements will be open for receipt of applications for a minimum period of five (5) working days. In order to receive consideration under an OGE vacancy announcement, all applications must be received in OGE, or designated OPM Processing Center, by the closing date.

C. In accordance with the Veterans Equal Opportunity Act (VEOA), each announcement accepting applications from outside the OGE workforce will include a statement that allows eligible veterans to apply for positions announced under merit promotion procedures. A VEOA eligible who competes under merit promotion procedures and is selected will be given a career or career conditional appointment. Veterans' preference is not a factor in these appointments.

D. In addition to all statements required by law and regulation, vacancy announcements will contain the following information, when applicable:

1. A statement indicating that relocation expenses will or will not be paid;
2. A statement indicating that the appointment is subject to successful completion of a background investigation;
3. A statement indicating that an appointment is subject to successful completion of a probationary period.
4. A statement indicating whether the individual selected for the position may be subject to pre-employment drug screening.
5. A statement covering The Hatch Act Reform Amendments of 1993 which prohibit requesting, transmitting, accepting, or considering political recommendations for employment or other personnel actions for non-political positions;
6. A statement requiring United States Citizenship;
7. A statement requiring male applicants, who were born after December 31, 1959 to complete a Certificate for Selective Service registration prior to appointment;
8. A statement notifying applicants that applications received in a postage-paid government envelope will not be considered;
9. A statement informing applicants that OGE is an Equal Opportunity Employer and that selection for positions will be made on the basis of merit, fitness and qualifications, without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex national origin, non-disqualifying handicapping condition, or age;
10. A statement setting forth time in grade requirements; and
11. A statement that career ladder promotions are not guaranteed.

E. Applications may be accepted at any time from the following:

1. Handicapped employees serving under temporary or Schedule A appointments. These candidates are not eligible under the competitive process but may be referred separately by Human Resources staff to the selecting official. If a handicapped individual is selected, the new position would become excepted for the duration of the incumbency or until conversion.
2. Candidates eligible for noncompetitive appointments, such as VRA, 30-percent disabled veterans, etc. These candidates may be referred separately to the selecting official.

F. Applications will be rejected if:

1. They are received from candidates outside the area of consideration when concurrent consideration was not extended.
2. A qualifications determination cannot be made because of insufficient, illegible or incomplete information.
3. The application was received in the location specified in the vacancy announcement after the closing date of the announcement.

VI. EVALUATION OF CANDIDATES

A. Methods of evaluating candidates for selection, e.g. crediting plans, panel interviews, etc. may be used if they meet established OPM validity requirements. A member of the Administration Division staff must be involved with every phase of the evaluation process. One assessment tool that may be used is a panel of program office employees empowered to review applications to determine whether applicants are qualified or not qualified. Such panel members must sign a statement indicating that they will adhere to all pertinent laws, rules and regulations and applicable OPM guidance, in performing such a review, particularly merit system principles set forth in 5 U.S.C. § 2301.

B. All candidates must meet the minimum qualification standards, time-in grade requirements, and regulations prescribed by OPM, including any selective factors,

within thirty (30) calendar days of the closing date of the vacancy announcement.

C. If there is no pre-established crediting plan for the position, a job analysis must be conducted prior to the posting of the vacancy announcement to determine the knowledge, skills, abilities and selective factors required to identify the best qualified candidates for the position to be filled.

D. Candidates for promotion under this chapter must be evaluated against the crediting plan for the position to be filled. Consideration must be given to performance appraisals, training, education, experience and awards as evidence that the applicant possesses the knowledge, skills, and abilities that make up the crediting plan. The evaluation is made by the Administration Division and/or the subject matter expert. A panel may be set up to evaluate candidates. An evaluation is not required when there are ten or fewer qualified candidates.

E. When a panel is used to evaluate candidates, the following conditions apply:

1. Panel members must be at or above the grade level of the position being filled; should know the requirements of the position being filled; may not be applicants for the position; and may not be in the direct line of supervision of the job to be filled.
2. The Administration Division gives the panel guidance in rating and ranking for consistency and correct use of the crediting plan.

F. The information the panel members are handling is confidential and must not be discussed outside the panel. All information reviewed is covered by the Privacy Act. All evaluation information must be returned to the Human Resources staff with the evaluation package.

VII. REFERRALS OF CANDIDATES

A. PRIORITY CONSIDERATION

Prior to taking any action to fill a vacancy, either competitively or noncompetitively (except for the placement of an employee with statutory or regulatory

rights), employees entitled to priority consideration will be referred in the following order of precedence:

1. OGE employees under Civil Service Reform Act (CSRA) grade and pay retention, or pay retention only. To be eligible for referral, employees under grade or pay retention must have been demoted for reasons not stemming from personal cause or request. Employees entitled to such consideration will be referred automatically for each position for which fully qualified in the pay plan from which demoted, which is at or below the retained grade level or the level from which demoted and above the position to which assigned. Eligibility terminates when entitlement to pay/salary retention terminates (see 5 C.F.R., Part 536).
2. Employees who did not receive proper consideration for promotion in a prior case due to a procedural, regulatory, or program violation must be awarded prior consideration for the next appropriate vacancy. Priority consideration in this case will be granted for a one-year period. The next appropriate vacancy is:
 - a. A like or similar position in the same pay system as the position for which the employee failed to receive proper consideration;
 - b. A position for which the employee is qualified and for which the employee would be a reasonable candidate (when compared against the KSA's, would rate in the Best Qualified group); or
 - c. A position at the same grade level with no higher potential than the position for which consideration was lost.
3. Priority consideration rights do not apply to positions which offer higher known promotion potential. While employees are entitled to consideration for appropriate vacancies, they have no "entitlement" to selection. The Administration Division is responsible for maintaining a listing of employees entitled to priority consideration.

B. MERIT PROMOTION CERTIFICATE

1. Candidates are listed alphabetically on the merit promotion certificate without scores. Candidates eligible for promotion are listed on a separate certificate from those eligible for noncompetitive appointment from other sources.
2. If the position was posted at more than one grade level, candidates for different grades are listed separately on the same certificate or a separate certificate is issued for each grade level.
3. The certificate of best qualified candidates is referred to the selecting official along with each candidate's application and the supervisory appraisal and must be returned to the Administration Division not later than the due date listed on the merit promotion certificate or an extension date that has been requested and approved by the Administration Division in writing.
4. When the Best Qualified group contains both Highly Qualified and Qualified candidates, these candidates will be listed alphabetically within their respective groups. However, if fewer than five (5) points (on a scale of 100 points) separate the highest candidate to be certified from the lowest candidate to be certified, all Best Qualified candidates will be certified as one group in alphabetical order.
5. If there are ten or fewer qualified candidates and no formal evaluation was performed, they may be referred alphabetically, with no indication as to rating category.
6. Selecting officials may consider non-status candidates with eligibility for appointment from an OPM certificate or under an existing appointing authority. The Administration Division will refer to the selecting official such non-status candidates who are rated qualified (including selective factors) for the position to be filled. Non-status candidates are listed separately from status applicants. Selection of a non-status candidate requires

referral for appointment from OPM or existing appointing authority before an offer of employment is made.

VIII. THE SELECTION PROCESS

A. At the discretion of the Administration Division, a review of the selection may be made within OGE at a level higher than that of the selecting official.

B. INTERVIEWS

There is no requirement to interview candidates, however, normally two or more candidates on a selection certificate should be interviewed. The selecting official is responsible for ensuring that interviews are properly conducted and all interview questions are job-related. Appropriate guidance is available from the Human Resources staff. Every reasonable attempt must be made to conduct these interviews. Telephone interviews may be conducted with non-local candidates. Selecting officials must document that interviews were held and/or the reasons that interviews were not held. This documentation is provided along with the merit promotion certificate when it is returned to the Administration Division.

C. The selecting official has the right to select or not to select any candidate referred on the merit promotion certificate. Each candidate must be given full consideration, and the selection must be based on who will best satisfy the requirements of the position.

D. Supervisors and other public officials, as defined in 5 C.F.R. § 310.103, are prohibited from participating in the rating, ranking, or selection process if a relative is under consideration. Supervisors and other public officials may not advocate the selection of a relative. This does not preclude a supervisor, when necessary, from answering a request for an appraisal of a relative, provided selection is not advocated and the supervisor notes the relationship on the appraisal form. In addition to avoiding the appearance of nepotism, public officials should also avoid any action which might result in or create the appearance of preferential treatment to any person.

E. When a relative of the selecting official is under consideration for selection, the selecting official must

disqualify himself/herself, and selection must be made at the next higher organizational level in the OGE.

F. If an additional identical vacancy occurs, additional selections may be made within 90 calendar days from the date of issuing the merit promotion certificate. Before making a final selection, the selecting official must conduct reference checks. The Administration Division is available to provide technical assistance, in this regard, if needed.

G. The Administration Division notifies the selected candidates as to whether or not they were selected. Selecting officials or supervisors may not make commitments to appoint any individual. Appointment commitments will be made only by the Administration Division. Selecting officials can verify that the candidate is still interested in accepting the position, and inform selected candidates that the Human Resource staff will contact them with a formal offer.

H. The action is effective no later than the beginning of the second pay period after the date of selection. Typically, a promotion action is effective at the beginning of the next pay period after the date of selection, whereas lateral assignments can be up to 30 days after. If the release date is later, mutual agreement must be reached between the losing and gaining offices. The Administration Division arranges for all release dates.

IX. RECORDS OF COMPETITIVE ACTION

A. A file sufficient to allow reconstruction of the action must be kept for two (2) years on each competitive action. The Administration Division will maintain this file. Information in the files must be disclosed as required by laws, regulations, and agreements. As a minimum, it must contain the following records or copies of them.

1. Job analysis and crediting plan documentation;
2. Vacancy announcements;
3. Evaluation methods used, including a record of how the best qualified category was established;
4. All applications and appraisal forms submitted;
5. Names and positions of panel members, if any;
6. Evaluation records, basic eligibility

determinations and rating sheets;

7. Names of all candidates as finally rated and ranked, including those candidates eligible for priority consideration;
8. Copy of official position description(s) of record;
9. Documentation of notification to qualified applicants of selection or non-selection as appropriate;
10. Promotion certificate (the names in the group from which the selection was made), including the name of the selectee; and
11. Log of all applicants applying for the job, applicable qualification standards and the original request to recruit.

B. Proper security controls must be maintained for all selection materials. This includes test materials, if any, rating guides, crediting plans, or other materials which, if revealed to unauthorized persons, might provide an unfair advantage to some candidates or compromise the selection procedure.

X. INFORMATION TO EMPLOYEES

A. Employees may request and be given the following information from the Administration Division:

1. Any performance appraisal on present or past performance or potential that is used in considering the employee for promotion or reassignment;
2. Concerning a specific action:
 - a. Whether the employee was considered and, if so, whether he/she met the minimum qualifications (including any selective factors) for the position;
 - b. Who was selected;
 - c. In what areas, if any, they can improve their chances for future selection; and
 - d. The evaluation factors used (knowledge, skills, and abilities needed for successful performance in the position); weights

(points) assigned; and the procedure used in arriving at the cut-off scores, final scores, and certification.

B. Prior to notifying the successful candidate of selection, the Administration Division must review the action to ensure that all legal and regulatory requirements have been met. When action on a merit promotion case is completed, all applicants will receive written notification in a timely manner.

XI. MERIT PROMOTION INQUIRIES

A. All candidates will have equal access to information on merit staffing (i.e., merit promotion processes and procedures, types and levels of qualifications required, experience creditable, and job-related evaluation criteria). It is OGE policy to make available to employees information allowable under the Freedom of Information Act and Privacy Act which will not invade the privacy of other applicants or individuals.

B. When questions arise concerning the proper application of merit promotion procedures, an employee or the official employee representative should discuss the matter of concern with a representative of the Administration Division. If the explanation given does not satisfy the question raised, the employee may seek to resolve the matter through the appropriate grievance procedure.

C. A candidate who is a grievant/complainant, and/or the candidate's representative, is entitled to see additional information provided it is relevant to the issue(s). This information can be provided earlier if it will resolve the grievance or complaint at an informal stage. However, due to the Privacy Act, unless written permission is obtained, other individual personal identifying information must first be removed. If it is not possible to completely sanitize these records, a narrative statement should be provided instead. The following, sanitized as appropriate, may be provided only when relevant to the issue(s):

1. Rating sheets of other candidates;
2. Application forms and supplemental questionnaires from other candidates;
3. Supervisory appraisals on other candidates; and
4. Point value, quality level, levels of possession

of knowledge, skills and abilities of activity-developed crediting plans.

D. The following information may not be released:

1. Test material;
2. Internal qualification guides which supplement OPM Qualifications Handbook or OGE crediting plans that copy or reference these guides; or
3. Identifiable material on other candidates, or any information which would be an invasion of privacy.

E. The contents of this section in no way restrict the right of an employee who has official responsibility for investigating, examining, or adjudicating a complaint from access to needed information.

F. Non-selection from among a group of properly certified candidates is not a basis for grievance.

G. A complaint alleging that unlawful discrimination has been practiced in administering the OGE Merit Promotion Program Plan may be filed through the OGE Employee Grievance Procedure or under Equal Employment Opportunity procedures.

CHAPTER 335, SUBCHAPTER 2

UPWARD MOBILITY PROGRAM

1983

OFFICE OF GOVERNMENT ETHICS

PERSONNEL MANUAL

CHAPTER 335, SUBCHAPTER 2

UPWARD MOBILITY PROGRAM

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UPWARD MOBILITY PROGRAM

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SUBCHAPTER 2. UPWARD MOBILITY PROGRAM

2-1. Policies and Procedures.

a. It is the policy of the U.S. Office of Government Ethics (OGE) to provide the maximum feasible opportunity to employees to enhance their skills so that they may perform at their highest potential and advance in accordance with their abilities. The upward mobility program concept was developed in order to meet these requirements.

b. Upward mobility is an integral part of OGE's Affirmative Action Program and supports agency-wide EEO efforts by providing a systematic management effort to provide developmental opportunities to lower-level employees who are in positions which do not enable them to realize their full work potential. It entails positive management action which goes beyond normal staff improvement practices to provide opportunities for employees to develop and advance both within job families and across occupational lines. It eliminates those conditions which have in the past tended to prevent or restrict movement of employees to positions with recognized growth potential.

c. One of the major deterrents to the movement of people in an upward mobility effort is that experience gained in lower-level positions fails to meet the entrance requirements for positions with career potential. The excessive turnover rate in most lower-grade jobs has been a continuing source of concern to cost-conscious managers. Constant recruiting and training necessary to keep these jobs filled productively has siphoned off funds which could well be used for more productive purposes. Many of these employees have the potential for advancement but cannot do so because they lack the necessary qualifications.

d. The Upward Mobility program will facilitate upward mobility by providing intensive, accelerated development to equip employees with the skills and specific knowledges necessary to perform successfully in a target position. Selections for assignments made under this program will be made under merit procedures on the basis of potential, rather than formal qualifications. An individualized training plan will be developed for each selectee. Reassignment or promotion to the target position will depend upon successful completion of the training. In any case, promotions will not be effected until the selectee has met the time-in-grade requirements for promotion purposes.

2-2. Definitions.

a. Bridge Positions. Positions established to "bridge" the gap

between a lower-level position and the first rung of an established career ladder or to bridge the gap between a career ladder with lesser career growth to one with greater growth potential. The position then provides an extension to the career ladder. The duties described in the bridge position description provide grade-building experiences to qualify an individual for the next higher level position in a normal career progression. The training provided for individuals in this type of position supplements or supports the skills and knowledge requirements of the position.

b. Job Restructuring. The technique of rearranging the way the work of an organizational segment is done by arranging tasks into jobs, linking low to high skill occupations to develop a progression training and experience which will provide opportunities for employees stymied in low-level jobs to develop and advance within and across occupational lines.

c. Potential. The ability (including desire) to acquire and use skills and knowledges needed to successfully perform higher-level work, specifically in those kinds of occupations and at grade levels which could or would be targets for upwardly mobile employees.

d. Target Positions. Positions the duties of which employees selected for upward mobility assignments will be trained to perform.

e. Trainee Positions. Duties employees will perform while training for the target position. Will involve a well-defined training program of a definite duration and the performance of assigned tasks under close guidance and instruction with promotion or reassignment to a target position upon satisfactory completion of the training period and upon completion of time-in-grade restrictions.

f. Training Agreements. The Agreement encompasses those actions taken by management to provide intensive, accelerated development opportunities to equip lower-level employees with the skills and specific knowledges necessary to perform in a targeted position, ranging in grade from GS-1 to GS-9 in a career field affording greater growth potential than the position currently held and will incorporate a formalized agreement designed to develop those skills and abilities directly related to the position which the selectee must develop in order to perform the work assigned.

g. Upward Mobility. Actions taken by management to provide intensive accelerated development to equip lower-level employees (GS-9 and below) with the skills and specific knowledges necessary to perform in a targeted position. Such a position will be in a

career field affording greater growth potential than the position currently held by the employee and selections for such assignments will be made on the basis of potential rather than proven performance and will incorporate a formalized training plan. Upward mobility occurs when an employee moves from a clerical to a technician or professional position offering greater growth potential, or from a technician to a professional job with an established career ladder.

2-3. Program Planning and identification of Target Positions.

a. Both trainee and target positions are established under the Upward Mobility (UM) Program. The target position is filled upon completion of the UM training and meeting of time-in-grade restrictions, as differentiated from the full performance level of the career ladder. In certain instances, the entry level and the target level positions may be the same. Target positions, normally at or near the bottom of the career ladder, will be established at grades GS-4 through GS-9.

b. The trainee position is occupied by the selectee during the training program. If the target position is above the GS-5, the grade level of the trainee position must be within one promotion of the target position. If the target position is at or below the GS-5, two promotions are permitted above the initial trainee position to the target position.

c. When filling a UM position, managers and supervisors will be selecting an individual who must be trained, and will not be fully productive in the target position until training is completed. UM is a means of satisfying future staffing needs, not a method of filling immediate, human resource requirements.

2-4. Establishment of Upward Mobility Positions. Personnel Office staff will help managers and supervisors determine the appropriateness of establishing a position for the Upward Mobility Program and will assist in restructuring jobs to create UM positions. The position and organizational duties will be examined to determine if higher level duties exist in the organization beyond the target level, as indicated by the stated growth (promotion) potential. A job analysis will be conducted on the target position with documentation developed to identify the knowledges, skills, and abilities (KSA's) required for the target position. Raw or basic KSAs which the trainee must possess at the time of the selection will be identified and used in the vacancy announcement and candidate evaluation.

2-5. Filling Upward Mobility Positions. All Upward Mobility positions will be announced. The announcement will clearly

indicate that a position is an Upward Mobility position, identify the entry grade level, target grade level and the highest grade level to which there is known promotion potential.

a. Eligible Candidates. Only OGE employees can compete for UM positions. Career and career-conditional employees in grades GS-1 through GS-9 who have completed 90 days service after their most recent competitive appointment can apply for UM positions.

b. Qualification Criteria.

(1) Applicants will be evaluated on the basis of potential to perform in the target position rather than on the basis of meeting minimum formal qualification requirements of the target position. The fact that the employee also meets the formal X-118 qualification standard for the target position does not preclude competition for an UM assignment; however, such candidates will compete on the basis of potential rather than proven qualifications.

(2) Applicants must be serving in one of the types of appointments listed in paragraph 2-3a above at the same or higher level (not to exceed GS-9) of the trainee position. They must have sufficient experience and/or educational background to enable them to meet the formal qualification requirements of the Federal Personnel Manual Qualifications Handbook X-118 for the position within the two-year training period. The intensive training received under the training agreement will be substituted for formal qualification requirements on the basis of one month of intensive training for two months of experience.

c. Evaluation Methods.

(1) Possession of the basic KSAs will be assessed on aptitude and ability demonstrated by previous work-related experience, nonwork-related experience, interests, hobbies, and academic training. Applicants must fully and clearly document their demonstrated ability to perform the KSAs listed in the vacancy announcement.

(2) Applicants must be evaluated according to their potential to perform in the target position at the completion of the training period measured by the degree to which they possess the basic KSAs. When more than ten applicants are screened as basically eligible, a rating panel will be convened to rate and rank the applicants. The panel will consist of one personnel management specialist, one EEO representative and from one to three employees from the unit in which the vacancy exists and who are currently at a grade level at or above that of the target position. If fewer than ten applicants

are found basically qualified, they will all be certified to the selecting official. No more than ten of the best qualified promotable applicants will be certified for each vacancy.

d. Selection. The selecting official will select from among the certified candidates. Certified candidates will be interviewed to demonstrate their potential and the interview proceedings will be documented for the record. If the number of candidates equals the number of vacancies and a thorough review of the merit promotion package indicates the potential to perform in the target position, interviews may be waived by the selecting official. Interviews should not be delayed more than one week pending the availability of the candidates. Selections will be based on merit factors.

e. Assignment to Trainee Position. The trainee position will be established at the same grade as the target position or the next appropriate lower grade level. The selectee will be placed through reassignment or changed to lower grade.

2-6. Training Agreement.

a. The supervisor and trainee will develop a formal training agreement (see Appendix 2A-1) within 30 days after the trainee enters the position. This agreement specifically defines the training required for acquiring the necessary KSAs for successful target position performance and considers the trainee's individual aptitude, interest, and background.

b. The training program must provide a meaningful combination of on-the-job training, formal training, background reading, and self-development courses. At least 50 percent of the training period must consist of on-the-job training in the target area or in functions closely related to the target position.

c. The Division in which the Upward Mobility position is filled will pay for all formal and on-the-job training.

2-7. Length of Training Period. The training period ranges from 6 to 24 months. The minimum training period is determined by analyzing the difference in the selectee's qualifications for the job and the requirements for the target position. One month of training is planned for every two months' of experience needed to reach the target position. The trainee must meet the minimum length of training and all time-in-grade requirements before reassigned or promoted to the target position.

2-8. Evaluation of Trainee's Progress.

a. The supervisor will:

(1) Make a preliminary evaluation of the trainee's needs within the first 30 days after assignment to the UM position to develop the training agreement;

(2) Prepare an evaluation of the trainee's progress on OGE Form 310 (see Appendix 2B-1) at the end of each quarter, discuss the evaluation with the trainee, and forward the completed form to the Personnel Office; and

(3) Submit a final summary evaluation on the trainee's achievement and performance at the completion of the training program.

b. The trainee will evaluate the training received, assess his/her development at the end of each quarter on OGE Form 309 (Appendix 2C-1) and forward the completed form to the Personnel Office.

c. The length and content of the original training plan may be extended up to six months beyond the maximum two-year time limit to allow for unexpected delays or requirements. Such extensions are handled on an individual basis and shall be discussed with the Personnel Office as soon as it becomes apparent that an extension is required.

2-9. Completion/Non-completion of Training Program.

a. When the trainee has met the qualification requirements for the target position and demonstrated performance for the job criteria, the supervisor will submit a Request for Personnel Action (SF-52) to effect the promotion.

b. Supervisors must ensure that non-promotion to the target position does not come as a surprise to the trainee. Problems which could lead to non-completion of the program must be confronted immediately and discussed with a Personnel Specialist so that every effort can be made to remedy the situation. Employees failing to meet the requirements of the training plan may be reassigned to another position for which qualified, at the same grade level as the trainee position. If such a position is not available, the trainee may be either downgraded or removed for unsatisfactory performance, by appropriate administrative procedures. UM trainees do not have the rights associated with reduction-in-force, i.e., bumping or displacing another employee. The Personnel Officer will assist in effecting a reassignment, downgrade or removal.

2-10. Career Counseling. The immediate supervisor and the Personnel Specialist are jointly responsible for career counseling. Individuals concerned with career advancement are responsible for

developing their own careers. Resources at OGE are available for employees to explore their career interests and opportunities, and more effectively focus on their career goals. Career counseling is available to increase their knowledge of the UM positions, and to assist them in evaluating positions of interest by defining career goals, planning for advancement, and evaluating their background to more effectively communicate their potential when applying for these positions. Career counseling is also available during and following the training period for continual evaluation and updating employees' career goals.

APPENDIX A

SAMPLE TRAINING PLAN

1. NAME: Terry Brown
2. Present Grade and Series: Management Technician, GS-344-05
3. Target Grade and Series: Management Analyst, GS-343-07
4. Date Entered Development Program: January 2, 1992
5. Duration of Training: Six months to two years.
6. Objective: To provide a systematic and planned means for trainee to acquire the knowledges, skills and abilities required to be able to participate in agency audits, prepare audit reports, determine issues of concern during audits, exhibit acceptable techniques when interviewing agency officials during ethics reviews, etc.
7. Supervisor: John Doe, GS-343-15
8. Reports: Sixty days after assignment to the trainee position, the supervisor will complete an evaluation form on the trainee's performance on the job; likewise, the trainee will complete an evaluation on training received and make a self-assessment of his/her development.
9. Flexibility Provisions: To avoid frequent minor amendments to the agreement, it is permissible to extend the training period for a maximum of six months beyond the two years. Likewise, the training period may be shortened provided the minimum training period of six months is met. Care must be taken to assure that the requirements of OPM Handbook X-118 are met when adjusting the length of the training period. Following are situations which may require modification to the training plan:
 - a. The employee's inability to grasp a portion of the training given.
 - b. Adjustment of elapsed training time in individual cases to cover contingencies such as sick leave, court leave, extended annual leave, etc.
 - c. Alteration of the sequence of training to allow for learning experience to be responsible to actual work situations as they arise during the developmental period when conditions or experience indicate the desirability of such changes.

d. Addition or modification of subject matter material required by technological changes, the needs of the agency, and the trainee, and evaluation experience of the developmental program.

10. Elements of the Training Development Plan:

a. Formal Instruction: The following courses will be taken on the dates indicated:

Feb 2 - 5	Interviewing Techniques
March 1 - 14	Governmental Auditing
May 9 - 10	Team Building

b. On the Job Training

1. Training to provide the employee with analytical knowledges and abilities.
2. Training in government ethics regulations.
3. Training in techniques of program review processes.

Trainee's Signature

Date

Supervisor's Signature Date

APPENDIX B

UPWARD MOBILITY PROGRAM
SUPERVISOR'S EVALUATION FORM

TRAINEE _____

PERIOD FROM _____ TO _____

SUPERVISOR _____

INSTRUCTIONS: The immediate supervisor will evaluate the trainee objectively, comparing him/her with other trainees of comparable academic level, with other personnel assigned the same or similarly classified jobs, or with individual standards. Remarks are particularly helpful.

ATTITUDE - APPLICATION TO WORK

ABILITY TO LEARN

- ☐ Outstanding enthusiasm
☐ Very interested & industrious
☐ Average in diligence & interest
☐ Somewhat indifferent
☐ Definitely not interested.

- ☐ Outstanding learner
☐ Very quick learner
☐ Average learner
☐ Rather slow learner
☐ Very slow to learn

INITIATIVE

- ☐ Proceeds well independently
☐ Sometimes works independently
☐ Completes all assigned work
☐ Hesitates
☐ Must be frequently pushed

QUALITY OF WORK

- ☐ Excellent
☐ Very good
☐ Average
☐ Below average
☐ Very poor

RELATIONS WITH OTHERS

- ☐ Exceptionally well accepted
☐ Works well with others
☐ Gets along satisfactorily
☐ Difficulty working with others
☐ Works very poorly with others

QUANTITY OF WORK

- ☐ Unusually high output
☐ More than average
☐ Normal amount
☐ Below average
☐ Low output - slow

DEPENDABILITY

- ☐ Completely dependable
☐ Above average
☐ Usually dependable
☐ Sometimes neglectful/careless
☐ Unreliable

JUDGMENT

- ☐ Exceptionally mature
☐ above average
☐ Usually makes right choice
☐ often uses poor judgment
☐ Consistently uses bad judgment

ATTENDANCE: ☐ Regular ☐ IrregularPUNCTUALITY: ☐ Regular ☐ Irregular

OVERALL PERFORMANCE:

OUTSTANDING VERY GOOD + AVERAGE - MARGINAL UNSATISFACTORY

The trainee's outstanding personal qualities are:

The personal qualities which the trainee should strive most to improve are:

Additional Comments:

This report has been discussed with the trainee: YES No

(Signed) _____ (Date) _____

APPENDIX C

UPWARD MOBILITY TRAINEE EVALUATION FORM

TRAINEE _____

SUPERVISOR _____

Reporting Period from _____ to _____

List assignment(s) or project(s) given:

1. Do you feel the training program is accomplishing its objectives as they were stated to you? Why?

2. Please describe briefly all classroom training, correspondence courses, seminars or meetings which you have attended during this period.

3. Do you believe your assignments are increasing your technical knowledge?

4. In what areas do you believe you need further training?

Comments: _____

(Signed) _____ (Date) _____

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 335, SUBCHAPTER 3

ROTATIONAL ASSIGNMENT PROGRAM

May 2005

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SUBCHAPTER 3. ROTATIONAL ASSIGNMENT PROGRAM

I. PURPOSE

The purpose of the Rotational Assignment Program (RAP) is to strengthen the executive branch ethics program by providing professional development opportunities for OGE employees who have substantive ethics program duties, as well as for executive branch employees who work in the ethics program. Participating employees have an opportunity to strengthen existing competencies and acquire new skills by serving in a temporary rotational assignment in a host agency. Such assignments provide an opportunity for individual professional growth and enhance the overall professional development of the executive branch ethics workforce.

II. SCOPE

The RAP is a program for temporary assignments within the executive branch ethics program. Participating OGE employees may not undertake a non-ethics program related assignment in a host agency under the RAP. OGE employees, however, are not precluded from participating in other appropriate temporary assignment programs or details that are outside the ethics program (such as, for example, the Special Assistant United States Attorney program) in accordance with the particular terms of those arrangements. Appropriate temporary assignments in other fields, such as general management or information technology, may also be available outside the RAP.

III. POLICY

A. The RAP establishes a structure and procedure for the administration of temporary assignments within the executive branch ethics program.

B. The RAP establishes a framework for offering significant professional development opportunities to highly qualified participants. Participants in the RAP are expected to be highly motivated performers who can make a contribution to the ethics program.

C. OGE candidates for the RAP must be nominated by a supervisor and such nomination is within the supervisor's discretion. Agency employees must be nominated by an appropriate official of their agency.

D. The decision to accept a particular candidate for an assignment is completely within the discretion of the host agency. Neither OGE nor an executive branch agency is obligated to accept any particular candidate for a rotational assignment.

E. Participants in the RAP generally work full-time in their assignment at the host agency. However, in appropriate cases, and by mutual agreement of the host and home agencies, arrangements may be made for part-time or split schedule assignments.

F. Participants in the RAP perform their assignment at an executive branch agency in the Washington metropolitan area or at OGE. Agencies that are interested in seeking an assignment at OGE for an employee in a regional office will be expected to pay any relocation costs incurred by the participating employee.

G. The duration of an assignment is subject to the mutual agreement of OGE and the agency. Unless special arrangements are made, assignments are not to exceed 120 days.

IV. BENEFITS

A. The RAP benefits OGE, participating executive branch agencies, and the executive branch ethics program overall by fostering greater cohesiveness, improving communication and promoting cooperation and integration of effort throughout the executive branch ethics program. Both OGE and participating agencies benefit through the sharing of new perspectives and ideas, talent, expertise and management practices.

B. The RAP provides an opportunity to strengthen ethics program operations through greater organizational understanding. Participating employees gain the experience of working in a different work environment and organizational culture.

C. Participating OGE employees have an opportunity to gain an agency operational perspective on the executive branch ethics program and to gain exposure to different management systems, processes and procedures. The RAP provides a participating OGE employee with the opportunity to learn how the ethics program relates to a specific agency mission.

D. The RAP provides a participating agency employee with the opportunity to learn about OGE issues and gain an overall perspective on ethics policy and the executive branch ethics program.

E. The RAP provides participating employees with the opportunity for professional growth by developing or strengthening leadership, management, technical or team skills and by acquiring new skills and knowledge, including knowledge of new technologies.

F. The RAP provides an opportunity for OGE employees' professional development, which may include preparation for supervisory and management positions.

V. DEFINITIONS

The following definitions apply to this Subchapter.

A. Eligible OGE employee means a permanent, general schedule employee who has been employed by OGE for at least one year and who has substantive ethics program duties. Ethics program duties shall include legislative policy and international technical assistance duties.

B. Eligible agency employee means a permanent employee who works in a full or part-time position that has full or part-time ethics program responsibilities or activities.

C. Home agency means the agency at which a participating employee is regularly employed.

D. Host agency means the agency at which a participating employee performs the rotational assignment.

E. Rotational assignment means a detail to an ethics-related position at an host agency.

F. Part-time assignment means an assignment that is less than 40 hours of work per week.

G. Split schedule assignment means an assignment in which a participating employee continues to work part-time at the employee's home agency during the period of the rotational assignment at the host agency.

VI. NOMINATION AND SELECTION FOR AGENCY ASSIGNMENTS

A. Identification of an Agency Assignment

An appropriate agency official may notify OGE management of the availability of a temporary assignment within the agency ethics program. OGE managers and supervisors may also seek out such opportunities at a host agency.

B. Nomination

OGE managers and supervisors may nominate an eligible OGE employee for an available temporary agency assignment. General schedule managers and supervisors must be nominated by their Deputy Director or their General Counsel. Employees may indicate to their supervisor that they are interested in being nominated for an assignment.

C. Application

1. An OGE employee who accepts a nomination is responsible for completing and submitting the required application information to the head of their office in a timely manner. A copy of the RAP Application Form is attached to this Subchapter as Appendix A.

2. A complete application consists of a completed application form, signed by the employee and the employee's supervisor, and a copy of the employee's most recent performance appraisal. An OGE employee may submit a resume with the application.

D. Selection

1. The factors that may be considered in selecting an OGE employee as a candidate for a temporary assignment in a host agency include the following: (1) the requirements and duties of the assignment, including level of responsibility; (2) the suitability of the employee's experience and qualifications for the available assignment; (3) the value of the assignment in terms of the employee's career goals; (4) the current availability of the employee for a temporary assignment in light of office workload or the need to complete a particular assignment; (5) the performance of the employee as reflected in the employee's most recent performance appraisal; (6) the leadership qualities of the employee; and (7) the commitment of the employee to the executive branch ethics program. It is not necessary that all of these factors be utilized in a particular selection decision. An OGE employee does not have any entitlement to be selected for a rotational assignment.

2. Nominated OGE employees will be reviewed and selections will be made by their supervisor at the Deputy level.

E. Submission to Agency

1. The name of an OGE employee who is selected as a candidate for a rotational assignment will be submitted to the host agency.

2. OGE employees who have been nominated but not selected as a candidate for a particular assignment will be considered for future assignments.

F. Assignment Decision

The decision whether to accept an OGE employee candidate to participate in a temporary assignment is wholly within the discretion of the host agency.

G. Limitation

Unless warranted by particular circumstances, an OGE employee generally may not participate in a rotational assignment more than once in a three-year period.

VII. NOMINATION AND SELECTION FOR OGE ASSIGNMENTS

A. Identification of an OGE Assignment

OGE managers, and supervisors through their managers, are responsible for identifying and proposing assignment opportunities to the executive senior staff of OGE.

B. Announcement of Assignment

OGE may announce the availability of a temporary rotational assignment opportunity through appropriate means such as the OGE web site and the OGE list serve. When OGE announces the availability of an assignment, it will include in the announcement the office where the assignment is located, a description of the duties, the duration of the assignment and such other information as may be appropriate.

C. Agency Selection of Candidate

When an OGE position has been announced, the agency may select a candidate that it wishes to nominate for the position. The agency may follow its own procedures and criteria for selection but is expected to nominate high performers with a commitment to the executive branch ethics program.

D. Submission to OGE

An appropriate agency official will submit the name of the employee that they have selected as a candidate for a position at OGE to the Deputy Director of the office where the assignment is located.

E. Assignment Decision

The decision to select an agency employee for a rotational assignment at OGE will be made by the OGE office head at the Deputy level who will provide an informal notification to the agency. The Office of Administration will provide a written notification to the agency of the selection decision.

VIII. AGREEMENT GOVERNING ASSIGNMENT

A. Rotational Assignment Agreement

The rotational assignment should be governed by a written Agreement between OGE and the agency which sets forth the terms of the assignment as mutually agreed to by the parties. A model Rotational Assignment Agreement is attached to this Subchapter as Appendix B.

B. Terms

1. The Agreement should describe the nature of the assignment, a description of the work or project, the objectives of the assignment and how those objectives will be achieved, the location and duration of the assignment, and the name of the person who will supervise the participating employee.

2. The Agreement should set forth the arrangement for the payment of salary and benefits of the participating employee. Generally, it is expected that the home agency will pay for the participating employee's salary and benefits, as well as continue to provide any transit subsidy. Any travel, per diem and other related expenses for temporary duty travel during the assignment generally should be paid by the host agency.

3. The Agreement should set forth the arrangements for annual leave and sick leave. Generally, the participating employee must get approval for any annual or sick leave from the host agency and report any leave taken to the employee's home agency timekeeper.

4. The Agreement may provide for the following contingencies: termination of the assignment upon notice by either party, extension of the assignment by mutual agreement, and change in duties during the assignment.

5. The Agreement may provide for an interim assessment of the performance of the participating employee and for evaluation of the Rotational Assignment Program. An agency may use its own form for this purpose.

IX. INTERIM EMPLOYEE ASSESSMENT

A. Host Agency Assessment

It is expected that the host agency will provide an interim assessment of the work of the OGE employee upon the completion of the assignment.

B. OGE Assessment

OGE will provide an interim assessment of the work done by an agency employee during his or her assignment at OGE upon the completion of the assignment.

X. PROGRAM EVALUATION

A. Agency Evaluation

OGE will request that an agency that participates in the RAP provide an evaluation of the RAP within 30 days of the completion of the assignment and make any recommendations for improving the administration of the program to make assignments more valuable for future participants.

B. Employee Evaluation

1. OGE will require an OGE employee to provide an evaluation of his or her assignment rating the strengths and weaknesses of the rotational experience and recommending any improvements to the program. A copy of a participating employee

evaluation form is attached to this Subchapter as Appendix C.

2. OGE will request that an agency employee provide an evaluation of his or her assignment rating the strengths and weaknesses of the rotational experience and recommending any improvements to the program.

CHAPTER 340

OTHER THAN FULL-TIME CAREER EMPLOYMENT
(PART-TIME AND INTERMITTENT)

CHAPTER 340

OFFICE OF GOVERNMENT ETHICS

PERSONNEL MANUAL

CHAPTER 340

OTHER THAN FULL-TIME CAREER EMPLOYMENT

(PART-TIME AND INTERMITTENT)

CHAPTER 340

OTHER THAN FULL-TIME CAREER EMPLOYMENT (PART-TIME AND INTERMITTENT)

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SUBCHAPTER 1. PART-TIME CAREER EMPLOYMENT

1-1. Purpose. This subchapter establishes the Office of Government Ethics (OGE) Part-Time Career Employment Plan. This program is established to promote the unrealized capabilities and/or potential of individuals who are unable to work on a full time basis, for example, handicapped individuals, parents who wish to balance family responsibilities with the need for additional income, persons wishing to reenter the work force, individuals who wish to make a gradual transition into retirement and students who must finance their education. Additionally, this program will be used to draw upon valuable untapped human resources for the good of OGE and the Federal Government in general.

1-2. Policy. The Office of Government Ethics will promote the use of part-time flexibilities to the maximum extent possible within agency resources and mission requirements.

1-3. Definitions.

a. The Act. In the document, the Act means the Federal Employees Part-Time Career Employment Act of 1978 (5 U.S.C. 3401 et. seq.)

b. Break In Service. A break in service occurs when an employee is not employed in the Federal career civil service for more than 1 work day or 3 calendar days.

c. Job Sharing. A form of part-time employment in which the tours of duty of two (or more) employees are arranged in such a way as to cover a single full-time position.

d. Mixed Tour Employment. A form of employment wherein an employee is scheduled to work part-time during a portion of the year and full-time and/or intermittent for the remainder.

e. Part-Time Career Employment. The employment, on or after April 8, 1979, of an individual serving under an excepted or competitive service appointment as a career or career conditional employee (Tenure Groups I or II, respectively) under a part-time work schedule of 16 to 32 hours per week.

f. Regular Schedule. To be considered part time for purposes of this subchapter, an employee must have a regular schedule, set in advance, of at least 16 hours and not to exceed 32 hours in each administrative workweek in each biweekly pay period.

g. Tenure Group I and II Employees.

(1) Tenure Group I applies to employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

(2) Tenure Group II applies to employees in the competitive service serving probation, career-conditional employees and career employees in obligated positions. It also includes employees in the excepted service serving trial periods, whose tenure is indefinite solely because they occupy obligated positions; or whose tenure is equivalent to career-conditional in the competitive service.

h. Tour of Duty. A tour of duty consists of the hours of a day and the days of an administrative workweek that constitute an employee's regularly scheduled workweek. The tour of duty for a part-time employee must be no less than 16 and no more than 32 hours per week.

1-4. Exceptions. An individual employed under any of the following arrangements is excluded from the 16 to 32 hours per week tour of duty and health insurance prorating provisions.

a. Employment of less than 16 hours per week. OGE will permit an employee in Tenure Group I or II to perform regularly scheduled work from 1 to 15 hours per week when it is determined that such a tour of duty is necessary to carry out the agency mission.

b. Mixed tour employment. A mixed tour is appropriate when the workload of a position is known to vary during the year and is to be established as a condition of employment at the time the employee is placed in such a position. When an employee changes from one work schedule to another, OGE will issue a Personnel Action, SF-50 to document the change. An employee under a mixed tour is exempt from the 16 to 32 hour per week tour of duty and health insurance prorating provisions when he or she works no more than 6 pay periods per year on a part-time schedule.

c. Part-time employment begun prior to April 8, 1979. An employee who has continuously worked on a part-time work schedule since before April 8, 1979, is excluded from the 16 to 32 hour per week tour of duty and health insurance prorating provisions for as long as he or she continues to work on a part-time work schedule without a break in service. Although an employee was exempt from the 16 to 32 hour per week tour of duty requirements

at a previous agency, he or she will be required to work between 16 and 32 hours per week upon transfer into OGE.

d. Part-time temporary appointments and intermittent work schedules. An employee with a term or temporary appointment (or any other appointment outside tenure group I or II) and an employee on an intermittent work schedule is excluded from health benefit prorating provisions.

1-5. Plans and Procedures.

a. Goals. OGE does not differentiate between the positions of the agency for application of part time employment. It is the goal of OGE to accommodate employees interest in converting to part-time schedules and promote the hiring of part-time employees from outside the agency to the maximum extent possible within established workloads, personnel ceiling and budget constraints. To that end, OGE will examine on an individual basis, each vacancy or request to convert to a part-time schedule.

b. Timetables. OGE will establish part-time positions at the earliest opportunity and continue to do so based on workload fluctuations, work force size, turnover and employment trends, potential for improving the efficiency of the agency and affirmative employment.

c. Procedures. All individuals interested in either seeking part-time career employment with OGE, or employees wishing to convert from a full-time to a part time schedule should contact the Part-Time Employment Program Coordinator in the Personnel Office.

(1) Vacancies.

(a) Establishing Part-Time Positions. Each time a position is newly established or an already established position is vacated, the immediate supervisor will examine the possibility of filling that position on a part-time work schedule. If it is determined that it is appropriate to do so, that recommendation will be made through channels to the Deputy Director who will make the final decision.

(b) All vacancies will be announced to the appropriate competitive area to facilitate identifying a sufficient number of highly qualified candidates from which to make a selection.

(2) Converting Full-time Positions to Part-Time.

(a) When an OGE employee wishes to have his or her position converted to a part time schedule, a request should be made to the immediate supervisor stating the reasons for the request. The immediate supervisor may deny the request or recommend to the Deputy Director that the request be granted.

(b) OGE will not abolish any position occupied by an employee in order to convert the duties of that position to part-time. This does not preclude permitting a full-time employee to voluntarily change to a part-time schedule.

(c) No employee occupying a full-time position shall be required to accept part-time employment as a condition of continued employment. This limitation does not preclude offering a part-time vacancy to a full-time employee in lieu of a separation resulting from a reduction in force (RIF).

1-6. Work Schedule/Tour of Duty.

a. New or Changed Tour of Duty. OGE may establish a new tour of duty for a part-time employee or temporarily change a current tour to meet the needs of the Office of the employee. A change must be made in advance of the administrative workweek in which the change is to occur and must be approved by the Division Head. An increase in the tour of duty above 32 hours per week is not permitted for more than two consecutive pay periods in keeping with congressional intent to limit regular part-time work schedules to no more than 32 hours per week.

b. Change to full-time Work Schedule.

(1) It is contrary to merit principles to appoint an individual to work part time with the intent to convert the employee to full time after a brief interval. Unexpected increases in workload may, however, require a change in the work schedule of a part-time employee to full time on either a short term (i.e., not to exceed a certain date) or permanent basis. If the change would create a hardship to the employee, for example, by affecting the employee's health or disrupting school or child care arrangements, the supervisor must first determine if there are other ways to accomplish the added work within available resources.

(2) If an employee is to be so changed within one year of entry on duty, the immediate supervisor must prepare written justification for the change for the approval of the Deputy Director, unless the requesting supervisor is the Director, OGE.

c. Concurrent Part-Time Appointments. While the intent of Congress in passing the Act was to increase the opportunities available to those who require or prefer part-time employment, there is no specific prohibition against an individual's holding two part-time positions either in the same or different agencies. The tour of duty for each part-time position must be set at no less than 1 hour nor more than 32 hours in any administrative workweek. In the case of concurrent part-time appointments, the aggregate hours should normally not exceed 40 hours per week. Under certain conditions, however, OGE will authorize overtime or compensatory time to a part-time employee when so authorized by the Deputy Director. An employee who is involuntarily separated from one of two part-time positions is not entitled to severance pay.

1-7. Job Sharing.

a. Job sharing may be authorized as appropriate to meet the needs of the agency and the employees thereof.

b. Status. Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for purposes of appointment, tour of duty, pay, classification, leave, holidays, benefits, position change, service credit, recordkeeping, reduction in force, adverse actions, grievances and personnel ceilings.

c. Tour of Duty. A variety of different work scheduling arrangements can be used, for example, split days (one job sharer works mornings and the other afternoons), alternate days (one job sharer works Monday, the other Tuesday, etc.) or split weeks (one job sharer works from Monday morning through noon Wednesday and the other works from noon Wednesday through Friday afternoon). The work schedules of job sharers may overlap (one job sharer may work from 10:00 a.m. to 2:00 p.m. every day and the other from noon to 4:00 p.m.). This arrangement can provide extra coverage during heavy workload periods without using costly overtime. A certain amount of overlap may also be desirable to enable job sharers to attend staff meetings or familiarize each other with work developments. Although most job sharers split the hours of a full-time position in half, this is not an absolute requirement. For example, one job sharer could work 24 hours each week and the other 16 hours.

d. Flexibility. Job sharing can provide considerable work scheduling flexibility. Work disruptions which tend to occur when employees are on extended leave can be reduced through job sharing. One job sharer might be off for six weeks, but the other would still be on duty and could work additional hours to

cover the full schedule. If one of the job sharers leaves, this technique could also be used while the other half of the position is being filled.

e. Job Classification and Position Description. Job sharers each have a separate position description which may or may not be identical. Duties of job sharers may be the same or different. It is also possible to have "split-level" job sharing in which one job sharer performs duties classified at a higher grade level than the duties performed by the other employee sharing the same position.

f. Merit Promotion Eligibility. A job sharing team may apply for a full-time position under OGE's merit promotion program but the qualifications of each job sharer will be evaluated individually. If both potential job sharers are among the best qualified, they should be referred as a team to the selecting official. A job sharer may also apply individually for promotion to a part-time or full-time position. In the latter case, the job sharer would have to agree to convert to a full-time work schedule if selected for the position.

1-8. Pay and Classification.

a. Classification. Position classification principles and procedures apply equally to full-time and part-time positions. The grade level of a position is determined by the level of difficulty of work; an employee's work schedule should have no effect on the proper classification of a position.

b. Pay. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the number of hours worked during the pay period.

c. Overtime Pay. Overtime pay or compensatory time off for an eligible part-time employee is provided only for work over 8 hours a day or over 40 hours a week. A part-time employee receives straight-time pay for work which is in excess of scheduled hours but which does not exceed 8 hours a day or 40 hours a week.

d. Compensatory Overtime. An eligible part-time employee may elect to perform compensatory overtime work to replace time taken off for religious observances.

e. Sunday Pay. A part-time employee is not entitled to Sunday premium pay for working on Sundays.

1-9. Leave and Holidays.

a. Leave.

(1) A regularly scheduled part-time employee with less than 3 years of service earns 1 hour of annual leave for each 20 hours in a pay status. With 3 but less than 15 years of service, the employee earns 1 hour of annual leave for each 13 hours in pay status; with 15 or more years of service, 1 hour for each 10 hours in pay status. Maximum carryover at the end of the leave year is the same as for a full-time employee (240 hours per calendar year). Sick leave accrues at the rate of 1 hour for each 20 hours in a pay status. Hours in pay status include straight-time and overtime hours up to a total of 80 hours in a pay period. Leave is charged for absence during the hours the employee is scheduled to work.

(2) A part-time employee is eligible for other leave categories, e.g., absence without leave, leave without pay, court leave, funeral leave or excused absences on the same basis as a full-time employee.

(3) An eligible part-time employee accrues military leave prorated on the basis of tour of duty.

b. Holidays.

(1) A part-time employee is not entitled to a holiday which falls outside the tour of duty. If a holiday falls on a day a part-time employee is scheduled to work and the employee does not work, the employee is paid for the number of hours scheduled for that day. If the part-time employee works during his or her scheduled hours on a holiday, the employee is entitled to holiday premium pay only for those hours scheduled.

(2) A part-time employee is not automatically entitled to an "in lieu of" holiday provided for full-time employees. For the purposes of pay and leave, an "in lieu of holiday" is a day which is to be treated as a holiday instead of a legal public holiday or any other day declared to be a holiday by Federal statute or Executive Order.

(3) If an "in lieu of" holiday falls on a part-time employee's regularly scheduled workday, and the part-time employee is prevented from working because OGE is closed, the employee will be granted Administrative Leave. A part-time employee who works on an "in lieu of" holiday shall be paid straight time for hours worked.

1-10. Service Credit.

a. Qualifications. Part-time work is prorated in determining whether an employee meets the X-118 qualification requirements. For example, employee on a 20-hour per week schedule would earn 6 months of credit per year. Time will be figured on the basis of hours in a pay status (excluding overtime) in order to recognize the service of part-time employees who are frequently required to work additional straight-time hours.

b. Other Requirements. A part-time employee receives a full year of service credit for each calendar year worked (regardless of tour of duty) for the purpose of computing service for retention, retirement, career tenure, completion of probationary period, within-grade increases, leave accrual rate, and time-in-grade restrictions on advancement.

1-11. Benefits.

a. Retirement Benefits. Retirement benefits are computed in the same manner for all career employees, whether full-time or part-time. Annuities are based on an employee's length of service and the highest annual basic pay received for any 3 consecutive years. (Note: Benefits which include service as a part-time employee of the Department of Medicine and Surgery, Veterans Administration, are prorated under P. L. 97-72.)

b. Life Insurance. A part-time employee is eligible for the Federal Employees Group Life Insurance Program. The actual amount of insurance for which an employee is eligible is based on annual salary. The minimum amount of basic insurance is \$10,000. For this purpose a part-time employee's annual salary is figured on the basis of hours in the tour of duty times base pay rate. An employee with concurrent part-time appointments is entitled to life insurance on the basis of the sum of the annual salaries for the positions. This does not apply to a part-time flexible employee of the Postal Service.

c. Health Insurance. A part-time employee is eligible to participate in the Federal Employees Health Benefits Program. The coverage provided for a part-time and full-time employee is the same but the cost to a part-time employee covered by the Act is greater since a covered employee receives a prorated Government contribution to health insurance premiums according to the number of hours in the tour of duty during the pay period. The Government contribution to premiums of an employee with concurrent part-time appointments is based on the sum of the tours of duty for the appointments. Three groups of part-time employees are excepted by statute from the requirement for

prorating and receive the full Government contribution to health insurance premiums. They are:

(1) Employees with tours of duty of less than 16 hours per week;

(2) Employees with mixed tours as described in paragraph 1-3d above; and

(3) Employees who were serving on a part-time basis prior to April 8, 1979 (the effective date of the Act). A break in part-time service eliminates the employee's right to the full Government contribution.

1-12. Position Change. A part-time employee is covered by OGE's merit promotion program and will be reassigned, detailed and promoted in accordance with such programs in the same manner and under the same circumstances as other career or career-conditional employees. Movement from a part-time to a full-time position is not subject to competition unless required by the procedures in FPM Chapter 335 governing promotion and internal placement.

1-13. Reduction in Force. In a reduction in force, part-time employees are placed in a separate competitive level from comparable full-time employees. When released from competitive level, a part-time employee can compete only for other part-time jobs. Similarly, a full-time employee has assignment rights only to full-time positions and cannot displace a part-time employee.

1-14. Adverse Actions and Grievances. A part-time employee has the same protections as a full-time employee in the event of adverse actions such as suspensions, removals and furloughs, and reduction in grade or pay. Part-time employees are also covered by OGE's grievance procedures.

1-15. Personnel Ceiling. Paid straight-time hours worked by part-time employees count against OGE's Full-Time Equivalent (FTE) work year personnel ceiling.

1-16. Evaluation and Reporting.

a. OGE will ensure that continuing review and evaluation of its part-time employment program is carried out by the Part-Time Employee Program Coordinator (PEPC).

b. The PEPC will provide advice and assistance to the Director and Deputy Director on issues involving the Part-Time Employment Program, and will prepare all required progress reports.

SUBCHAPTER 2. INTERMITTENT EMPLOYMENT

2-1. Purpose. This subchapter establishes The Office of Government Ethics Intermittent Employment Policies. This program is established within the OGE to facilitate the unique needs of the agency to meet its mission requirements.

2-2. Policy. This agency will promote the use of intermittent flexibilities to the maximum extent possible within agency resources and mission requirements.

2-3. Definitions.

a. Intermittent Employee. Non-full-time employment in which employees serve under an excepted or competitive service appointment in tenure group I or II without a regularly scheduled tour of duty. Employees under temporary or term appointments may also work on an intermittent basis.

b. Regular Schedule. A set and scheduled work period, established in advance of an administrative workweek.

c. Tenure Group I and II Employees.

(1) Tenure Group I applies to employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

(2) Tenure Group II applies to employees in the competitive service serving probation, career-conditional employees and career employees in obligated positions. It also includes employees in the excepted service serving trial periods, whose tenure is indefinite solely because they occupy obligated positions; or whose tenure is equivalent to career-conditional in the competitive service.

d. Tour of Duty. A tour of duty consists of the hours of a day and the days of an administrative workweek that constitute an employee's regularly scheduled workweek.

2-4. Appropriate Use.

a. An intermittent work schedule is appropriate for a position in which the nature of work is sporadic and unpredictable so that a tour of duty cannot be regularly scheduled in advance. Intermittent employment is not appropriate for a position which could be filled by a regularly scheduled employee.

b. When an intermittent employee is scheduled in advance of the pay period, to work at some time during each administrative work week for more than two consecutive pay periods, the work schedule will be changed from intermittent to part-time (or full time in the case of a 40 hour per week schedule). The employee will then be eligible for the benefits appropriate to the work schedule and appointment. When the employee is assigned to regularly scheduled work for a limited or specified period, a not-to-exceed date will be established and the employee will be returned to an intermittent status at the conclusion of the scheduled work assignment without the use of reduction-in-force procedures.

2-5. Position Change. An intermittent employee serving under a career or career-conditional appointment is covered by OGE's merit promotion program and may be reassigned, detailed or promoted in accordance with that program to other positions. Competitive procedures are not required to change an intermittent employee to a part-time or full-time work schedule.

2-6. Benefits.

a. Retirement and Health Benefits. An intermittent employee is not eligible for health benefits coverage, unless the intermittent employee follows, without a break in service in excess of 3 days, employment in a covered position. An intermittent employee is eligible for retirement coverage, if he or she is serving under a career or career-conditional appointment.

b. Life Insurance. An intermittent employee is not eligible for life insurance coverage except when the intermittent employment follows, without a break in service in excess of 3 days, employment in a covered position and the employee is expected to return to a covered position.

c. Annual and Sick Leave. An intermittent employee does not accrue annual or sick leave. When a part-time or full-time employee is changed to intermittent, unused sick leave is held in abeyance until the employee returns to a scheduled tour, or separates and forfeits the leave after a 3-year break in service. Any unused annual leave is paid as a lump sum, except in a situation involving a continuing program under which an employee is required to return to full-time or part-time employment after a period of intermittent employment.

d. Holiday Pay. An intermittent employee is not eligible for holiday pay.

2-7. Service Credit.

a. Career Tenure. Each day an intermittent employee is in pay status is counted as 1 day toward the 780 days in pay status, which is equivalent to the 3-year service requirement for career tenure. This service requirement may not be satisfied in less than 3 years of calendar time.

b. Time in Grade. Intermittent service is counted on the basis of time in the grade, without regard to the actual time in a pay status.

c. Other Requirements. For the purpose of determining qualifications, eligibility for within-grade increases, leave accrual rate, and length of service for retention and retirement, each day an intermittent employee is in pay status is counted toward the 260 days which is equivalent to 1 year of service.

2-8. Personnel Ceiling. Paid straight-time hours worked by intermittent employees count against OGE's full-time equivalent (FTE) work year personnel ceiling.

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 351

REDUCTION-IN-FORCE

June 2006

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SUBCHAPTER 1

GENERAL PROVISIONS

1-1. Policy

OGE is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work. OGE will make the final decisions concerning what positions are abolished, whether a reduction-in-force is necessary, and when a reduction-in-force will take place. Reasons for a reduction-in-force may include lack of work, a shortage of funds, insufficient personnel ceiling, and reorganization. OGE will conduct any reduction-in-force (RIF) in accordance with 5 CFR 351 and pertinent regulations of the Office of Personnel Management.

1-2. Employee Coverage

- a. Except as provided in paragraph 1-2.b. below, this chapter applies to all federal civilian employees in the OGE.
- b. Employees excluded from this chapter include:
 - 1. An employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the U.S. Senate.
 - 2. Members of the Senior Executive Service.
- c. Certain actions are excluded from a RIF including:
 - 1. the termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.
 - 2. a change to lower grade based upon the reclassification of an employee's position due the application of new classification standards or the correction of a classification error.
 - 3. a change to lower grade based upon classification of an employee's position due to erosion of duties.
 - 4. a change in an employee's work schedule from other-than-full time to full-time.

1-3. Placement Assistance to Employees

- a. When a reduction-in-force is anticipated, OGE will endeavor to take steps to prepare employees for it and lessen its effects. To the extent practicable, OGE will assist employees in identifying employment opportunities.
- b. Employees will be advised of their appeal rights.
- c. Separated employees will be placed on the Reemployment Priority List. The list will be established and maintained in accordance with 5 CFR 330, Subpart B.

SUBCHAPTER 2

RETENTION FACTORS

2-1. Competitive Area

OGE has no field offices and, as such, the headquarters location constitutes a single competitive area (in which employees compete for retention).

2-2. Competitive Levels

OGE is responsible for establishing competitive levels in accordance with 5 CFR 351. Competitive levels consist of all positions in a competitive area which are in the same grade and classification series and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption of required work.

2-3. Retention Registers

- a. OGE will establish all retention registers required during a RIF, reflecting the retention standing of each competing employee in accordance with 5 CFR 351.
- b. All competing employees officially assigned to positions in a competitive level are listed on the retention register for that level whether they are on active duty, on detail to positions in other levels, on paid or unpaid leave, or on nonmilitary furlough.
- c. All competing employees temporarily promoted from positions in a competitive level to positions in other competitive levels must be listed on the register from which they are temporarily promoted.
- d. Standing on the register will be based upon tenure of employment (tenure groups for competitive service and excepted service), veterans preference, length of service, and performance credit in accordance with 5 CFR 351.

2-4. Records

- a. OGE is responsible for maintaining correct personnel records that are used to determine the retention standing of its employees competing under 5 CFR 351.
- b. OGE will permit access to its retention registers and related records by an employee who has received a specific RIF notice and/or the employee's representative and an authorized OPM representative. An employee who

SUBCHAPTER 3

RELEASE FROM COMPETITIVE LEVEL

3-1. Order of Release

- a. OGE will select competing employees for release from a competitive level in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register.
- b. When employees in the same tenure group on the register have the identical service dates and are tied for release from a competitive level, the Agency may select any tied employee for release.
- c. An employee reached for release from a competitive level shall be offered an assignment to another position in accordance with Subpart G, 5 CFR 351. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer, the employee shall be furloughed or separated.
- d. Any furlough must be accomplished in accordance with 5 CFR 351 and can only be done when the Agency intends within one year to recall the employee to duty in the position from which he/she was furloughed.

3-2. Assignment Rights

- a. Competitive service and excepted service employees released from their competitive level will be afforded assignment rights (bump and retreat) in accordance with Subpart G, 5 CFR 351.
- b. In order to be assigned to a position involving the displacement of another employee, the employee must meet the qualification requirements contained in 5 CFR 351.
- c. For assignment to a vacant position, OGE may waive qualification requirements provided:
 1. the employee meets any minimum education requirements prescribed by OPM and
 2. the Agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

SUBCHAPTER 4

NOTICE TO EMPLOYEES

- 4-1.** Each competing employee selected for release from a competitive level is entitled to written notice at least 60 days before the effective date of release.
- 4-2.** When a RIF is caused by circumstances not reasonably foreseen, the Director of OPM may, at the request of the OGE Director, approve a notice period of less than 60 days.
- 4-3.** Contents of the notice to employees will include:
 - a. the action to be taken, the reasons for the action, and its effective date;
 - b. the employee's competitive area, competitive level, tenure group, service date, and the three most recent ratings of record received during the past four years;
 - c. the place where the employee may inspect the regulations and records pertinent to the release;
 - d. the reasons for retaining a lower standing employee in the same competitive level, if applicable under 5 CFR 351.607 or 351.608.
 - e. information on reemployment rights, if applicable, and priority placement; and
 - f. the employee's right, as applicable, to appeal to the Merit Systems Protection Board (MSPB) under the provisions of the Board's regulations.
 - g. Upon written request by the employee, OGE will provide a copy of 5 CFR 351.

SUBCHAPTER 5

APPEALS

- 5-1.** An employee who has been furloughed for more than 30 days, separated, or demoted by a reduction in force may appeal to the Merit Systems Protection Board.
- 5-2.** Appeals must be filed with the MSPB during the 30-day period beginning the day after the effective date of the action.
- 5-3.** An appeal must be in writing, must be submitted to the appropriate MSPB office, and must include the information required in 5 CFR 1201.
- 5-4.** If the Agency restores an employee to his or her former grade or rate of pay as a result of a decision that a RIF was unjustified or unwarranted, the restoration will be effective retroactively to the date of the improper action. Pay and allowances lost as a result of an improper RIF may be payable in accordance with 5 U.S.C.5596.

EXHIBIT 2

APPENDIX

1. The first of the two items mentioned for the first time in the report is the "first item" mentioned in the report.
2. The second of the two items mentioned for the first time in the report is the "second item" mentioned in the report.
3. The third of the two items mentioned for the first time in the report is the "third item" mentioned in the report.
4. The fourth of the two items mentioned for the first time in the report is the "fourth item" mentioned in the report.

CHAPTER 410

TRAINING

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 410

TRAINING

October 2006

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TRAINING

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SUBCHAPTER 1

POLICY

1-1. Authorities

The Government Employees Training Act (GETA), passed in 1958, created the framework for agencies to plan, develop, establish, implement, evaluate, and fund training development programs designed to improve the quality and performance of the workforce. The Act was codified in Chapter 41 of Title 5, U.S. Code. Executive Order 11348 (1967), as amended by Executive Order 12107 (1978) emphasizes the importance of using effective interagency training programs and requires that employees be selected equitably for training. Part 410, Title 5, Code of Federal Regulations provides policies and requirements for training in federal agencies and Part 412 of 5 C.F.R. addresses developing executives, managers, and supervisors.

1-2. Policy

One of the basic tenets of the OGE's Human Resource Program is to educate and train employees when it would result in better organizational or individual performance (5 U.S.C. 2301, b, 7). Training will be provided to Agency employees without regard to race, creed, color, national origin, sex, disability, or other factors unrelated to the need for training.

1-3. Responsibilities

- a. OGE's Human Resource Officer is responsible for the oversight and administration of the Agency's training program. In this capacity, the Human Resource Officer maintains information on training opportunities; keeps abreast of training being taken by OGE employees; and is responsible for meeting OGE reporting requirements (i.e. to the U.S. Office Personnel Management). On a regular basis, but not to exceed a biennial time frame, the Human Resources Officer will oversee an evaluation of the effectiveness of the training program and recommend modifications accordingly.
- b. Agency supervisors and managers are responsible for providing development opportunities to employees and adhering to equal employment opportunity policy and sensitivities in making training decisions. Supervisors are to request employee feedback on training taken (e.g. did the training meet expectations, should it be recommended to other employees, etc.).

SUBCHAPTER 2

SELECTION AND ASSIGNMENT TO TRAINING

- 2-1. The selection of employees for training will be made without regard to political preference, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for merit systems principles. Employees with a physical or mental disability are to be equally considered in the selection and assignment to training.
- 2-2. The OGE will not use a training facility that discriminates in the admission or treatment of students because of race, color, sex, religion, or national origin.
- 2-3. Supervisors and managers are primarily responsible for identifying training needs, selecting employees for training, and determining and scheduling training deemed appropriate. Such training should promote OGE's performance plan and strategic goals.
- 2-4. Supervisors will follow OGE's merit promotion procedures when selecting employees for training that is intended to prepare the trainee for advancement and that is not directly related to improving performance in the trainee's current position. In such situations, the supervisor should contact the Human Resources Officer regarding appropriate announcement(s) to employees.
- 2-5. Employees share in the responsibility for identifying training needs and are responsible for making training requests to supervisors and otherwise ensuring that their training needs are met. Employees' applications for training are subject to the approval of their supervisor and the availability of funds.
- 2-6. Supervisors are responsible for the establishment of an Individual Development Plan (IDP) for every subordinate employee. Such plans are to be established no later than 120 days after the arrival of a new employee and should be updated for all employees no later than 30 days after the beginning of a new performance rating cycle. The supervisor should keep the original of the IDP and a copy should be given to the employee and to the Human Resource Officer. The format for the Individual Development Plan is found in Appendix A (and a fillable electronic version is found on the OGE Intranet).

The IDP form provides for the identification of the skills/abilities to be developed and the training needed (either "on-the-job" training/assignments or formal training) to provide those skills/abilities. Completion of the plan should entail a discussion between the supervisor and the employee to ensure an understanding of the Agency's needs, the desired results of the training, and the responsibility of the employee to successfully complete and apply authorized training.

- 2-7. New supervisors are to complete supervisory training (identified by their supervisors, in coordination with the Human Resource Officer) within the first year of their new assignment.
- 2-8. As identified by the Human Resources Office and Senior Agency Management, OGE's training program will include training of employees to develop managers. This type of training will include training for supervisors in issues such as mentoring employees, improving employee performance, conducting performance appraisals, and unacceptable performance.

SUBCHAPTER 3

TYPES OF TRAINING

- 3-1. Training is intended to enable employees to enhance and broaden their qualifications in their individual career fields. Such training can be very specialized, can deal with skills and knowledge pertinent to major functions of the Agency, or can include broad topics such as managerial development. Information on training available to OGE employees is maintained by the Human Resource Officer. Employees and supervisors are encouraged to research other relevant training opportunities.
- 3-2. Training sources include:
 - (a) U.S. Department of Agriculture Graduate School
 - (b) U.S. Office of Personnel Management
 - (c) E-Learning for FEDS/Government Online Learning Center.
 - (d) Small Agency Council
 - (e) Colleges and universities
 - (f) Non-U.S. Government training facilities and vendors

The Office of Personnel Management (OPM) pays the cost of readers and interpreters for Federal employees attending its interagency training programs. Agencies must notify OPM of an employee's need for assistance when registering an employee for a program and such notification should be given at least four weeks prior to the beginning of the OPM program.)

SUBCHAPTER 4

GENERAL LIMITATIONS

- 4-1. Training is subject to the availability of funds.
- 4-2. Employees who withdraw from a training program for other than officially-approved reasons, who fail to complete the training satisfactorily (e.g. failure to receive a certificate, failure to receive a passing grade, etc.) or who voluntarily terminate their employment before completing the training, are required to pay the cost of the training. In such situations, the employee and/or supervisor should contact the OGE Budget Officer for further information regarding the payment process.
- 4-3. All training should be approved and funded prior to enrollment. Normally, no reimbursement will be made for training costs after the training has begun or been completed. Acknowledging extenuating and rare circumstances in which an employee must enroll for training prior to the training being formally approved and funded, the employee must advise and receive the concurrence of his/her supervisor and the appropriate Deputy Director prior to enrolling. In such situations, a training authorization form (SF-82) must be processed as soon as possible. (See Subchapter 5)
- 4-4. Unless officially approved, fees/additional tuition related to an employee's request for an extension of time to complete the training are the responsibility of the employee.
- 4-5. Generally, the U.S. Government does not fund training to obtain an academic degree except for certain shortage occupations. However, a degree may be a byproduct of training that is taken. Recent OPM rule changes continue to emphasize that agencies may not pay or reimburse employees for the cost of academic degree training when *the sole purpose* of doing so is to provide an academic degree or to qualify an employee for a position that requires an academic degree. However, agencies now have the latitude to provide an employee with the opportunity to obtain an academic degree or qualify for an appointment to a particular position for which the degree is required if the training is consistent with the Agency's Human Resource Plan (i.e. difficulty in filling a position has been demonstrated and filling the position is of strategic importance to the Agency's mission) and selection for the training followed competitive procedures (also see Section 2-4). Such training must be provided by an accredited college or university and the employee will be required to enter into a service agreement prior to attending the training.

4-6. Continued Service Agreements

- a. Agencies have the authority to determine the need for continued service agreements. Depending on the length of training, the cost of training, and the Government's interest should the employee fail to successfully complete the training, OGE reserves the authority to require employees to agree to continue employment with the Agency for a specified period of time as a condition of authorizing the training. Generally, the OGE will follow the practice used by many federal agencies in which a single training course in excess of 80 hours at a non-Government facility will require a service agreement.
 - b. When offered training is subject to a continued service agreement, the period of service will equal at least three times the length of the training. Such agreements are to be prepared by the immediate supervisor and the Human Resource Officer and are to be signed by those two individuals, the appropriate Deputy Director, and the employee. Such agreements are to be signed prior to assignment to the training.
 - c. If the employee leaves *the Government* before the agreed-upon amount of service, the OGE has the right to require repayment for the amount of time not served. For example, a one-year training course costs \$15,000 and the subsequent continued service agreement calls for three years of service. The employee, however, leaves the Government two years later. In this case, the OGE could require the employee to reimburse the Agency \$5,000 (one third of the training cost).
 - d. The OGE Director may waive in whole or in part the Agency's right of recovery, if it is shown that the recovery would be against equity and good conscience or against the public interest. For example, if an employee who is under a continued service agreement decides to voluntarily leave the Government due to an impending reduction-in-force, the Director may determine that waiving OGE's right of recovery would be in the public interest and release the employee from the agreement.
- 4-7. An employee assigned to training duty during his/her normal duty hours is considered on duty for the period of the training and no charge is made to leave.

4-8. Training of Non-Government Employees

a. Contractors

1. Since contractors are selected for their expertise in a subject area, they may only be trained in skills they are not required to bring to the job. For example, contractors may be trained in rules, practices, procedures, and/or systems that are unique to the OGE and are essential to the performance of the contractor's assigned duties.
2. The authority to train contractors is not found in training law and, instead, is in the authority to administer contracts. Thus, any questions on the use of this authority should be referred to the OGE's Chief Procurement Official

b. State and Local Government Employees

Agencies are authorized to train state and local government employees and to accept reimbursements and payment for the training under the authority of the Intergovernmental Personnel Act (1970). Further, agencies are authorized to waive payments for such training, if an agency so wishes.

c. Volunteers

Volunteers may only be trained in procedures and/or systems that are unique to the OGE and essential to conducting their assigned responsibilities. Training in these areas is usually part of a volunteer's orientation into the Agency.

4-9. Membership in Professional Organizations

- a. Under 5 U.S.C. 4109, the expenses of training do not include membership fees except when the fee is a necessary cost directly related to the training or when payment of the fee is a condition of the training. Payment of annual dues for membership in a professional organization is considered a personal expense, not reimbursable to the employee, even if the Government would benefit from the employee's development as a result of the membership.
- b. In some instances an individual membership is included in a conference fee and the conference fee cannot be reduced by the cost of the individual membership. If the Government pays for an employee to attend the conference, the employee may accept the membership on behalf of the OGE as an incidental byproduct of the meeting.

- c. Under 5 U.S.C. 5946, the OGE may become a member of an organization and pay the required dues if it is administratively determined to be necessary in carrying out authorized Agency activities.

SUBCHAPTER 5

TRAINING REQUESTS

- 5-1. Typically, the Training Authorization Form (SF-182) is used to request, approve, obligate training funds, contract for training, and certify payment of approved training. The form is also used for requesting, approving, and certifying funding for attendance at meetings, conferences, seminars, and symposia where the primary purpose is to train an employee to meet a performance related need. The SF-182 is not used to purchase general supplies, training equipment, or non-training services.
- 5-2. A SF-182 must be completed and approved before the training is taken, if the desired training:
 - a. requires Agency funds,
 - b. is associated with travel that is paid by the Agency, or
 - c. if the employee wants or needs the resulting "certificate of completion" placed in his/her personnel files.
- 5-3. A SF-182 (Training Request) is not required:
 - a. if there is no cost associated with the training to be taken,
 - b. the training is being furnished by the Small Agency Council, or
 - c. the training is an "in-house" training session conducted by the Agency.
- 5-4. When used (i.e there is a cost to the OGE; the training is not being furnished by the Small Agency Council; or the training is not "in-house") the SF-182 must be approved by the employee's first level supervisor (Block 26) and the appropriate Deputy Director, if the Deputy Director is not the first level supervisor (Block 27). The SF-182 should also be routed through the Human Resource/Training Officer (Block 28) and the Budget Officer (Block 29) for concurrence.

Employees, or administrative support staff on their behalf, completing the SF-182 should also include billing instructions in Block 25 of the form (name of purchase card holder for OAP, OGC, OAIM, GRSP, or OD as appropriate; U.S. Office of Government Ethics; 1201 New York Avenue, NW; Suite 500; Washington, D.C. 20005).

- 5-5. An electronic/fillable version of the SF-182 is available through the Agency's Intranet desktop icon.
- 5-6. If the training being requested is a course/requirement identified in an Individual Development Plan (IDP) attach a copy of the IDP to the SF-182.
- 5-7. If the SF-182 is being used to request and authorize training for a group of employees (e.g. audit report writing, how to use a particular software application, etc.) and one payment for the training is being sought, attach a list of the employees' names to the SF-182 and complete Block 1 of the form (Applicant's name) with the annotation "See Attached."
- 5-8. Should employees (or office support personnel on the behalf of an employee) need assistance regarding payments for the training, they should contact the Administrative Officer(s) in the Office of Administration and Information Management. Should an OGE office that has been delegated the authority to make payments for training via a Government purchasing card be unable to make such a payment (i.e. doing so would exceed purchase card limits) the payment may be made by the Office of Administration of Information Management. As noted in section 5-1, the SF-182 is used to obligate funds for training.
- 5-9. The registration process for training is complicated by the various methods used by the many training organizations and vendors providing services to the Government. Therefore, it is recommended that employees (or office support personnel on behalf of the requesting employee) verify their registration two days prior to the actual training start date.

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 430

PERFORMANCE APPRAISAL SYSTEM

FOR

GENERAL SCHEDULE EMPLOYEES

CHAPTER 430
PERFORMANCE APPRAISAL SYSTEM
FOR
GENERAL SCHEDULE EMPLOYEES

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SUBCHAPTER 1. BASIC POLICIES

1-1. Coverage

This Manual chapter establishes the Office of Government Ethics (OGE) Performance Appraisal System for General Schedule Employees. It does not apply to:

- a. Individuals in the Senior Executive Service;
- b. Individuals appointed by the President;
- c. Individuals in the excepted service:
 - (1) whose employment is not reasonably expected to exceed 120 calendar days within a consecutive 12-month period; or
 - (2) who are in non-career executive assignments under 5 CFR Part 305; or
- d. Other individuals as authorized by the Human Resource Officer (i.e., an instance in which there is no rating official).

1-2. Authorities

The statutory and regulatory requirements are contained in Public Law 95-454, as amended, 5 U.S.C. Chapter 43, 5 CFR Parts 351, 430 and 451, Executive Order 5396 and subsequent applicable executive orders, and applicable issuances from the Office of Personnel Management. The requirements of this Manual Chapter should be administered in conjunction with the Pay Rates and Systems regulations and the Pay Administration procedures for General Schedule employees in 5 CFR Part 531 and the Grade and Pay Retention procedures for General Schedule employees contained in 5 CFR Part 536.

1-3. Performance Management

- a. The purpose of OGE's Performance Management System is to link organizational objectives to individual performance objectives, to determine whether standards for acceptable performance are met, to provide effective communication about the efforts of employees in meeting their individual objectives, to identify less than successful performance and to provide assistance for improving performance.
- b. The results of performance reviews (whether at the end of the rating cycle or during the rating period) may affect pay increases, work assignments, training, eligibility for awards and bonuses, and retention standing in reductions-in-force. Unacceptable performance can lead to the need for a performance improvement plan, reassignment, reduction-in-grade, or removal.
- c. The process of performance management includes:
 - (1) Communicating and clarifying organizational goals to employees;

- (2) Identifying individual accountability for accomplishing organizational goals;
- (3) Identifying and addressing developmental needs for employees;
- (4) Assessing and improving individual and organizational performance;
- (5) Using appropriate measures of performance as the basis for recognizing and rewarding accomplishments, and
- (6) Using the results of performance appraisals as the basis for appropriate personnel actions.

1-4. Definitions

- a. Appraisal - The act or process of reviewing and evaluating the performance of an employee.
- b. Appraisal Period - The period of time established for which an employee's performance will be reviewed and a rating of record will be prepared. The appraisal period for OGE is October 1 through September 30.
- c. Appraisal System - The framework of policies and guidelines established by an agency for the administration of a performance appraisal program.
- d. Interim Rating - The written record of the appraisal of each element and the assignment of a summary rating that occurs when a performance appraisal must be made prior to the end of the appraisal period (i.e., due to the departure of the rating official).
- e. Job Element - An aspect or component of a position consisting of one or more duties and responsibilities that contribute to the accomplishment of organizational goals and objectives and that is of such importance that unacceptable performance in the element would result in unacceptable performance in the position. Appraisal systems that use "Pass"/"Fail" summary levels cannot use non-critical elements.
- f. Performance Plan - The aggregate of an employee's written elements and performance standards that set forth expected performance.
- g. Performance Standard - A statement of the performance expectations or requirements established by management for a job element that must be met to be appraised at a particular rating level.
- h. Rating - See Interim Rating, Summary Rating, and Rating of Record.
- i. Rating of Record - The written appraisal of each job element and the assignment of a summary rating that is required at the end of the performance appraisal period (September 30) or at such other times as required by special circumstances.
- j. Summary Rating - The overall rating for an appraisal, determined after the evaluation of the employee's performance for each job element.

1-5. Responsibilities

- a. Director - Responsible for ensuring that the Agency's performance appraisal system for General Schedule employees is based on concepts of merit, efficiency, and mission objectives.
- b. Deputy Director for Administration and Information Management - Responsible for ensuring that the employee performance appraisal system is properly monitored and assessed on a periodic basis and that any corrective actions are promptly taken. The Deputy Director also oversees the administration of performance awards and their budgetary funding.
- c. Reviewing Official - This individual is the second-level supervisor and is responsible for reviewing and approving performance appraisals and performance plans of those employees whose performance is appraised and rated by subordinate supervisors (Rating Officials). The Reviewing Official will review and discuss with the Rating Official the annual performance appraisals and approve the overall rating of record. There is no appropriate Reviewing Official for those employees rated by the Director.
- d. Rating Official - The employee's first-level supervisor who is responsible for:
 - (1) Establishing job elements and standards;
 - (2) Providing written performance plans to subordinates at the beginning of each appraisal period;
 - (3) Conducting a progress review for each subordinate at least once during the appraisal period;
 - (4) Appraising and recommending a rating for the performance of each subordinate; and
 - (5) Recommending cash awards and performance-based personnel actions for subordinates when appropriate.
- e. Employee - Participates with the supervisor in developing performance plans and keeps abreast of provisions of OGE's Performance Appraisal System.
- f. Human Resources Officer - Responsible for ensuring that supervisors and employees understand OGE's performance appraisal system and for providing information and/or training as needed regarding the purpose and operation of the appraisal system. Ensures that proper procedures are being taken by supervisors and that proper assistance has been provided to employees. Also responsible for evaluating the performance appraisal system annually to assess its effectiveness and to recommend improvements as needed.

1-6. Performance Appraisal Cycle

<u>Date</u>	<u>Event</u>	<u>Required Action</u>
Oct 1	Appraisal Period Begins	Supervisor provides employee with a written copy of Performance Plan within 30 days.
April 1 thru April 30	Progress Review	Supervisor and employee discuss the employee's progress in meeting performance standards.
Sept 30	End of Appraisal Period	Rating official completes performance appraisal for employee within 30 days of the end of the appraisal period and forwards appraisal to the Reviewing Official prior communication to the employee. All actions recommending a "Fail" Rating must be further reviewed by the appropriate Deputy Director and the Human Resources Officer. After this review, the "Fail" rating is given to and discussed with the employee.
During Appraisal Period	Quality Step Increase (QSI)	May be granted only to an employee who performs in an extraordinary manner. A QSI is a base pay increase determined by performance; to be effective on the first day of the first appropriated pay period.
Dec (Normally no later than 90 days after the end of the rating period)	Performance Bonus Award	One time cash payment based on overall performance. Is not added to the base pay.
During Appraisal Period	Extra Effort Award	Is provided as a one-time cash payment in accordance with OGE incentive awards program [Chapter 451]. Should be submitted within 60 days of event that warranted the recognition.

SUBCHAPTER 2. PERFORMANCE APPRAISAL

2-1. Appraisal Periods

a. Appraisal Period

The appraisal period is the period of time established by the appraisal system for which an employee's performance will be reviewed. The appraisal period for General Schedule employees at OGE is October 1 to September 30.

b. Minimum Appraisal Period

- (1) Employees must be on a performance plan with previously communicated job elements and standards in place for a minimum of 90 days before their performance can be rated.
- (2) Employees who have not had a performance plan in place for the 90-day minimum period as of September 30 will have the rating of record delayed until the 90-day minimum period has been met. At the end of the 90-day minimum appraisal period, the employee will be given a rating of record for non-pay purposes only. For pay purposes (i.e. performance bonus award), if the minimum appraisal period has not been met by September 30, the employee is considered to be unratable.

c. Changes in Positions

When a General Schedule employee changes position during the appraisal period (e.g., promotion, reassignment, transfer to a new agency), a rating will be completed on his/her performance to date, if the employee has served for the minimum 90 days in the position from which he/she was changed. The rating will be transferred with the employee to the new position and may be taken into consideration when the rating of record is completed.

d. Change of Supervisors

Supervisors who leave their positions during the year and whose employees have been covered by a performance plan for the 90 day minimum period must complete an interim rating of subordinates' performance to date. These interim ratings must be taken into consideration when assigning the employees their rating of record at the end of the appraisal period.

e. Details/Temporary Promotions

- (1) When employees are detailed or temporarily promoted within OGE for a period of 120 days or longer, the employee must be placed on a performance plan no later than 30 calendar days after the beginning of the detail or temporary promotion. At the end of the detail/temporary promotion a summary rating will be completed which will be taken into consideration when the rating of record is completed.

- (2) When employees are detailed to another agency from OGE, every effort should be made to obtain appraisal information from the outside organization at the completion of the detail. If obtained, this information should be taken into consideration when the rating of record is completed.

2-2. Development of the Performance Plan

a. General.

(1) The first step in the appraisal process is the development of the individual performance plan. This plan contains the employee's job elements and performance standards. The development of a performance plan often begins with a discussion between the supervisor and employee as to the purpose of the job elements and standards and the approach to be used in defining them. The supervisor and employee should review the Agency's strategic goals and objectives and the Agency's Annual Performance Plan to determine how the employee's individual plan can support the attainment of the Agency's goals.

(2) Preparation of the performance plan can be accomplished in a number of ways. The following approaches may be used:

- the employee and the supervisor may discuss and develop the plan together;
 - the employee may develop a draft performance plan and submit it for the supervisor's review and approval; or
 - the supervisor may develop an initial draft and give it to the employee for review and comments.
- In those instances in which the performance plan for the new rating period is the same as that for the previous period, discussions between the employee and supervisor likely will be short and focused on an acknowledgment of the continuation of performance elements and standards.

(3) An important point to remember in deciding an approach to take is that employee participation is encouraged in the development of the performance plan.

(4) Performance standards may be revised no later than 90 days prior to the end of the rating period. They should be updated and revised whenever priorities shift or significant changes occur in the position.

(5) Performance standards should be developed and in place as soon as possible after the rating period begins or a General Schedule position is entered (normally within 30 days).

b. Job Elements

- (1) The initial step in the development of a performance plan is the identification of job elements. The employee's position description is usually a good source for the development of job elements. Keep in mind that the job elements to be identified are those aspects of the position that contribute

toward accomplishing organizational goals and are of such importance that unacceptable performance of an element would result in unacceptable performance in the position. Unacceptable performance of a job element requires remedial action and may be the basis for reassigning, removing or reducing the grade level of the employee.

- (2) In developing job elements, it may be helpful to make a list of the employee's major activities and consolidate those that are similar. Minor duties may be consolidated into the major activities already identified or consolidated into additional major work activities. The major work activities should then be documented as the job elements. Generally, performance plans contain from three to four job elements.

c. Performance Standards

- (1) A performance standard is a statement of the expectations or requirements established by the rating and reviewing officials for a job element at a particular rating level. Performance standards must enable the evaluation of job performance.
- (2) How an employee performs on each element is appraised in terms of either "Pass" or "Fail." These performance levels apply to both the job element rating and the summary or overall rating level of the appraisal. The two performance levels are defined as follows:
 - "Pass" means performance that fully meets the requirements of the job (and covers the range of "fully successful" to "outstanding" performance in a five-tiered appraisal system). Performance at this level consistently meets the expectations for the job. "Pass" denotes solid and consistent performance. All job elements must be rated at the "Pass" level to have a summary or overall rating of "Pass".
 - "Fail" means performance which fails to meet established performance standards in one or more of the job elements. When performance continues at this level, corrective action must be taken. Performance at this level is synonymous with unsatisfactory or unacceptable performance. A summary rating of "Fail" must be given if one or more job elements are rated "Fail".
- (3) Performance standards for the "Pass" level must be written for each job element. In most cases, specific standards used for the "fully successful" performance level in a five-tiered appraisal system will suffice for describing performance at the "Pass" level.

d. Performance Plan Communication and Documentation.

- (1) Once the Rating Official has obtained the approval of the Reviewing Official, the performance plan must be communicated by the Rating Official to the employee. The supervisor and employee must sign and date the plan to acknowledge its receipt. This should be done within 30 days of the beginning of the appraisal period or change in assignment, even if there is no change to the plan from the previous appraisal cycle. The performance plan can be changed during the appraisal

period to facilitate new work requirements, changes in supervisor, or for other special circumstances.

- (2) The performance appraisal form, OGE Form 317, must be used to certify the communication and review of the performance plan.
- (3) Changes in mission, priorities, etc., may require revisions, additions, or deletions to a performance plan during an appraisal period. Any substantive change to a performance plan by the Rating Official must be reviewed and approved by the Reviewing Official and communicated to the employee in writing.

e. Performance Evaluation Process

(1) Progress Review

Supervisors must evaluate employee performance periodically during the appraisal period to provide for an exchange of information with the employee and to use the results as a basis for making personnel decisions throughout the appraisal period. Progress reviews facilitate a dialogue with the employee and provide an opportunity for an exchange of information. A progress review is a meeting between the employee and his/her supervisor to discuss the employee's performance to date. Progress reviews may be initiated at any time during the year by either the employee or supervisor. However, at least one official progress review must be conducted by April 30. The date of at least one progress review is to be recorded on the OGE Form 317.

During these reviews, revisions to the performance plan may be initiated. Work achievement, problems, and suggested solutions should be discussed. Supervisors need to remember that the contents of the performance plan can be changed no later than 90 days prior to the end of the appraisal period. Therefore, the appraisal period should be extended, if a change is needed during the last 90 days of the appraisal period.

- (2) At the end of the appraisal period or at any other time that a summary rating is required, the performance plan is used to record and document the employee's actual accomplishment against the established performance elements and standards.
- (3) After the Rating Official has completed the rating, it is forwarded to the Reviewing Official (second level supervisor) for review and approval. Ratings may not be communicated to the employee prior to approval by the Reviewing Official. The Reviewing Official is responsible for assuring that all ratings under his/her jurisdiction are accurate and equitable, and has authority to change any rating assigned by a Rating Official. If a change is made to the rating, the Reviewing Official must document the reasons for the change.
- (4) If the General Counsel/appropriate Deputy Director is not the Reviewing Official, ratings of record must be coordinated with the General Counsel/appropriate Deputy Director for consistency in managing the performance award budgets.

(5) Performance Appraisal Interview

- a. After approval of the rating by the Reviewing Official, the Rating Official must discuss the rating with the employee. In addition to discussing the past year's performance and assessment, this same meeting is a good time to discuss performance expectations for the coming year.
- b. When the rating has been approved and discussed with the employee, the Rating Official is responsible for copy distribution. The original of the completed appraisal is forwarded to the Human Resource Office; a copy is given to the employee; and the supervisor may keep a copy.

2-3. Employee Dissatisfaction with Appraisals

An improper application of procedures, as well as the actual performance rating, are grievable under OGE's administrative grievance procedure.

2-4. Failing Performance

- a. Performance, which fails to meet established performance standards in one or more elements of the position, can occur at any time during the rating period and may serve as a basis for reassignment, reduction-in-grade, or removal. However, it may also serve as a basis for lesser measures such as counseling or appropriate training, if in the opinion of the supervisor, such lesser measures will bring the employee up to a "Pass" level of performance. An appraisal of every element in the performance appraisal plan is not necessary in order to take action on failing performance of one element at any time during the appraisal period.
- b. When reassignment, reduction-in-grade or removal of an employee based solely on failing performance is contemplated, the following procedures will be followed:
 - (1) The employee who has been rated or given a notice of failing performance in one or more job elements must be given a reasonable opportunity period to demonstrate a passing performance before formal action is initiated. The reasonable opportunity period will be the minimum appraisal period of 90 days.
 - (2) The employee must be informed of the specific instances of failed performance, the performance element(s) involved, and the performance standard(s) associated with the particular element(s) that must be reached in order to be retained in grade/position.
 - (3) The employee must be informed that he or she is being given an opportunity to demonstrate acceptable performance, and that failure to improve to a passing level may result in reassignment, demotion, or removal.

- (4) In order to accomplish the above requirements, the employee will be given a written notice of warning by the supervisor. The notice will also contain an outline of management expectations, what efforts are to be undertaken to improve performance to a passing level, and what assistance and/or training (either formal or on-the-job) will be provided to improve performance. This is often referred to as a "Performance Improvement Plan" (PIP). The supervisor will coordinate the preparation of the notice and PIP with the Reviewing Official and the Human Resource Officer prior to giving it to the employee.
- c. If at the end of the specified improvement period, the employee's performance has improved such that the performance level is no longer failing, the notice of warning will be withdrawn.
- d. If, after the improvement period, performance in one or more job elements continues to be at the "Fail" level, discussions must be initiated immediately between the Rating Official and the Human Resources Officer to determine the most appropriate personnel action among reassignment, demotion, or removal. If demotion or removal is proposed, the employee is entitled to 30 days advance written notice.
- e. An employee, whose reduction-in-grade or removal (separation) from Federal service is proposed based on failing performance, is entitled to all rights prescribed under 5 U.S.C. 4303.
- f. Actions specified in paragraph 2-4a and 2-4b may be taken at any time during the performance appraisal period when the employee's performance in one or more elements of the job falls below the "Pass" level.

2-5. Other Linkages to Performance Ratings

One of the basic concepts of Federal employment is that personnel decisions be made on the basis of merit. Thus, the information from the rating of record may be used in making personnel decisions concerning reassignments, nominations for training, promotions, the successful completion of a probationary period, etc. The linkage of performance ratings to various personnel decisions is described below.

a. Merit Promotion Actions

In considering an employee for merit promotion under competitive promotion procedures, weight is given to past ratings of record and awards to the extent that the rating information or award is related to the requirements for the job to be filled.

b. Probationary Period

- (1) Employees new to the federal government must serve a one-year probationary period. Agencies are required to utilize the probationary period as fully as possible to determine the fitness of the employee. During that period new employees are to be carefully observed and evaluated to determine whether they have the qualities needed to become career employees.

If, during the probationary period, the employee fails to demonstrate the skills and conduct necessary to achieve the "Pass" performance level, separation is proper. A decision to terminate is normally not be made until the employee has been afforded an opportunity during the probationary period to demonstrate his/her skills and abilities (i.e. the minimum appraisal period of 90 days). Once a decision to remove the employee has been made, he/she is notified in writing of the decision. The decision to remove a probationary employee is not grievable.

(2) New managers and supervisors

An employee is required to serve a one-year probationary period upon initial appointment to a supervisory and/or managerial position.

- (a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the supervisory probationary period will be reassigned, except as provided in paragraph 2-5b(2)(b) below, to a position in OGE of no lower grade and pay than the one the employee left to accept the supervisory or managerial position.
- (b) A non-supervisory or non-managerial employee who was demoted into a position in which the supervisory or managerial probationary requirement must be met and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period will be assigned to a position at the same grade and pay as the position in which he or she is serving probation.
- (c) Once a decision is made to remove the employee during the probationary period, he/she will be notified in writing of the decision.
- (d) An employee who is assigned to a non-managerial or non-supervisory position for reasons of supervisory or managerial performance, has no appeal rights.

c. Reduction in Force

Entitlement to additional service credit for performance will be given in accordance with section 351.504 of 5 CFR Part 351.

2-6. Filing and Transfer of Performance Records

The original copy of the performance plan and the annual performance rating of record will be filed in the Employee Performance File (EPF) maintained in the Human Resources Office. Performance plans and ratings of record will be retained for four years. If an employee transfers or is separated from OGE, performance plans and ratings of record which are three years old or less, including the performance plan on which the most recent rating was based and the rating prepared when the employee changes positions, will be forwarded with the Official Personnel Folder to the new agency or the National Personnel Records Center, as appropriate.

2-7. Appraising Disabled Veterans

The performance appraisal and resulting rating of a disabled veteran may not be lowered because the veteran has been absent from work to seek medical treatment as provided in Executive Order 5396.

SUBCHAPTER 3. PERFORMANCE AWARDS

3-1. Authority

Title 5 U.S.C. Chapter 45 authorizes the payment of awards for superior accomplishments for General Schedule employees. The following addresses awards or salary increases resulting from the performance appraisal process. Information on other types of awards is provided in OGE's Human Resources Manual, Chapter 451, Incentive Awards.

3-2. Performance Bonus Awards

- a. All employees covered by this directive are eligible for performance bonus awards as part of the performance appraisal process. Performance awards are to be used to motivate employees toward increased productivity and creativity, to support and enhance the goals of OGE, meet employee recognition needs, and to obtain maximum benefits for OGE. Performance awards are not to be used as a substitute for other personnel actions, or as a substitute for pay. Justification must be prepared and attached to Recommendation and Approval of Cash Award or Quality Increase, U. S. Department of Agriculture's (USDA) Form AD-287.

Typically, immediate supervisors will sign the AD-287 as the Recommending Official (Block 20) and the General Counsel/appropriate Deputy Director will approve monetary awards within their delegated authority by signing Block 22. In such instances, no Reviewing Official signature (Block 21) is necessary. In those instances in which the award amount exceeds his/her approval authority, the General Counsel/appropriate Deputy Director will concur with the recommendation as the Reviewing Official (Block 21) and the Director will approve the award (Block 22).

Recommendations for Quality Salary Increases and cash awards up to and including \$2000 may be approved by the General Counsel/appropriate Deputy Director. Cash awards exceeding \$2000 (including multiple awards to the same employee that exceed \$2000 in total for the rating period/fiscal year) must be approved by the Director.

- b. Recommendations for performance bonus awards should be submitted for approval only after careful consideration of the employee's performance, and must be based on an employee's performance for the current appraisal period. The justification for an award must be documented and must show clearly that the recommendation is based on extraordinary performance that is sustained over a significant period of time. If the justification for an award is provided in a performance appraisal, the completed Performance Appraisal Form (OGE Form 317) should be attached to the AD-287 as documentation to support the award. The appraisal narrative must contain sufficient detail and explanation to describe the extraordinary performance that warrants recognition. In the event that the appraisal narrative does not contain sufficient justification for the award, further written justification for the award must be attached to the AD-287, in addition to a copy of the appraisal (indicating a "Pass" summary level).

- c. A performance bonus award for an employee who cannot be rated, and who has performed in a manner substantially beyond management expectations that warrant distinction, must be approved by the General Counsel/appropriate Deputy Director and the Deputy Director for Administration and Information Management. Such decisions should be made on a case-by-case basis. When the employee is unratable due to a recent promotion, management should exercise discretion to take the recent promotion into account in determining the amount of or kind of performance bonus award. Examples of other unratable instances include extended periods of leave without pay or sick leave.
- d. Performance ratings and awards must be reviewed and approved by the General Counsel/appropriate Deputy Director to ensure that only those employees whose performance exceeds normal expectations receive special recognition. To do so, the appropriate Deputy Director is encouraged to review standards and ratings for difficulty and strictness of application.
- e. Due weight will be given to an award when ranking employees for promotion actions.
- f. Within-Grade Increases (WGI)

WGIs are granted to General Schedule employees in permanent, full-time or part-time positions, if they are working at an acceptable ("Pass") level of performance and have not received an equivalent increase during the prescribed waiting period. WGIs are denied only because an employee fails to perform at the "Pass" level. An employee denied a WGI is entitled to (1) a written notice; (2) reconsideration within the Agency; (3) appeal the decision to the Merit Systems Protection Board; and a retroactive WGI, if the reconsideration or appeal reverses the denial. USDA/NFC Form AD-658P is used to record the supervisory approval/denial of a WGI and is processed by the Human Resources Office.

- g. Quality Step Increases (QSIs)

QSIs may be granted for extraordinary performance. Recommendations for quality step increases can be made at any time during the year and/or may be made concurrent with the performance appraisal process. Recommendations for Quality Step Increases are made on USDA's Form AD-287. Only one such increase may be granted to an employee during a single 52-week period. Unlike a situation involving a single-payment performance bonus award, the official recommending a QSI must also have the expectation that the employee's extraordinary level of performance is to continue.

The employee must have a current performance rating level of "Pass". If the performance appraisal is being used as the basis for the award nomination, the narrative section of the appraisal must contain sufficient detail and explanation to describe the extraordinary performance that warrants recognition. A copy of the appraisal must be attached to the AD-287. In the event that the appraisal narrative does not contain sufficient justification for the increase, further written justification for the award nomination must be attached to the AD-287, in addition to a copy of the appraisal (indicating a "Pass" summary level).

- h. Awards for suggestions, inventions, special acts or services, or other accomplishments not specifically related to the performance appraisal system may also be given to employees. Recommendations for cash awards for any unique or special act or service, or suggestions should be submitted (Extra Effort Award category via the AD-287) only after careful consideration of the employee's contribution. Such awards may be recommended any time during the appraisal period. Further details on such awards are found in Manual Chapter 451 (Incentive Awards).

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research. It also provides a brief overview of the methodology used in the study.

2. The second part of the report is a detailed description of the study area. It includes information about the location of the study area, the population of the study area, and the characteristics of the study area. It also discusses the data sources used in the study.

3. The third part of the report is a detailed description of the study results. It includes information about the findings of the study, the conclusions drawn from the findings, and the implications of the findings. It also discusses the limitations of the study and the need for further research.

4. The fourth part of the report is a conclusion and recommendations section. It summarizes the main findings of the study and provides recommendations for future research and policy. It also discusses the overall impact of the study and the need for further research.

U.S. OFFICE OF GOVERNMENT ETHICS HUMAN RESOURCES MANUAL CHAPTER 451

INCENTIVE AWARDS

March 2007

CHAPTER 451

INCENTIVE AWARDS

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SUBCHAPTER 1. INTRODUCTION

- 1-1. **AUTHORITY.** Chapter 45 of Title 5, U.S.C., is the legal basis for the Federal Incentive Awards Program and the recognition of extraordinary performance. Chapter 53 of Title 5 provides the authority to grant additional Step Increases (Quality Step Increases) in recognition of high quality performance.
- 1-2. **POLICY.** Incentive awards are to be used to encourage and reward excellence and creativity throughout the Agency. OGE will administer an awards program that supports and enhances the Agency's ability to carry out its mission and meet its strategic goals. The OGE awards program is designed to improve Agency operations and services by motivating employees to increase productivity and creativity through recognition of job performance and cost-saving ideas which benefit the Government. The decision to grant an award or to adopt a suggestion is a management prerogative and is not appealable or grievable.
- 1-3. **RESPONSIBILITIES.**
 - a. The OGE Director is responsible for approving the OGE Incentive Awards Plan, as represented by the contents of this manual chapter and for submitting award recommendations, as appropriate, to the Office of Personnel Management (OPM).
 - b. The General Counsel/Each Deputy Director is responsible for:
 1. approving awards in response to the contributions of employees, within the limitations and guidelines set forth in this manual chapter;
 2. recommending to the Director, approval of awards that exceed their approval authority, as appropriate;
 3. providing appropriate means of presenting awards; participating with the Director in the selection of individuals to be recognized at the Agency's annual awards ceremony; informing the ethics community of award recipients as appropriate, etc.; and
 4. ensuring that suggestions and inventions submitted for evaluation are evaluated in a timely manner.
 - c. The Budget Officer is responsible for ensuring adequate funding and the timely tracking of award approvals.

d. The Human Resources Officer is responsible for:

1. developing Agency policy;
2. administering the incentive awards program;
3. preparing and submitting to OPM such records OPM may require;
4. conducting an annual review of the awards program to ensure it is achieving the desired results;
5. serving as the Suggestion Program Coordinator;
6. coordinating nominations for awards granted by external organizations;
7. providing guidance on the program to supervisors and employees;
8. ensuring recommendations for awards meet regulatory requirements and/or the requirements of this manual chapter; and
9. maintaining appropriate records.

e. Supervisors are responsible for:

1. using established performance evaluation techniques to identify and reward those individuals or groups who contributed to the improvement of the Agency;
2. assuring prompt action is taken by recommending awards in a timely fashion;
3. recommending awards and quality step increases on the basis of merit;
4. providing assistance to employees when preparing suggestions/inventions; and
5. ensuring that recruitment/staffing decisions are given due weight to recognition granted under this incentive program.

1-4. DEFINITIONS.

a. Incentive Awards Plan means the contents of this manual chapter, which has been approved by the OGE Director.

b. Contribution means an accomplishment achieved through an individual or group effort in the form of (a) a suggestion or invention that contributes to the efficiency, economy, or other improvement of Government/Agency operations or (b) a special act or service in the public interest in connection with or related to an employee's official employment.

c. Eligible Employee means current and former OGE employees, if their contribution was made while they were employed by the Government. In general, OGE's fiscal resources limit such eligibility to current OGE employees.

- d. An Extra Effort Award is one of two broad categories of awards given to employees. Extra Effort awards include awards for suggestions/inventions, special act or service, time-off awards, and spot awards.
- e. Non-monetary and Honorary Awards recognize employees in the form of a medal, certificate, plaque, or another item that can either be worn or displayed.
- f. Performance Bonus Awards are part of the performance appraisal process. Such awards represent one of two broad categories of awards given to employees and include Quality Step Increases. Information regarding the performance appraisal process for General Schedule employees is found in Manual Chapter 430. Performance awards (based upon a current performance appraisal) for SES employees are discussed in Manual Chapter 920.
- g. Special Act/Special Service Award means a contribution or accomplishment which is a non-recurring contribution that can be either within or outside an employee's job responsibilities; an act of heroism; etc.
- h. Spot Award is an award granted for an accomplishment that is not of the magnitude of other Extra Effort Awards.
- i. Suggestion Award is an award granted for an idea or invention, submitted in writing by an employee or group of employees and adopted by management, which benefits the Government.
- j. Time-Off Awards are granted in recognition of an extraordinary contribution. No monetary compensation is given but, rather the individual is permitted to not report to duty for a specified period of time without charge to leave.

SUBCHAPTER 2. PAYMENT OF AWARDS

2-1. APPROVAL OF INCENTIVE AWARDS. The General Counsel/Deputy Directors are authorized to approve awards up to and including \$2000. All cash awards exceeding \$2000 will be reviewed and forwarded by the General Counsel/appropriate Deputy Director to the OGE Director. The OGE Director will forward all awards that exceed \$10,000 to the Director of the Office of Personnel Management for approval.

2-2. DETERMINING AMOUNTS OF AWARDS.

a. Award amounts for a special act or service, employee suggestion, or invention will be proportionate to the benefit resulting to the Government from the contribution.

b. When more than one person is involved in the contribution the total amount of the award to be shared normally will be the same as if only one person had been involved and each contributing employee should share in the award. The award may be shared equally or shared in proportion to each employee's participation in the contribution.

c. The following scale is provided for assistance in determining the amount of cash for special act or service and suggestion awards (for contributions with *tangible* or *measurable* benefits). The monetary amounts are used throughout the Federal Government and are subject to change. Questions or clarifications, in this regard, should be directed to the Human Resources Officer. The determination of the dollar amount to be awarded is at the discretion of Agency management and is subject to the availability of funds

<u>Estimated First-Year Benefit</u>	<u>Award Amount</u>
Up to \$10,000	10% of benefit
\$10,000 - \$100,000	\$1,000 for the first \$1,000 for the first the benefit over \$10,000
\$100,000 or more	\$3,700 for the first \$100,000 plus 0.5% of The benefit over \$100,000

d. The following is provided for assistance in determining the amount of cash for special act or service and suggestion awards (for contributions with *intangible* benefits). The monetary amounts are used throughout the Federal Government and are subject to change. Questions or clarifications, in this regard, should be directed to the Human Resources Officer. The determination of the dollar amount to be awarded is at the discretion of Agency management and is subject to the availability of funds.

Value	Extent of Application		
	<u>Limited</u> Affects the public interest, a small OGE work unit, an OGE division, or an OGE office.	<u>Broad</u> Affects the public interest, all of OGE, or another agency	<u>General</u> Affects the public interest, more than one agency, or the ethics community
Moderate – rather limited impact or value	\$50-325	\$325-650	\$650-1300
Substantial – important improvement or value	\$325-650	\$325-650	\$650-1300
Exceptional – superior critical improvement to program/activity	\$650-1300	\$1300-5500	\$5,500-9999

2-3. CONDITIONS OF PAYMENT.

- a. Acceptance of a cash award constitutes an agreement that the use by the Government of an idea, method, or device for which the award was made may not form the basis of a further claim of any nature by the employee or his/her heirs or beneficiaries.
- b. Awards are in addition to regular pay and are subject to the withholding of state and federal taxes.
- c. A cash award is subject to retirement deductions but does not affect the computation of annuities (that are determined by basic pay rates).
- d. OGE may pay or grant an award notwithstanding the death or separation from the service of the employee concerned, if the suggestion, invention, superior accomplishment, other personal effort, special act or service in the public interest for which the award is recommended, was made or performed while the individual was employed by the Government. In general, OGE's fiscal resources limit eligibility for awards to current OGE employees.
- e. When an award is approved for an employee of another agency, the benefiting agency will make arrangements to transfer funds to the employing agency to cover the award. If the administrative costs of transferring funds exceed the amount of the award, the employing agency shall absorb the award costs and pay the award.

SUBCHAPTER 3. OGE AWARDS

3-1. GENERAL.

- a. This subchapter describes OGE awards, the documentation required, and the procedures for obtaining approval.
- b. Supervisors may propose additional types of awards not already being utilized by OGE to meet unique organizational or occupational needs for recognition. To obtain approval of new types of awards the following information should be submitted to the Deputy Director for Administration and Information Management:
 1. the purpose of the award and an explanation why existing awards do not meet the purpose of the proposed award;
 2. a description of the eligibility criteria and an estimate of the number of employees who will meet basic eligibility;
 3. a description of the criteria to be used in selecting those who compete for the award;
 4. a description of the selection process to determine the recipient(s) and the number of awards to be given annually; and
 5. the type of recognition to be given (e.g., monetary, non-monetary).
- c. After receiving the required management approvals and reviewing the award recommendation for adequacy, the Human Resource Officer will enter the award into the automated Payroll/Personnel system as appropriate. The Human Resource Officer and the Director's Confidential Assistant will coordinate the preparation of certificates, plaques, recognition ceremonies, etc., as appropriate.
- d. All awards under this subpart involving monetary recognition will be documented in the Official Personnel Folder to reflect the nature of the award and the amount of the award.
- e. The OGE is payrolled by the Department of Agriculture's National Finance Center (NFC). As a result, the OGE uses USDA Form AD-287-2 to recommend award recipients for many of its awards. (An electronic version of the AD-287-2 is on the OGE Intranet.)
 1. The Department of Agriculture is an extremely large agency and the AD-287-2 form identifies several awards not utilized by the OGE (e.g. "Keepsake Award" and "Gainsharing Award").

2. Typically, immediate supervisors will sign the AD-287-2 as the Recommending Individual (Block 20) and the General Counsel/appropriate Deputy Director will approve monetary awards within their delegated authority by signing Block 22 (Approving Official). In such instances, no Reviewing Official signature (Block 21) is necessary.

3. In those instances in which the award amount exceeds his/her approval authority, the General Counsel/appropriate Deputy Director will concur with the recommendation as the Reviewing Official (Block 21) and the Director will approve the award (Block 22).

4. The AD-287-2 identifies awards by two broad categories - Extra Effort Awards and Performance Bonus Awards.

3-2. EXTRA EFFORT AWARDS

a. Suggestion Award

1. A Suggestion Award is granted for a contribution which is submitted in writing by one or more employees and represents a proposal that directly contributes to improved economy, efficiency, or effectiveness of Government operations.

2. Ideas that deal with employee services, benefits, working conditions, housekeeping, routine safety practices or maintenance normally are not eligible for consideration as suggestions. However, when such ideas result in benefits to the Government, they may be accepted as suggestions and, if adopted, appropriate awards may be granted.

3. Employees may submit suggestions to the Suggestion Program Coordinator (Human Resource Officer) using the appropriate form/documentation. Please contact the Suggestion Program Coordinator for further details. The Coordinator will screen suggestions for validity, etc. and request a review by the appropriate OGE management official.

4. Management officials will evaluate all suggestions related to the operations of their programs and provide a response within 60 days of receipt of a suggestion from the Suggestion Program Coordinator. If 60 days is insufficient, the management official may make a request to the Coordinator in writing for an extension.

5. If an idea may have an impact on other OGE offices other than that of the official evaluating the proposal, the Suggestion Program Coordinator will ensure that those offices are given an opportunity to evaluate and comment on the suggestions. Similarly, if other agencies can benefit from the suggestion, the idea will be routed by the Coordinator as appropriate.

6. If the suggestion has sufficient merit, the evaluating management official should adopt it and certify that it has been or will be put into effect. If the management official does not have the authority to adopt the suggestion, but feels it has sufficient merit, he/she must recommend the adoption to the appropriate management official. OPM Form 1483, "Incentive Award Suggestion Evaluation", is used to document the evaluation and recommend approval or disapproval of the suggestion.

7. If the suggestion is adopted, the evaluating management official must estimate the potential tangible or intangible benefits of the suggestion during the first year of operation and recommend a cash award using USDA Form AD-287-2. (See Section 3-1.e for appropriate clearances/approvals.)

b. Special Act or Service Award

1. A Special Act or Service Award (identified as an Extra Effort Award on the AD-287-2) is granted for a contribution or accomplishment in the public interest which is a non-recurring (one-time) contribution either within (i.e. extraordinary effort on a project) or outside of job responsibilities; an act of heroism; etc.

2. The immediate supervisor recommends the award by completing USDA Form AD-287-2, identifying the amount of the award in Block 15. (See Section 3-1.e for appropriate clearances/approvals.)

c. Spot Awards

1. A Spot Award is granted in recognition of an accomplishment that is not of the magnitude of other Extra Effort awards.

2. Spot Awards do not exceed \$100 and need only a brief rationale with the AD-287-2. By their nature, Spot Awards recognize a non-measurable benefit (Block 15 of the AD-287-2) and have a limited application.

3. A Spot Award can be recognized either in cash (via electronic deposit) or by using a gift card(s). If a gift card is to be used, the Value of Benefits portion of Block 15 should include the words "gift card" (i.e., \$50 gift card).

d. Time-Off Awards

1. A Time-Off Award is granted in recognition of an extraordinary contribution. No monetary compensation is given but, rather, the individual is permitted to not report to duty for a specified period of time without charge to leave.

2. In determining the amount of time off to be granted, the supervisor shall take into consideration the benefits realized by the Government from the employee's contribution. Depending on office workload, the time off taken normally does not exceed five consecutive work days (40 hours). Such awards are not to exceed 80 hours during any leave year.

3. The immediate supervisor recommends the award by completing USDA Form AD-287-2. (See Section 3-1.e for appropriate clearances/approvals.). In addition to the AD-287-2, a SF-52 (Personnel Action Request) must be completed with appropriate approvals and signatures.

4. A Time-Off Award may not be converted to cash payment.

5. The use of Time Off awarded must be scheduled. To facilitate time and attendance record keeping, it is suggested that such award time be used within 120 days of the award.

6. The Human Resources Officer will inform the appropriate Timekeeper of the award.

3-3. PERFORMANCE BONUS AWARDS.

- a. Performance Bonus Awards are performance-based cash payments to an employee. They can be in the form of either a single payment or in the form of a "quality" step increase.
- b. In both instances, the immediate supervisor recommends the award by completing USDA Form AD-287-2 (Block 20). The General Counsel/appropriate Deputy Director records his/her approval in Block 22. In those instances in which the award amount exceeds his/her approval authority, the General Counsel/appropriate Deputy Director will concur with the recommendation as the Reviewing Official (Block 21) and the Director will approve the award (Block 22).
- c. In each instance (single payment or step increase) the employee must have a performance rating level of "Pass." If the performance appraisal is being used as the basis for the award nomination, the narrative section of the appraisal must contain sufficient detail and explanation to describe the extraordinary performance that warrants recognition. (An appraisal narrative that describes satisfactory performance would, therefore, fail to describe a performance exceeding the "Pass" level and, thus, would not support special recognition.) A copy of the appraisal must be attached to the USDA Form AD-287-2.
- d. In the event that the appraisal does not contain sufficient justification for a single payment or a quality step increase, further written justification for the award nomination must be attached to the AD-287-2, in addition to a copy of the appraisal (indicating a "Pass" summary level).
- e. An employee being nominated for a performance bonus award must have demonstrated sustained performance at a level exceeding expectations. Unlike a situation involving a single-payment performance bonus, however, the official recommending a quality step increase must also have the expectation that such a level of performance is to continue.
- f. An employee is not eligible for a quality step increase, if he/she has received one in the past 52 weeks.
- g. Performance awards (based upon a current performance appraisal) for SES employees are discussed in Manual Chapter 920. The SES appraisal process provides the mechanism for recommending SES performance bonuses.

3-4. PRESIDENTIAL RANK AWARDS.

a. These awards are granted annually by the President to recognize high quality accomplishment over a period of at least three years by a member of the Senior Executive Service. A certificate signed by the President and a distinctive pin accompany each award. While granted by the President, these awards are funded by the OGE. There are two types of Rank Awards:

1. Meritorious Executive - cash award equal to 20% of basic pay and
2. Distinguished Executive - cash award equal to 35% of basic pay.

b. The lump sum payments which accompany these awards are in addition to basic salary. By law, the aggregate of an executive's base pay, performance bonus, rank award, and other certain payments received in any calendar year may not exceed the annual rate of Level 1 of the Executive Schedule in effect at the end of the same year. Any portion of a rank award not paid because of this limitation may be held and paid at the beginning of the next calendar year.

c. Eligibility

1. Nominees must:

- (a) hold a career appointment in the SES;
- (b) be on the OGE payroll; and
- (c) have at least three years of career or career-type Federal civilian service at the SES level. Qualifying service includes appointments in the SES, Foreign Senior Executive Service, and the Intelligence Senior Executive Service.

2. A re-employed annuitant may be nominated if he/she holds a career SES appointment and meets all requirements.

3. A nominee who meets the award criteria but leaves the SES before being selected as a winner is eligible to receive the award. The same applies to a nominee who dies after OPM receives the nomination.

4. An executive can receive each award only once in any five-year period. An executive may receive one award and then the other in a period of less than five years. Executives are not required to

receive a Meritorious award before receiving a Distinguished award.

d. Criteria

1. The law provides that the Distinguished Executive is awarded for "sustained extraordinary accomplishment" and the Meritorious Executive is in recognition of "sustained accomplishment."

Presidential Rank Awards are for career senior executives who have a record of achievement that is recognized throughout the Agency and/or is acknowledged on a national or international level. Nominee's performance is assessed against the following five criteria:

- (a) Leading Change
- (b) Leading People
- (c) Results Driven
- (d) Business Acumen
- (e) Building Coalitions/Communications

2. Each nomination should be accompanied by a justification statement that concisely describes the nominee's career achievements related to each of the above five criteria. Additional details are available on OPM's web site.

e. OPM issues an annual call for Presidential Rank nominations. Instructions regarding submission deadlines and where to forward the nominations are stated in the call.

3-5. DIRECTOR'S AWARD

- a. The Director's Award for Excellence is one of the highest awards that the Director can confer on an employee. It is given in recognition of extraordinary service in OGE operations or exceptional achievements in OGE programs. The award may be given to an individual or to a group of individuals.
- b. At the discretion of the Director, and in consideration of Agency funding, the recognition may either be a monetary or non-monetary award.
- c. Supervisors may nominate employees by sending a written nomination through the General Counsel/appropriate Deputy Director to the Director. (If a monetary award is to be made, supervisors may nominate employees for the Director's Award by using the USDA Form AD-287-2 [checking "Other" in Block 12] and attaching appropriate justification. The recommendation should have the concurrence of the General Counsel/appropriate Deputy Director [Block 21] prior to the approval of the Director [Block 22]).

3-6. NON-MONETARY AND HONORARY RECOGNITION.

- a. Non-monetary and Honorary awards provide a means to recognize an employee's special contributions without having to base it upon performance standards. They provide an opportunity to acknowledge valuable contributions and may reflect contributions made over a period of months or years to OGE programs or to community service.
- b. One common means of such recognition is a Memorandum of Appreciation. Such documents are prepared in memorandum format, addressed to the employee being thanked, and signed by the management official wishing to extend the appreciation. A copy of the memorandum may be provided to the Human Resources Officer for inclusion in the employee's personnel file.
- c. Another means of recognition is a Memorandum of Commendation that is prepared by the immediate supervisor and routed through the appropriate Deputy Director to the OGE Director for signature. A copy of the memorandum may be provided to the Human Resource Officer for inclusion in the employee's personnel file.
- d. Other such recognition may be made through the use of special non-monetary awards, such as "Quality of Life," "Bayless Manning," "Outstanding Customer Service," and "Best Program Review," as deemed appropriate by OGE senior management. (At the discretion of the

Director, and in consideration of Agency funding, these awards may either be monetary or non-monetary recognition.) Brief descriptions of the above awards are:

1. Quality of Life Award - Recognizes not only job performance at a very high level, but also performance that improves the overall OGE work environment and makes OGE a better place for everyone to work. At the discretion of the Director, an employee's volunteer work may also be a consideration.
2. Bayless Manning Award - Is named after one of the most eminent commentators on the federal conflict of interest laws and recognizes innovation, initiative, and independent creativity.
3. Outstanding Customer Service Award - Recognizes highly professional, timely, and responsive service to OGE customers and/or clients.
4. Best Program Review Award - Recognizes the most professional, thorough and effective program review.

e. Career service certificates will be awarded in recognition of the total time an employee has been employed in the Federal service and are given to employees for service of five years or more and in five-year increments (e.g. five years, ten years, etc.).

SUBCHAPTER 4. EXTERNAL AWARDS

4-1. EXTERNAL AWARDS.

a. OGE employees may be recognized by organizations outside the Federal government. For example, private organizations present awards to outstanding Federal employees in numerous career fields. Private organizations may also recognize OGE employees for their philanthropic work. In such instances, the Human Resources Officer should be advised of the nomination and any subsequent award to assist and/or coordinate the processing of documentation.

b. In addition, Federal agencies such as the Office of Personnel Management request nominations throughout the year for numerous awards in recognition of contributions made by Federal employees. The Human Resources Officer will advise Agency management of such requests and coordinate any resulting nominations as appropriate and necessary.

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SUBCHAPTER 1.

GENERAL PROVISIONS

1-1. General. The material contained in this chapter supplements 5 CFR 531 and applicable chapters of the Federal Personnel Manual.

1-2. Coverage

a. Employees who are paid under the General Schedule (GS) and Performance Management and Recognition System (PMRS) except that subchapter 4 applies to employees paid under the GS pay plan.

b. Employees who are members of the Senior Executive Service (SES) are excluded from coverage under this chapter.

1-3. Definitions

a. Scheduled annual rate of pay means:

(1) The General Schedule rate of basic pay (or a special salary rate) for the employee's grade and step, exclusive of additional pay of any kind;

(2) For an employee covered by the Performance Management and Recognition System, the rate of pay resulting from placement into the PMRS or by application of the provisions of OGE PM Chapter 540, the Performance Management and Recognition System exclusive of any awards or bonus.

b. Special Salary Rate means a special salary rate established under 5 CFR 530 for one or more locations, but not for all locations nationwide or worldwide.

c. Superior Qualifications Appointment is an appointment made at a pay rate above the minimum rate of the appropriate General Schedule grade because of the superior qualifications of the candidate or a special need of OGE for the candidate's service.

SUBCHAPTER 2

DETERMINING RATE OF BASIC PAY

2-1. Superior Qualifications Appointments.

a. Except as provided by paragraph b below, these appointments will be made at the minimum rate of the grade, or in the case of a special salary rate appointment, the minimum rate of the grade set under 5 CFR 530.

b. OGE may make a superior qualifications appointment by new appointment, by reappointment or by conversion of Cooperative Education Students from Schedule B, except that when made by reappointment, the candidate must have a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the District of Columbia as provided in 5 CFR 531.203(b).

c. In determining whether an employee should receive a superior qualifications appointment, and if so, at what level the employee's pay should be set, the following rules apply:

(1) The candidate must be among the best qualified and within reach on the certificate or OPM register for the position;

(2) The candidate must be entering the Federal government for the first time or be returning to Federal employment after a break in service of 90 days or more;

(3) The candidate must have unusually high qualifications for the particular position and be forfeiting income that would justify a salary above the base pay for the grade; or have a unique combination of education and experience that meets a special need of OGE;

(4) Recruitment efforts must give evidence that no other candidates with equal qualifications were available at a lower rate of pay. Superior qualifications must be based on:

(a) The relevance of the candidate's experience and education to the particular work he or she will do; or

(b) The quality of the candidate's accomplishments compared to others in the field.

(5) A recruitment bonus as provided in 5 CFR 575 rather than setting pay at a higher level was considered and determined to be inappropriate because of significant factors such as a lower annual

rate of pay than received in most recent actual income/existing pay.

d. Each such action must be approved by the Director, OGE. The Personnel Officer will evaluate each action as an appropriate use of this authority.

e. Documentation to reconstruct such actions will be maintained by the personnel office staff.

2-2. Other Situations for Setting Pay Above the Minimum Rate of the Grade

a. When an employee is reemployed, transferred, promoted, reassigned, demoted, or changed in type of appointment other than as provided in paragraph 2-1 above, the maximum rate of basic pay that may be paid the employee within the grade of his or her position shall be determined under 5 CFR 531.203(c). Such employee may have his or her rate of basic pay set by the application of the following criteria unless he or she is entitled to a higher rate under the special promotion provisions of 5 CFR 531.204 or the grade and pay retention provisions of 5 CFR 536.

(1) An employee who is reassigned (i.e. changed while serving continuously in OGE from one position to another without promotion or demotion) will not be paid less than the rate of basic pay received immediately before the reassignment.

(2) Only in unusual circumstances, such as those for superior candidates discussed at paragraph 2-1 above, will pay be set at a rate of the grade above the minimum entry level.

b. The authority to make determinations on appropriate rate of basic pay in "highest previous rate" cases is delegated to the Deputy Director, upon the recommendation of the selecting official.

c. The following are appropriate factors for consideration in determining the pay rate under the highest previous rate provisions:

(1) A rate received by an employee in a position from which the employee has been removed for personal cause will not be used as the basis for determining an employee's rate of basic pay;

(2) The employee must have had a regular tour of duty under an appointment not limited to 90 days or less, or for the continuous period of not less than 90 days under one or more appointments without a break in service;

(3) There should be evidence that the experience gained in the position on which the rate is to be based was of such quality and duration that the person's total qualifications were likely to have been enhanced and has demonstrated the ability to perform satisfactorily at that grade level;

(4) A rate received in a temporary promotion will not be used as the basis for determining an employee's rate of basic pay except when an employee is promoted permanently to the grade to which the employee was temporarily promoted;

(5) Difficulty in recruitment;

(6) Pay levels of other employees doing similar work in the organization; and

(7) The length of time since the employee served in the position on which the highest previous rate is based.

SUBCHAPTER 3

PROCEDURE FOR DETERMINING ACCEPTABLE LEVEL OF COMPETENCE
FOR WITHIN-GRADE INCREASES

3-1. Coverage. Employees occupying permanent positions classified and paid under the General Schedule at less than the maximum step of their grade are eligible for within-grade increases. Employees covered by PMRS, SES or appointed by the President by and with the advice and consent of the Senate are ineligible. The provisions of this subchapter supplement 5 CFR 531, Subpart D and the Federal Personnel Manual Chapter 531.

3-2. Supervisory Responsibility. The determination of whether an employee's job performance is of an acceptable level of competence will be made by the employee's supervisor of record using the most recent performance appraisal available. Complete information pertaining to performance appraisal may be found in OGE PM Chapter 530.

3-3. Definition of Acceptable Level of Competence

a. Acceptable level of competence means a level of performance identified by the supervisor where overall performance of duties and responsibilities by the employee is fully successful and warrants advancement to the next higher step of the grade occupied. This equates to a rating of record at the Fully Successful level or higher as defined in OGE PM Chapter 340.

b. Specific performance requirements that constitute an acceptable level of competence are communicated by means of the performance standards established under OGE PM Chapter 430.

3-4. Basis for Determination

a. In order to earn a within-grade increase, the following statutory requirements must be met:

(1) The employee's performance of the duties and responsibilities of his or her position must be at an acceptable level of competence.

(2) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his

or her position as defined in 5 CFR 531.405 (waiting periods for within grade increases) and 531.406 (creditable service).

(3) The employee must not have received an equivalent increase during the waiting period.

b. The rating of record used as the basis for an acceptable level of competence determination for a within-grade increase must have been assigned no earlier than the most recently completed appraisal period. If the within-grade decision is not consistent with the employee's most recent rating of record, then a more recent rating of record must be prepared.

c. If an employee has been reduced in grade because of unacceptable performance and has served in one position at the lower grade for at least the minimum appraisal period, a rating of record at the lower grade will be used as the basis for an acceptable level of competence determination.

d. An acceptable level of competence determination will be delayed when:

(1) The employee has not had the minimum appraisal period to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position and the employee has not been given a performance rating in any position within 90 days before the end of the waiting period; or

(2) The employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a within-grade increase (or will become eligible within the minimum appraisal period).

e. When an acceptable level of competence determination has been delayed, the employee must be informed that the determination is postponed, that the rating period has been extended, and of the specific requirements for performance at an acceptable level of competence. The determinations will be based on the employee's rating of record completed at the end of the minimum appraisal period.

f. If, following the delay, the employee's performance is determined to be at an acceptable level of competence, the within-grade increase will be granted retroactively to the beginning of the pay period following completion of the applicable waiting period.

g. An acceptable level of competence determination will be waived

and a within-grade increase granted when an employee has not served in any position for the minimum appraisal period during the final 52 calendar weeks of the waiting period for one or more of the following reasons:

- (1) Absences that are creditable service;
- (2) Paid leave;
- (3) The employee received service credit under the back pay provisions of 5 CFR 550;
- (4) Details to another agency or employer for which no rating has been prepared; or
- (5) Long term training.

In such cases, a presumption of Fully Successful will be made.

3-5. Documentation and Procedures. The decision to grant or withhold a within-grade increase to an employee must be supported by the employee's most recent performance appraisal made in accordance with OGE PM Chapter 430 unless the employee's performance has changed significantly since the most recent appraisal. If the most recent appraisal does not support the decision, a new appraisal must be completed. The decision will be documented on the Within-Grade Increase Record (USDA's Form 658). The form will be sent by the personnel office to the employee's supervisor 30 days prior to the date that the employee will complete the waiting period.

(1) When the employee's performance meets the acceptable level of competence definition, the supervisor will mark the appropriate box, sign and return the form to the personnel office at the completion of the waiting period.

(2) When the employee's performance does not meet an acceptable level of competence as defined in paragraph 3-3 above, the supervisor will so indicate by marking the appropriate block on the Within-Grade Increase Record (USDA Form 658) and forward it to the next higher level supervisor for review and approval or disapproval. If the second level supervisor concurs, he or she will mark the appropriate block on the form, sign and forward it to the Personnel Officer no later than one week prior to the effective date for the within grade increase. The employee must be notified in writing of any negative determination, i.e., the decision to withhold the within-grade increase, as soon as possible after completion of the waiting period or other period upon which it was based. The supervisor will consult with the personnel office for

advice on preparation of the notification letter. The notification letter must give the reasons for the negative determination and the respects in which the employee's performance must be improved in order to be granted a within-grade increase. In addition, the letter must advise the employee of his or her right to request that the Deputy Director, OGE, reconsider the negative determination within 15 days of receipt of the letter.

(3) If the second level supervisor does not concur with the supervisor and finds that the employee's performance does meet an acceptable level of competence, the second level supervisor will line through the signature of the first level supervisor and indicate satisfaction with the employee's performance by marking the appropriate block in Part II, then sign the form in the appropriate block and forward it to the personnel office.

3-6. Reconsideration of a Negative Determination

a. An employee or an employee's personal representative may request reconsideration of a negative determination by filing, not more than 15 days after receiving notice of the determination, a written response to the negative determination setting forth the reasons OGE should reconsider withholding the within-grade increase. This time limit may be extended under certain circumstances as provided for in 5 CFR 531.410. The request must be filed with the personnel office and will be date stamped to certify the date of receipt.

b. When an employee files a request for reconsideration, OGE will establish the reconsideration file as outlined in paragraph 3-8 below. The Deputy Director will make a decision on whether the negative determination shall be sustained or set aside based on this file and with the aid of any inquiry or investigation the Deputy considers appropriate.

c. The employee and/or the employee's personal representative will be granted, on request, a reasonable amount of official time, usually not more than 4 hours for each employee, to review the material upon which the negative determination is based and to prepare a response to the determination.

d. The employee and his or her representative will be assured freedom from restraint, interference, coercion, discrimination, or reprisal as a result of the request for reconsideration and the presentation of the case.

e. OGE may disallow as an employee's personal representative an individual whose activities as a representative would cause a conflict of interest of position; an employee whose release from

his or her official duties and responsibilities would give rise to unreasonable costs to the Government; or an employee whose priority work assignment precludes his or her release from official duties and responsibilities.

f. The Deputy Director will make the final decision usually within 15 days after receipt of the reconsideration case file. The determination will be indicated in the appropriate block on the Within-Grade Increase Record (USDA Form AD-658) and forwarded to the personnel office for action.

g. The employee will be given a written final decision informing the employee that the earlier negative determination is either confirmed or set aside. If the negative decision is sustained, the reasons for the decision will be given. The letter will inform the employee of the right to appeal the decision in writing, within 20 days of the receipt of the decision letter, to the Merit Systems Protection Board (MSPB). The address for filing such an appeal will also be included. The Deputy Director will consult with the personnel office for preparation of the letter.

h. If the original determination is not sustained, the within-grade increase will be given retroactive to the original effective date.

3-7. Evaluation After Withholding a Within-Grade Increase. When a within-grade increase has been withheld, the employee may be rated at any time thereafter and the within-grade increase granted when the employee has demonstrated sustained performance at an acceptable level of competence. This will be done by completing a new rating of record and submitting a new Within-Grade Increase Record, USDA Form AD-658. If not done earlier, a new determination must be made after no longer than 52 calendar weeks following the original due date for the within-grade increase and for each period of 52 calendar weeks thereafter, for as long as the within-grade increase continues to be denied.

3-8. Employee Reconsideration File

a. When an employee files a request for reconsideration, the personnel office will establish an employee reconsideration file. The previously established file of material related to the negative determination will be included in the reconsideration file. All pertinent documents resulting from the reconsideration action will be added including the following:

- (1) A copy of the completed Within-Grade Increase Record (USDA Form 658);

(2) The written notification to the employee of the negative determination and the reasons for withholding the within-grade increase;

(3) A copy of the written performance rating of record upon which the decision is based;

(4) The employee's written request for reconsideration;

(5) Any additional material the employee may submit to contest the determination, plus a summary or written transcript of any personal presentation;

(6) Report of any inquiry or investigation if one is made;

(7) Copies of records used in making the appraisal such as production records, work reports, etc.; and

(8) The Deputy Director's letter of decision.

b. The entire contents of the reconsideration file will be made available to the employee and/or his or her representative at any time upon request by the employee. A complete copy of the reconsideration file, including all documents which will be relied upon in reaching a decision, will be furnished to the employee and/or his or her representative with an opportunity to submit a written exception to any summary of the employee's personal presentation, prior to rendering the reconsideration decision.

c. Disposition of File

(1) Original negative determination sustained. A complete copy of the file will be given to the employee. The original will be retained in the personnel office in accordance with 5 CFR 293.

(2) Negative determination not sustained. The file will be destroyed once all parties have been notified of the decision and the original performance rating of record has been amended, if appropriate.

3-9. Effective Dates of Within-Grade Increases

a. Except as provided in b and c below, within-grade increases are effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility.

b. A within-grade increase which is granted subsequent to having been withheld due to a negative determination becomes effective the

first day of the first pay period after the acceptable level of competence determination has been made.

c. A within-grade increase granted as a result of favorable reconsideration is retroactively effective to the first day of the first pay period following completion of the required waiting period.

d. For employees who have the within-grade determination postponed for reasons described in paragraph 3-4d, and who reach an acceptable level of competence during or at the end of the postponement period, the within-grade increase will be granted retroactive to the original due date.

SUBCHAPTER 4

QUALITY STEP INCREASES

4-1. Eligibility. General Schedule employees assigned to permanent positions are eligible for consideration for a quality step increase (QSI). Before a QSI may be granted, the following criteria must be met:

a. The employee concerned has been performing the duties and responsibilities of his or her position of record (time spent on detail, temporary promotion or other temporary assignment cannot be used to support a recommendation for a QSI) in a manner that substantially exceeds normal requirements so that when viewed as a whole the employee's work performance is at an outstanding level of quality. To be considered for a QSI, the employee must have a current rating of record of Outstanding.

b. The employee's high level of effectiveness has been sustained to the extent that it may be considered characteristic of his or her performance.

c. The employee has not received a QSI within the preceding 52 consecutive calendar weeks.

4-2. Procedures.

a. The immediate supervisor recommends a QSI by completing USDA Form AD-287, Recommendation and Approval of Cash Award or Quality Increase. The form is forwarded to the second level supervisor for review and if approved, to the Deputy Director for final approval, when the Deputy Director has not been the approving official at a lower level. Supporting documentation is the performance plan and the summary rating form. A determination to grant a QSI will be made as soon as practicable after a rating of record is approved. When the appraisal is more than 60 days old, it must be accompanied by a written statement giving the reasons for granting the recognition. The employee must be expected to remain in the same position or in a similar position at the same grade level for at least 60 days after the QSI becomes effective.

b. After approval, the form will be forwarded to the personnel office for preparation of both the Notice of Personnel Action, SF-50, and a certificate of recognition.

4-3. Relation of Quality Step Increases to Other Awards.

a. The purpose of quality step increases (QSI) is to recognize outstanding performance by granting faster than normal step

increases. In contrast to the performance award (covered in OGE PM Chapter 430), the QSI is a continuing benefit to the employee. Thus, the award may be granted in situations where the employee is likely to continue in the same position and is not likely to be promoted in the near future or reassigned to a different line of work; and the supervisor, based on past records of sustained quality performance, can certify that the employee's performance is likely to continue at the Outstanding level.

b. For contributions which are non-recurring, in work situations of limited duration, scientific achievements, acts of heroism, or part of a group achievement, an incentive award may be appropriate (See OGE PM Chapter 451).

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in the case of the 1950-51 season, the total catch was 1,000 tons. This was a record for the post-war period. The catch was made up of 1,000 tons of fish, 1,000 tons of shellfish, and 1,000 tons of other marine products. The catch was made up of 1,000 tons of fish, 1,000 tons of shellfish, and 1,000 tons of other marine products. The catch was made up of 1,000 tons of fish, 1,000 tons of shellfish, and 1,000 tons of other marine products.

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CHAPTER 537

REPAYMENT OF STUDENT LOANS

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OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

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REPAYMENT OF STUDENT LOANS

April 2004

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REPAYMENT OF STUDENT LOANS

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SUBCHAPTER 1. PURPOSE AND POLICY

- 1-1. This Manual Chapter implements the authority provided to agencies in 5 U.S.C. 5379/ 5 CFR Part 537, as amended, and establishes a program under which the OGE agrees to pay (by direct payment on behalf of the employee) all or part of any outstanding Federally insured student loan or loans previously taken out by a candidate to whom an offer of employment has been made or to a current OGE employee, in order to recruit or retain highly qualified personnel.
- 1-2. This benefit is not an entitlement. Rather, OGE has the discretion to repay certain types of Federally insured student loans as a recruitment or retention incentive as appropriate.

SUBCHAPTER 2. DEFINITIONS

2-1. Definitions

In this Chapter:

- *Employee* has the meaning given in 5 U.S.C. 2105. (See Section 3-2 for eligible and ineligible employees).

- *Service Agreement* means a written agreement between the OGE and an employee in which the employee agrees to a specified period of employment with the Agency of at least three years, regardless of loan payment amount, in return for payments toward a student loan previously taken out by the employee.

- *Student loan* means:

a. A loan made, insured, or guaranteed under parts B, D, or E of Title IV of The Higher Education Act of 1965. Loans covered under The Higher Education Act include:

- S Federal Stafford Loans;
- S Federal Plus Loans;
- S Federal Consolidation Loans;
- S Defense Loans made before July 1, 1972;
- S National Direct Student Loans made between July 1, 1972 and July 1, 1987; and
- S Federal Perkins Loans.

b. A health education assistance loan made or insured under part A of Title VII of the Public Health Service Act, or under part E of Title VIII of that Act. Loans covered under the Public Health Service Act include:

- S The Nursing Student Loan Program;
- S The Health Profession Student Loan Program; and
- S The Health Education Assistance Loan Program.

SUBCHAPTER 3. EMPLOYEE ELIGIBILITY

- 3-1. The OGE is committed to maintaining a balanced workforce in which women and members of racial and ethnic minority groups are represented. In doing so, the Agency will apply the following criteria for fair and equitable treatment in the selection of repayment candidates.
- 3-2. Loan repayment benefits will be used to recruit or retain -
- a. Permanent employees;
 - b. Temporary employees who are serving on appointments leading to conversion to term or permanent appoints;
 - c. Term employees with at least three years left on their appointments, or
 - d. Employees serving on excepted appointments with conversion to term, career, or career conditional appointments (including Career Intern or Presidential Management Intern appointments).
 - e. Excluded from eligibility are employees occupying a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy advocating nature, such as employees serving under Schedule C appointments.
- 3-3. Eligibility will be limited to the following priority occupations:
- a. Attorney
 - b. Government Ethics Specialist
 - c. Management or Program Analyst
 - d. Instructional Systems Design Specialist
 - e. Computer Specialist
- 3-4. OGE may take into account grade point averages and the academic reputation of the educational institution.

SUBCHAPTER 4. LOSS OF ELIGIBILITY

- 4-1. An OGE employee receiving loan repayment benefits will be ineligible for continued benefits if he/she (a) separates from the Agency; (b) does not maintain a satisfactory/fully successful level of job performance; or (c) violates any of the conditions of the service agreement.

SUBCHAPTER 5. CRITERIA FOR PAYMENT

- 5-1. Loan repayments must be based on a written determination that, in the absence of offering loan repayment benefits, *the agency would encounter difficulty either in filling the position with a highly qualified candidate or retaining a highly qualified employee.* Such determinations will be made by the appropriate Deputy Director and must include the written clearance of the OGE Budget Officer prior to submission to the OGE Director for approval. Assistance in gathering information for consideration can be provided by the Human Resources Officer. (Following approval by the OGE Director, the appropriate first-line supervisor, the Human Resource Officer, and the employee will coordinate the preparation and signature of a service agreement. See Subchapter 7)
- 5-2. Determinations for recruitment purposes (including the amount to be paid) must be made before the individual actually enters on duty in the position for which he/she was recruited. Determinations should include consideration of the following factors:
- a. the success of recent recruitment efforts/severity of the recruiting problem (i.e., offer acceptance rates, the proportion of positions filled, and the length of time required to fill positions);
 - b. recent turnover rate in other positions doing the same work;
 - c. labor market factors that affect the ability to recruit for the position;
 - d. salary levels reported in published surveys for comparable non-Federal positions;
 - e. salary of the candidate;
 - f. salary documented in a competing job offer;
 - g. projected costs of further recruitment, if the candidate doesn't accept;
 - h. the importance/criticality of the position to be filled; and
 - i. the extent of the individual's training and experience relative to the position.
- 5-3. Payments authorized to retain an employee must be based upon a determination that the high or unique qualifications of the employee or special need of the Agency for the employee's services makes it *essential* to retain the employee and that, in the absence of the benefit, the employee would likely leave for employment *outside the Federal*

Government. The determination must describe the extent to which the employee's departure would affect the Agency's ability to perform a function that is essential to the OGE mission. Determinations should include consideration of the following factors:

- a. the likelihood that the employee would leave for employment outside the Federal service if not given the benefit;
 - b. recent turnover rate in positions doing the same work;
 - c. projected cost of recruitment and training associated with the replacement of the employee;
 - d. salary levels reported in published surveys for comparable non-Federal positions;
 - e. salary documented in a competing job offer;
 - f. the length of service of the employee;
 - g. the importance/criticality of the employee's position and the impact of the employee's departure; and
 - h. the extent of the individual's training and experience relative to the position.
- 5-4. Agencies may not offer to repay a student loan for an employee who is likely to leave for any position in any branch of the Federal Government and, thus, *may not use the benefit to retain an employee seeking a position in another Federal agency*. Similarly, the intent of this authority is to help recruit individuals for Federal service, not for agencies to compete with one another for employees. Thus, the OGE *will not use this authority to recruit current Federal employees from other agencies*.
- 5-5. OGE is authorized to provide student loan repayment benefits of up to \$10,000 per calendar year, with a cumulative maximum of \$60,000 per employee.
- 5-6. OGE is not obligated to make any loan payments previously agreed to by another agency.
- 5-7. OGE is authorized to offer student loan repayment benefits in conjunction with recruitment and relocation bonuses and retention allowances.

SUBCHAPTER 6. PROCEDURES OF MAKING LOAN PAYMENTS

- 6-1. Payments will be at the discretion of the OGE and are subject to the terms, limitations and conditions mutually agreed upon by the Agency and the employee in the service agreement. Payments may be only applied to the indebtedness outstanding at the time the OGE and employee enter into an agreement and may not begin before the employee enters on duty.

- 6-2. Student loan repayment benefits are in addition to basic pay and any other form of compensation paid to the employee involved and, as such, are considered income for tax purposes. Tax withholdings must be deducted or applied at the time a payment is made, including social security and Medicare.
- 6-3. Before finalizing a service agreement and authorizing loan repayments, the OGE Human Resource Officer will verify with the holder of the loan that the employee has an outstanding loan that qualifies for repayment, as well as verify remaining loan balances.
- 6-4. In determining the size of the payment, the OGE will take into consideration the employee's value or potential value to the Agency, its current fiscal situation, and how far in advance the Agency is able to commit funds. Repayment arrangements must be included in the service agreement with the employee and are subject to the maximum limits (a) of \$10,000 per employee per calendar year and (b) a cumulative total of \$60,000 per employee.

SUBCHAPTER 7. SERVICE AGREEMENTS

- 7-1. Employees are required to sign a written agreement to complete a specified period of employment with the Agency and to reimburse the OGE for loan repayments made when required by Subchapter 8. The agreement will specify the amount of the loan repayments, when they are to begin, and the duration of those payments. The agreement will also specify employment conditions OGE considers to be appropriate such as, but not limited to, the duties the employee is expected to perform, the expected level of performance, and the employee's work schedule. Further, the agreement will identify actions that would make an employee ineligible for continued benefits such as separating from the Agency, failure to maintain an acceptable level of performance, or the violation of any of the conditions of the service agreement (re Section 4-1) A sample agreement is enclosed as Appendix A.
- 7-2. A service agreement does not constitute a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service and this should be so stated in the service agreement.
- 7-3. The service agreement is to be signed by the employee, the immediate supervisor, the appropriate Deputy Director (if not the first line supervisor), the OGE Human Resources Officer, and the OGE Budget Officer.
- 7-4. The minimum period of employment to be established under a service agreement is three years, *regardless of the amount of loan repayment authorized*. OGE's limited fiscal resources and the federal budget process impact on its ability to enter into long-term

arrangements and, thus, agreements to make payments for periods in excess of three years (current fiscal year plus two future budget years) should be considered unusual. In determining the period of continued employment to be specified in the service agreement, OGE will follow the practice used by many Federal agencies in which the length of payments is multiplied by three. For example, three years of payments will require a service period of nine years.

- 7-5. The beginning date of the service requirement must be specified in the service agreement. The service requirement begins at the time specified in the service agreement but, may begin no earlier than the date the agreement is signed.
- 7-6. Subsequent changes to a service agreement must be documented and approved by the employee, the immediate supervisor, the appropriate Deputy Director (if not the first line supervisor), the OGE Human Resources Officer, and the OGE Budget Officer.

SUBCHAPTER 8. EMPLOYEE REIMBURSEMENT TO THE GOVERNMENT

- 8-1. An employee who violates the conditions of the service agreement or fails to complete the period of employment established by a service agreement must reimburse the OGE for the amount of any student loan repayment benefits the employee received. Reimbursement may be made by check payable to the OGE.

If a current or former employee fails to reimburse the Agency, a debt collection action may be initiated in accordance with the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. Such action includes garnishment of wages from a non-federal employer and offsets to Federal retirements, salaries, and Social Security benefits in conjunction with the Treasury Department. Consistent with 5 U.S.C. 5379, the Director may waive, in whole or in part, a right of recovery, if it is shown that reimbursement would be against equity and good conscience or against the public interest.

- 8-2. Failure to complete the period of employment occurs when the employee is separated involuntarily for misconduct or performance or when the employee leaves OGE voluntarily.
- 8-3. Reimbursement will not be required if the terms of the service agreement are not met because the employee is separated involuntarily for reasons other than misconduct or performance or if the employee leaves the OGE for a position at another federal agency.

SUBCHAPTER 9. RECORDS AND REPORTS

- 9-1. OGE's Human Resource Officer will keep a record of each determination to use the loan repayment authority and will make those records available for review by OPM. These records may be destroyed three years after the service agreement has been met or after OPM formally evaluates the OGE program (whichever comes first).
- 9-2. Before January 1 of each year, the OGE must submit a written report to OPM stating when the Agency made student loan repayments during the previous fiscal year. Each report must include:
 - a. the number of employees selected to receive the benefit;
 - b. the job classifications of those employees; and
 - c. the cost to the Federal government for those benefits.

APPENDIX A

EMPLOYEE'S AGREEMENT TO CONTINUE IN SERVICE

(SAMPLE)

I, (employee's printed name), agree to serve in the U.S. Office of Government Ethics for a period of time equal to three times the length of the Student Loan Repayment period. The approved payment period for my student loan is years and the beginning date of my service requirement is . Thus, I will continue serving in the Agency until (date) .

The loan payments will be in the annual amount of \$ _____ for (number of years) for a total repayment of \$ _____. These payments will begin on (date).

I acknowledge that this agreement does not constitute a right, promise, or entitlement for continued employment or non-competitive conversion to the competitive service. I further acknowledge that I will be ineligible for continued repayment benefits if I:

- separate from the OGE for any reason;
- violate any condition of this service agreement; or
- fail to maintain a fully satisfactory level of performance in accomplishing the following tasks/duties:

- a. _____ ;
b. _____ ;
c. _____ ; and
d. _____ .

I understand that I must reimburse the OGE for the amount of any student loan payment benefit received if I violate the conditions of this agreement or fail to complete the period of continued service established by this agreement. Failure to complete the period of employment will occur if I am separated involuntarily for misconduct or performance or if I leave OGE voluntarily. Reimbursement is not required if the terms of this agreement are not met because I am separated involuntarily for reasons other than misconduct or performance or if I leave the OGE for another federal agency.

(Employee's signature/date)

Witnessed and Approved on (date) by:

(Employee's Supervisor)

(Appropriate Deputy Director)

(HR Officer)

(Budget Officer)

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 610

HOURS OF DUTY

December 2005

CHAPTER 610

HOURS OF DUTY

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SUBCHAPTER 1 – WEEKLY AND DAILY SCHEDULING OF WORK

I. GENERAL DESCRIPTION

This policy provides guidance on the various types of duty hours and work schedules available to employees of the Office of Government Ethics. Coverage includes definitions and guidance on workweeks, work schedules, Federal holidays and types of emergency dismissals.

II. WORKWEEK

- A. Description. Consistent with the 5CFR Part 610, a workweek is defined as the number of hours, excluding overtime, an employee is required to work or account for by charging leave, excused absence, and holiday hours, compensatory time off or time off as an award.
- B. Basic Workweek. For a full-time civilian employee, a basic workweek is 40 hours, eight hours of work each day, Monday through Friday. However, the basic work requirement may be longer for certain days under a compressed work schedule (see OGE Compressed Work Schedule Policy). There is no authority to compensate employees for being placed on-call or being required to carry a pager or cellular phone.
- C. Uncommon Tours. Shift work, night and holiday work may be assigned to an employee, if directed by the Agency Head or the General Counsel or appropriate Deputy Director.
- D. Official Operating Hours. The Agency's official operating hours are from 8:30 a.m. through 5:00 p.m. Unless an employee requests from his/her supervisor, or the supervisor directs, a different type of work schedule, employees are expected to be at work during this time period.
- E. At Work. An employee is considered "at work" when the employee begins working. For example, employees who arrive at their desk and then depart for breakfast are not considered to be at work.

SUBCHAPTER 2 – WORK SCHEDULES

I. FIXED TOURS OF DUTY

- A. In some instances, the nature of work requires that an employee arrive and depart at a fixed, specific time that does not coincide with the Agency's official operating hours, e.g., to provide administrative support or to provide telephone coverage during the early morning or early evening hours. Employees who work this type of schedule have no flexibility in terms of late arrival and departure hours.
- B. Supervisors will report the employee's initial fixed tour of duty and any change to scheduled work periods to the timekeeper.

II. FLEXIBLE WORK SCHEDULES

- A. With the approval of the employee's supervisor, flexible work schedules permit flexible arrival and departure hours. Employees working a flexible schedule must work an eight-hour day and be present during the core period of hours between 9:30 a.m. and 3:30 p.m. For example, an employee arriving at 9:30 a.m. must work until 6:00 p.m. to meet the eight-hour requirement, and an employee arriving at 8:00 a.m. may depart work at 4:30 p.m. If an employee arrives after 9:30 a.m. or departs before 3:30 p.m., the employee cannot make-up the time during the day and must be charged leave. All flexible work schedules follow an established 80-hour tour of duty for the pay period.
- B. Individual office heads may require employees participating in flexible work schedules to sign in chronologically when they come to work and sign out when they leave. They will not be required to sign in and out for lunch. This daily log will be maintained on the desk of the Division Time and Attendance (T&A) Clerk and will be cut off at the end of the biweekly pay period. Employees under flexible work schedules may be paid only for hours appropriately accounted for. When an employee forgets to sign in or out, he or she may do so after the fact, entering the correct hours. All such entries must be initialed by the supervisor or the employee's time will be charged as absence without leave (AWOL). Immediate supervisors may approve only three such instances for each subordinate employee in a pay period. At the discretion of the supervisor, late arrivals of less than one hour may be excused (as appropriate), be charged as annual leave or leave without pay, be handled by extending the workday (but not beyond 7:30 p.m.), or be charged as AWOL.

- C. Supervisors will report the employee's initial flexible work schedule and any change to scheduled work periods to the timekeeper.

III. COMPRESSED WORK SCHEDULES

- A. All requests to work a Compressed Work Schedule must be approved on an OGE Form 315 by the employee's immediate supervisor. Supervisors must consider the work to be performed, office requirements, and the employee's personal preference and scheduling needs.
- B. Compressed Work Schedules permit work days in excess of the normal, eight-hour day in order to meet the 80-hour work week requirement in less than 10 workdays. Compressed work schedules incorporate a longer "core" hour period (9:00 a.m. to 3:30 p.m.) than that of a flexible work schedule.
- C. Before an employee may work a schedule which includes unsupervised hours, the supervisor must ensure that the needs of the office will be met and the productivity of the employee can be monitored.

IV. LUNCH PERIODS

- A. A lunch or other meal period is an approved period of time in a non-pay and non-work status that interrupts a basic workday or a period of overtime work for the purpose of permitting employees to eat or engage in permitted personal activities.
- B. Office Coverage. Supervisors and managers must ensure that office and telephone coverage is available during lunch periods. Employees must cooperate fully with supervisors and managers to ensure adequate office and telephone coverage during lunch periods.
- C. Duration. The lunch period is 30 minutes.
- D. The lunch period normally is taken as near to the middle of the workday as possible. The lunch period may not be taken at the beginning or end of the workday in order to shorten the workday. However, if the supervisor agrees, the employee may include the lunch period as part of the time the employee is absent in conjunction with charged leave.

V. OVERTIME

- A. Overtime, even worked as compensatory time, will only be authorized when there is a compelling need which must be met. OGE Form 314, Request for Approval of Overtime/Compensatory Time, will be used to document the approval of

overtime/compensatory time worked. No overtime or compensatory time is to be worked prior to approval. Employees are eligible to earn overtime if their basic rate of pay is less than the pay rate for GS-15, Step 10.

- B. Supervisors may direct that an employee whose rate of basic pay exceeds GS-10, Step 10, take compensatory time in lieu of overtime pay for irregular and occasional overtime work. Employees whose basic rate of pay meets the basic rate of pay for GS-15, Step 10 cannot earn compensatory time in lieu of overtime. Supervisors are to follow the procedures outlined in Chapter 630, Absence and Leave, to document and approve use of compensatory time earned.

VI. VARIATIONS IN WORK SCHEDULES FOR EDUCATIONAL PURPOSES

Variations in work schedules for educational purposes consistent with 5 C.F.R. §610.122 may be approved by the General Counsel or appropriate Deputy Director, with the concurrence of the Human Resources Officer.

VII. TRAVEL ON OFFICIAL TIME

Insofar as practical, official travel will be scheduled during an employee's regularly scheduled tour of duty. When official travel is required outside an employee's regularly scheduled tour of duty, under certain circumstances, an employee may receive compensatory time off for travel, subject to the policies and procedures set forth in Subchapter 8 of the OGE Human Resources Manual Chapter 630.

SUBCHAPTER 3 - HOLIDAYS

I. GENERAL DESCRIPTION

The following provides guidance to managers and employees of the Office of Government Ethics (OGE) on legal holidays and adjustments to work schedules for religious observances.

II. LEGAL HOLIDAYS

A. The following are public holidays for Federal employees. For those Federal employees who work on a fixed tour of duty Monday through Friday, when a holiday falls on a non-workday such as a Saturday or Sunday, the holiday is generally observed on Friday (if the holiday falls on a Saturday) or Monday (if the holiday falls on a Sunday). For employees on a compressed work schedule, observance of the holiday is subject to the provisions of 5 CFR 610, Subpart B and the OGE Compressed Work Schedule Policy.

1. New Year's Day, January 1
2. Birthday of Martin Luther King, Jr., January (3rd Monday)
3. Washington's Birthday (Presidents' Day), February (3rd Monday)
4. Memorial Day, May (last Monday)
5. Independence Day, July 4
6. Labor Day, September (1st Monday)
7. Columbus Day, October (2nd Monday)
8. Veterans Day, November 11
9. Thanksgiving Day, November (4th Thursday)
10. Christmas Day, December 25

III. ADJUSTMENTS TO WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

- A. Description. To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the Agency's mission, an employee whose personal religious beliefs require that he or she abstain from work at certain times of the workday or workweek will be permitted to work alternative work hours so that the employee can meet the religious obligation. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay (including overtime pay), and may be worked before or after the scheduled time off.
- B. Approval. All OGE employees must submit to his/her supervisor in advance a written request for an adjusted work schedule. An employee should specifically state that his or her request for an adjusted work schedule is for religious purposes and should provide documentation of the need to abstain from work. When deciding whether an employee's request for an adjusted work schedule should be approved, a supervisor may not make any judgment about the employee's religious beliefs or his or her affiliation with a religious organization. A supervisor may disapprove an employee's request if modifications of an employee's work schedule would interfere with the efficient accomplishment of the Agency's mission. If an employee's request is approved, the supervisor may determine whether the alternative work hours will be scheduled before or after the religious observance.
- C. Leave. To account for an absence due to a religious observance, the employee may use paid leave, earned comp-time, or request leave without pay. These are the same options that apply to any other absence from an employee's basic work schedule.
- D. Impact on Pay. The overtime pay provisions do not apply to employees who work different hours or days because of religious observances, even if an employee voluntarily works in excess of 40 hours per week or 8 hours per day for this purpose.

SUBCHAPTER 4 – DISMISSALS

I. GENERAL DESCRIPTION

At certain times the Agency may close for administrative or emergency purposes. This includes authorized dismissals and closures due to holidays, traffic, weather, local and national emergencies or other circumstances as appropriate. As necessary, the Agency will also allow the use of unscheduled leave so that employees who find it difficult or unsafe to commute to or from work or who arrive late to use annual leave or leave without pay without prior approval. Supervisors should be sensitive to localized weather, road, and traffic conditions that may preclude employees from safely commuting to work. In these instances supervisors should grant unscheduled leave or leave without pay to such employees.

II. ADMINISTRATIVE DISMISSAL

An administrative dismissal may be authorized by the OGE director (or designee) when one or more of the following conditions apply:

- A. Normal operations of the Agency or portions thereof are interrupted by events beyond the control of management or employees;
- B. For managerial reasons, the closing of the Agency or portions thereof is required for short periods;
- C. It is in the public interest to relieve employees from work to participate in civic activities which the Government is interested in encouraging;
- D. OGE employees may be excused, individually, en masse or in selected groups, to attend ceremonies or parades in honor of foreign or other visiting dignitaries, or for other Government-sponsored events; or
- E. Other circumstances that necessitate an authorized dismissal or time off of employees without charge to leave or loss of pay.

III. EARLY DISMISSAL

Under an early dismissal policy due to hazardous conditions, employees will be dismissed a certain number of hours relative to their normal departure times from work by the OGE Director (or designee). Employees who must leave work earlier than their official dismissal time will be charged annual leave or leave without pay from the time of

their departure through the remainder of their scheduled workday. Employees on approved leave will be charged leave for the entire day (Refer to the OGE Emergency Dismissal/Closing Policy).

IV. EMERGENCY DISMISSAL

The Office of Personnel Management (OPM) or the OGE Director (or designee), may issue "emergency dismissal or closure" procedures for employees due to adverse weather, hazardous or emergency conditions to allow the dismissal of employees without charge to leave or loss of pay. The OGE Emergency Dismissal/Closure Policy will apply in any situation that prevents significant numbers of employees from reporting for work on time or which requires the Agencies to close all or part of their activities. The procedures set forth in the OGE Emergency Dismissal/Closure Policy apply during adverse weather conditions (snow emergencies, severe icing conditions, floods, earthquakes, and hurricanes), air pollution, disruption of power and/or water, interruption of public transportation, and other emergency situations.

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 630

ABSENCE AND LEAVE

June 2006

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SUBCHAPTER 1 - GENERAL PROVISIONS

I. PURPOSE

This Chapter establishes policies and procedures for administration of absence and leave for compensated employees of the Office of Government Ethics (OGE).

II. LEGAL AND REGULATORY BASES

This Chapter implements the legal and regulatory requirements in 5 C.F.R. Part 630 and related regulations issued by the Office of Personnel Management (OPM).

III. RESPONSIBILITIES

A. Deputy Directors are responsible for designating employees on their staffs who will be responsible for approval of leave. Generally, this authority will be delegated to the lowest possible supervisory level, except as otherwise noted in this Chapter.

B. The Deputy Director for the Office of Administration and Information Management is responsible for providing policy and procedural guidance in the administration of absence and leave.

C. Supervisors with authority for leave administration are responsible for fair and equitable leave administration, in accordance with this Chapter.

D. Employees are responsible for familiarizing themselves with, and adhering to, the policies and procedures in this Chapter; reporting to work as scheduled and being on duty at all times during working hours except for excused absences and approved leave; and, managing their leave in accordance with these leave procedures.

IV. DEFINITIONS

A. ACCRUED LEAVE means the leave earned by an employee during the current leave year that is unused at any given time in that year.

B. ACCUMULATED LEAVE means the unused leave remaining to the credit of an employee at the beginning of the leave year.

C. EMPLOYEE means an employee to whom Subchapter 1 applies.

D. FAMILY MEMBER means the following:

1. Spouse, and parents thereof;
2. Children, including adopted children and spouses thereof;
3. Parents;
4. Brothers and sisters, and spouses thereof; and
5. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

E. HEALTH CARE PROVIDER means:

1. A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations;
2. Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question;
3. A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law;
4. A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or
5. A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95-314, August 11, 1978 (92 Stat. 469), as amended by Public Law 103-344, October 6, 1994 (108 Stat. 3125).

- F. LEAVE YEAR means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.
- G. MEDICAL CERTIFICATE means a written statement signed by a registered practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.
- H. SERIOUS HEALTH CONDITION means an illness, injury, impairment, or physical or mental condition that involves any of the following (please refer to 5 C.F.R. § 630.1202 for a complete list of serious health conditions):

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examination or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following:

A period of incapacity of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves: (1) treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or (2) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a course of prescription medication or therapy

requiring special equipment to resolve or alleviate the health condition).

V. LEAVE RESTRICTION

A. Whenever a supervisor and employee are unable to resolve problems related to the employee's use or abuse of leave, the supervisor may place the employee on leave restriction. The leave restriction will be provided to the employee in writing and discussed with the employee. The leave restriction will be for a specific time period, and the supervisor will re-evaluate the leave restriction status and remove restrictions when appropriate.

B. A copy of the notice of leave restriction is placed in the employee's Official Personnel Folder.

SUBCHAPTER 2 - ANNUAL LEAVE**I. GENERAL**

Employees have a right to use annual leave; however, supervisors have the authority to set the time the leave will be taken. Supervisors should facilitate adequate planning for the use of annual leave by all employees, and the continued accomplishment of the Office mission during employee absences. Employees should plan for and request annual leave as far in advance as possible.

II. REQUEST FOR ANNUAL LEAVE

All annual leave, except for emergencies, must be requested using OPM Form 71, "Request for Leave or Approved Absence." Employees requesting annual leave must complete this form and indicate the time the leave will be taken and the amount of leave being requested.

While requests for leave should be approved wherever possible, approval may be withheld if the use of leave as requested would interfere with accomplishment of the office mission. In this situation, the supervisor and employee should work together to arrange alternate dates for the leave. Except in extenuating circumstances, the employee should make every effort to submit the OPM Form 71 well in advance, and ensure that the request is approved by the supervisor before taking the leave.

III. EMERGENCY ANNUAL LEAVE

When annual leave must be requested for an emergency, the employee should contact the supervisor within the first two hours of business during the first business day of absence. If the employee is unable to contact the supervisor, he/she should have someone contact the supervisor on his/her behalf, and then make personal contact as soon thereafter as possible. Failure to notify the supervisor may result in a charge of Absence Without Leave (AWOL). The employee must provide enough information to the supervisor so that the supervisor clearly understands the nature of the emergency.

IV. ADVANCE ANNUAL LEAVE

A. Annual leave will not normally be advanced. In extreme cases, however, a properly justified request for an exception may be submitted. Advanced annual leave up to and including five days may be approved by supervisors with the written concurrence of the Human Resources Officer. Advanced annual leave for more than five days up to the limit set forth in IV.B. below, may be submitted for approval through appropriate supervisory channels and the Deputy Director for OAIM.

B. Full-time or part-time career and career-conditional employees who earn leave or other permanent employees not excluded from leave coverage by 5 C.F.R. Chapter 630, may be advanced annual leave up to the amount they would earn within the present leave year provided that compensation for the period covered by the advanced annual leave does not exceed that which could be covered by credit in the retirement fund. The provisions for advancing annual leave apply only to employees whose continued employment is contemplated. Any request for advanced annual leave must be made in writing in advance of anticipated usage by the employee to the immediate supervisor.

C. The Deputy Director, OAIM, will consider such factors as the employee's purpose in requesting it, workload status, and the interests of OGE when determining approval/disapproval of requests for advancing annual leave.

V. RESTORATION OF LEAVE

A. ADMINISTRATIVE ERROR

Leave forfeited because of administrative error will be retroactively restored. The Deputy Director for OAIM will make the determination that an administrative error was made.

B. OPERATIONAL DEMANDS OF THE OFFICE OF GOVERNMENT ETHICS

There are two requirements to be met in order to have annual leave restored under this provision. The first requires that an operational demand or "exigency of public business" may be of such importance as to preclude the use of scheduled annual leave. The second requires that the annual leave must have been scheduled in advance at least six weeks prior to the end of the leave year. The supervisor, with the concurrence of his or her Deputy Director, will make the determination that operational

demands are of such importance that an employee may not be excused from duty to use scheduled annual leave. This decision will normally be made in advance of the cancellation of scheduled leave.

C. SICKNESS PREVENTS ANNUAL LEAVE

Unused annual leave in excess of the maximum carryover that was scheduled for use before the end of the leave year may be restored at the request of an employee if illness prevented use of annual leave. In such cases, there must be a finding by the immediate supervisor that the period of sickness (or any other medical condition for which paid sick leave would be approved) interfered with the use of the scheduled annual leave. Also, the annual leave must have been scheduled in writing at least six weeks prior to the end of the leave year. The immediate supervisor must certify to the Deputy Director for OAIM, that annual leave was scheduled and that the employee was ill during the period scheduled for annual leave.

D. REQUESTS FOR RESTORATION OF ANNUAL LEAVE

Under any of the above conditions, employees who forfeit annual leave may apply for restoration of annual leave. The application must be forwarded through the appropriate Deputy Director to the Human Resources staff for technical review. The request is then sent to the Associate Director for Administration for concurrence and to the Deputy Director, OAIM, for approval. The Lead Time and Attendance Clerk will coordinate with the employee's timekeeper to process the approved request. The request may be prepared in memorandum format and must be fully documented. Documentation should include a copy of the OPM Form 71 on which the leave was requested and denied, and a written explanation from the supervisor explaining why the leave could not be taken.

E. SEPARATE LEAVE ACCOUNT

All restored annual leave will be credited to a separate leave account maintained by the timekeeper, subject to review by the Lead Time and Attendance Clerk. The amount of restored leave will not, in any way, increase or change an employee's normal maximum permissible carryover of annual leave ceiling remains in effect for all employees. Appropriate records and administrative procedures to properly identify the separate leave account will include: the date the leave was restored for use; the amount credited; the specific schedule

established for use of the restored leave; and the amount of actual leave used and the balance. The separate leave account will be closed no later than the time specified below.

F. TIME LIMIT FOR USE OF RESTORED ANNUAL LEAVE

All restored annual leave must be scheduled and used no later than the end of the leave year two years following one of these dates: 1) the date of restoration of the annual leave forfeited because of administrative error; 2) the date fixed as the termination date of the operational demands of the Agency which resulted in forfeiture of annual leave; or 3) the date an employee is determined to be recovered from the illness that prevented him/her from taking scheduled annual leave, provided the employee is able to return to duty.

G. TRANSFERS/SEPARATIONS

At the time a new employee is transferred to the Agency from another government agency, the Human Resources staff and the Lead Time and Attendance Clerk, in coordination with the timekeeper, will establish annual and sick leave balances for the employee within the pay period of the employee's entrance on duty (EOD). The balances must be based on the best available evidence at that time (e.g., a copy of the most recent leave and earnings statement). Upon receipt of the "Record of Leave Data" (SF-1150), the transferred leave will be credited to the employee's leave account by the timekeeper, in coordination with the Lead Time and Attendance Clerk.

Employees are entitled to payment, upon separation from the government, for all annual leave credited to their leave account. This includes the regular carryover balance from the previous leave year, if any; accrued and unused annual leave during the current leave year, if any; and, any unused restored annual leave maintained in the separate account.

A record of annual leave, including restored annual leave, of employees transferring to other agencies will be forwarded to the gaining agency at the earliest possible date.

SUBCHAPTER 3 - SICK LEAVE**I. GENERAL**

D. An employee who is unable to report for duty because of sickness or medical emergency must notify the supervisor as early as possible and normally within the first two hours of business during the first day of absence. If the employee does not notify his/her supervisor of the reason for his/her absence on the first day of absence, the supervisor may charge the absence as AWOL. If the employee presents a satisfactory reason for failure to give the required notice, the AWOL may be changed to sick leave. Requests for sick leave scheduled for medical, dental, or optical examinations, or treatment shall be submitted for approval prior to the beginning of the leave. There should be some flexibility when the employee has a medical appointment and cannot ascertain in advance precisely how much time the appointment will take. As soon as the employee returns to the office, OPM Form 71 should be completed.

II. CONDITIONS

A. Sick leave is granted to an employee when the employee:

1. receives medical, dental, or optical examination or treatment;
2. is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
3. provides care for a family member (see 3-3) who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or,
4. provides care for a family member with a serious health condition;
5. makes arrangements necessitated by the death of a family member or attends a funeral of a family member;
6. would, as determined by the health care authorities having jurisdiction, or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

7. must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

III. FAMILY ILLNESS OR FUNERAL

A. The total amount of sick leave that may be granted to an employee during any leave year for family illness or to make arrangements necessitated by the death of a family member or to attend the funeral of a family member, may not exceed a total of 104 hours (or, in the case of a part-time employee, the number of hours of sick leave normally accrued by that employee during a leave year).

B. For family care purposes as described in Section II.A.3. and 4. above, an employee may use not more than a total of up to 480 hours of sick leave (or, in the case of a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week) during a leave year, subject to the limitations found in 5 C.F.R. § 630.401(c)(2). For additional guidance on the hours to be used for various situations, please refer to 5 C.F.R. § 630.401.

IV. REQUEST

Employees requesting sick leave for scheduled appointments or medical procedures should do so as far in advance as possible by completing OPM Form 71. If the request is for three days of sick leave or more, or if the supervisor doubts the validity of the request, the employee may be required to provide a doctor's statement or other evidence which is acceptable to the supervisor as to the reason for the absence. A doctor's statement must be on the doctor's official stationery and must include the doctor's telephone number and address; a diagnosis; and an estimate of when the employee will be able to return to full-time duty.

If at all possible, the supervisor must act on the leave request before the leave begins. Properly requested and documented sick leave should be approved.

V. EMERGENCY SICK LEAVE

Employees who are absent less than three consecutive workdays on sick leave will not, generally, be required to submit medical certificates. Employees desiring that an absence be charged as sick leave must certify to their supervisor that they were, in fact, ill or had some other medical emergency. This requirement normally is satisfied by completion of OPM Form 71. Employees may be required by the supervisor to submit a doctor's statement for three or more consecutive days of sick leave or when the supervisor doubts the validity of the employee's statement that he/she was ill. If an employee is on Leave Restriction, the employee must follow the rules provided in his/her Memorandum of Leave Restriction.

VI. SERVE AS A BONE-MARROW OR ORGAN DONOR

A. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave. Employees are entitled to seven days of excused absence each calendar year (in addition to annual and sick leave) to serve as a bone-marrow or organ donor. Requests for this additional leave are submitted to the supervisor, and must include a doctor's statement certifying the time needed and the kind of donation. Decisions on these requests must have the technical concurrence of the Human Resources Officer for compliance with applicable regulations.

B. An employee may also use up to 30 days of paid leave each calendar year to serve as an organ donor.

VII. ADVANCE SICK LEAVE

Advance sick leave up to and including five days in a leave year may be granted by supervisors with the concurrence of the Human Resources Officer, provided the request is supported by a medical certificate as evidence of the need for advanced sick leave, and there is a reasonable assurance that the employee will return to duty. Advance sick leave for six days or more must have the written approval of the Deputy Director, Office of Administration and Information Management, prior to the beginning of the pay period in which the advance leave will be used.

A. LIMITED TO SERIOUS AILMENTS OR DISABILITIES

Advance sick leave must be limited to cases of serious ailments or disabilities as determined by the officials authorized to approve the leave.

B. ACCUMULATED SICK LEAVE MUST BE EXHAUSTED

All available accumulated sick leave credited to the employee's account must be exhausted before advance sick leave can be granted. Consideration should also be given to requiring the use of annual leave which might otherwise be forfeited. Supervisors may also suggest that available annual leave be used, even if it is not likely to be forfeited.

C. LIMITATION ON ADVANCED SICK LEAVE

1. When an employee is serving under a limited appointment or one which will be terminated on a specified date, an agency may advance sick leave to the employee up to the total sick leave which the employee would otherwise earn during the term of the appointment. For the purposes of this subsection, an employee serving a probationary or trial period is not serving under a limited appointment.
2. The Deputy Director, Office of Administration and Information Management, may grant sick leave in advance of its accrual up to a maximum of 30 days (240 hours) for a career or career-conditional employee, provided the request is supported by a medical certificate as evidence of the need for advanced sick leave, and there is a reasonable assurance that the employee will return to duty. However, a request for advanced sick leave that exceeds the amount of contributions in an employee's retirement plan will not be considered.

VIII. TRANSFER AND RECREDIT OF SICK LEAVE

Transfer and re-credit of sick leave of employees transferring to other agencies and/or reinstatements will be accomplished by the Human Resources staff in accordance with applicable regulations, particularly 5 C.F.R. § 630.502.

IX. SAFEGUARDING MEDICAL INFORMATION

Information dealing with an employee's medical history is confidential and must be safeguarded so that no one within or outside OGE will have access to it except as officially authorized and necessary in the performance of their duties.

X. RECORDS AND REPORTS

OGE will maintain records concerning sick leave and report to OPM about sick leave, as required by 5 C.F.R. § 630.408.

SUBCHAPTER 4 - MISCELLANEOUS LEAVE**I. COMPENSATORY**

A. Supervisors are authorized to approve or deny requests to use accrued compensatory time. Since compensatory time is earned in lieu of overtime, supervisors should make every effort to approve all requests to use compensatory time. Supervisors are also responsible for keeping abreast of the amount of accrued compensatory time employees have earned. Compensatory time must be used in the same leave year in which it is earned. At the end of the leave year, or when an employee departs the agency, any remaining balance of compensatory time earned is forfeited.

B. An employee wishing to use any accrued compensatory time is required to inform his or her supervisor in advance of the time and amount of time to be taken, just as if he/she were requesting the use of annual or sick leave. The OPM Form 71 is used to request the use of accrued compensatory time.

C. Compensatory time is separate and distinct from compensatory time for travel. Compensatory time for travel policies and procedures are found in Subchapter 8 of this Chapter.

II. MILITARY**A. RELEASE FOR MILITARY DUTIES**

Employees must advise their supervisors as soon as they know they may be called to active duty for one day or more. When employees present their orders for duty, supervisors will ensure full cooperation in release for military duties or for military training purposes.

B. LEAVE FOR MILITARY MEDICAL EXAMINATIONS

An employee required to undergo an armed forces medical examination to determine eligibility for enlistment or retention will be excused for the time required if the request is supported by official notification from the appropriate military authority. If more than one day is required, additional evidence will be required from the Military Enlistment Processing Station showing the necessity for the additional time.

C. GRANTING OF MILITARY LEAVE FOR ACTIVE DUTY/TRAINING

Any full-time employee who is a member of the National Guard or a Reserve component in any branch of the service shall be entitled to leave without loss of pay, time, or performance rating for active duty. This leave accrues at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. Part-time employees will accrue leave under this paragraph on a pro-rata basis by dividing 40 into the number of hours in a regularly scheduled work week of that employee during that fiscal year.

D. MILITARY LEAVE FOR THE PURPOSE OF ENFORCING THE LAW

Public Law 90-588 (5 U.S.C. § 6323) authorizes the granting of military leave not to exceed 22 workdays in a calendar year unless a longer period is authorized by law, for employees who are members of Reserve components or the National Guard and who are called into either State or Federal service for the purpose of enforcing the law. This Act also requires that any amount received for such military service other than travel, transportation, or per diem allowances be credited against the pay payable to the employee with respect to his/her civilian position for the period he/she is authorized military leave under 5 U.S.C. § 6323.13.

III. COURT

Court leave is paid leave taken to serve on a jury or as a witness. Because jury duty is of such importance in the American system of justice, work situations should be adjusted to accommodate such duty. Any requests by an employee or by the employee's supervisor for the employee to be excused from jury duty should be limited to work situations of real necessity. It is the policy of the Office of Government Ethics to grant court leave under the conditions, and within the limitations outlined below.

A. EMPLOYEE ELIGIBILITY

Court leave may be granted to both permanent employees and temporary employees both full-time and part-time, except for those employed on an intermittent basis.

B. JURY SERVICE

1. Use of Annual Leave - If an employee is on annual leave when called for jury service, court leave should be substituted. An employee on annual leave under advance notice of separation from service due to a Reduction-In-Force who is summoned as a juror, is entitled to have otherwise proper court leave substituted for annual leave but not to extend beyond the date administratively fixed for his/her separation. Employees such as substitute, or intermittent employees, who are not entitled to court leave for jury service, may be granted any annual leave to which they might otherwise be entitled, or may be placed on leave without pay, for any absence from duty for such jury service.
2. Pay Status Requirement - An employee on leave without pay, although otherwise eligible, may not be granted court leave when called to jury duty since court leave is available only to employees who, except for jury duty, would be on duty or on leave with pay.
3. Duration of Jury Service - An employee who is under proper summons from a court to serve on a jury should be granted court leave for the entire period covered by the summons except instances covered below.
4. Interim Excuse from Jury Duty - An employee on court leave because of jury service may be required to return to duty or be charged annual leave if he/she is excused from jury service for an entire day, unless the supervisor determines that the requirement would work a hardship on the employee.
5. Jury Fees - In accordance with 5 U.S.C. § 5515, an employee called to jury service in a Federal, State or local court should be instructed to collect all fees for jury services payable as a result of the jury service and give them to the Agency. The fees should be forwarded to the Human Resources staff. Should an employee fail to forward these

fees, a payroll deduction will be made for the amount involved. Fees for travel or expenses may be retained by the employee.

C. SERVICE AS A WITNESS

1. Witness in an Official Capacity

When an employee is summoned or assigned by the Office of Government Ethics to testify in his/her official capacity or to produce official records at a judicial or administrative proceeding, he/she is in an official duty status, as distinguished from a leave status, and entitled to regular pay.

2. Witness in Nonofficial Capacity

When an employee is summoned as a witness in a judicial or administrative proceeding to testify in a nonofficial capacity on behalf of a State or local government, he/she is entitled to court leave during the time he/she is absent as a witness. When an employee is summoned to testify in a nonofficial capacity on behalf of the United States Government or the government of the District of Columbia, he/she is in an official duty status as distinguished from a leave status, and entitled to regular pay. If the witness service in a nonofficial capacity is on behalf of a private party, the employee's absence must be charged to annual leave or leave without pay.

3. Overtime

An employee who performs witness service in an official capacity on days for which he/she would have been entitled to receive overtime pay had the employee served in his/her civilian position is entitled to the overtime pay he/she would have received on these days.

4. Fees

Employees are not entitled to witness fees when testifying on behalf of the United States or the government of the District of Columbia, except when such witness service is performed while absent on leave without pay. If an employee testifies in his/her official capacity or produces official records on behalf of a State or local government or a private party, or if he/she

is summoned as a witness in a nonofficial capacity on behalf of a State or local government, he/she is required to collect the authorized witness fees and allowances for expenses of travel and subsistence. All amounts so collected are to be credited against amounts payable to the employee by the Office of Government Ethics. An employee who testifies in a nonofficial capacity on behalf of a private party is entitled to the usual fees and expenses related to such witness service.

5. Travel Expenses

An employee is entitled to travel expenses paid by the Court in connection with any judicial or administrative proceeding to which the employee has been summoned (and is authorized by the Office of Government Ethics to respond to such summons), or is assigned by the Office of Government Ethics (1) to testify or produce official records on behalf of the United States or (2) to testify in his/her official capacity or produce official records on behalf of a party other than the United States.

IV. FUNERAL

An employee whose family member dies as a result of wounds, disease, or injury incurred as a member of the Armed Forces in a combat zone, may be granted paid funeral leave for up to three workdays.

V. LEAVE WITHOUT PAY (LWOP)

A. GENERAL

LWOP is a matter of managerial discretion and is not an entitlement of the employee. It is approved leave and is generally used for purposes such as recovery from illness or disability; education which would benefit the Agency; protection of an employee's status and benefits pending action on claims for disability retirement or injury compensation; or in accordance with procedures in Subchapter 7, Family and Medical Leave (FML).

B. REQUEST FOR LWOP

When an employee is able to forecast a need for LWOP, as in the case of required medical treatment such as surgery, or for some event such as the birth of a child, he/she should request LWOP as far in advance as possible

to minimize disruption to the accomplishment of the Agency mission. In emergencies, the employee may request LWOP orally and then submit a written request, as described below, within three working days after the verbal request. LWOP is requested by completion of the form OPM-71, with additional documentation explaining why LWOP is necessary, the amount of LWOP and times it will be taken, and a statement of when the employee expects to return to work. If the request is for medical reasons, a doctor's statement documenting the situation should be provided. If it is for FML, follow the procedures in Subchapter 7.

C. ACTION ON REQUEST

The Deputy Director in charge of the organization may authorize LWOP for periods of less than 30 days. This authority may be re-delegated only with the concurrence of the Deputy Director, Office of Administration and Information Management (OAIM). In cases where LWOP is substituted for properly requested and approved sick leave, this approval is not required. Requests for LWOP of 30 days or more must have the approval of the Deputy Director, OAIM.

VI. ABSENCE WITHOUT LEAVE (AWOL)

Absence from duty which is not authorized or approved or for which a leave request has been denied, will generally be charged as AWOL. AWOL may be a cause for disciplinary action in accordance with Chapter 752 of this Manual. Employees should be warned orally and in writing at least once before AWOL is charged. AWOL should not be confused with LWOP. AWOL is leave taken without approval; LWOP is approved leave for which the employee is not paid. LWOP is not, in and of itself, a cause for disciplinary action.

SUBCHAPTER 5 - EXCUSED ABSENCE

I. AUTHORITY TO EXCUSE EMPLOYEES

The Director will make the decision with regard to the excusing of individual employees and the dismissal of groups without loss of pay or charge to annual leave in accordance with this Subchapter and OPM guidelines. This authority will be used sparingly and only for short periods of time, normally not to exceed one workday for any single period of excused absence. When unusual circumstances prevent employees from returning to work after one workday of excused absence, the Director may extend the excused absence if there is sufficient justification. In each commuting area employees similarly affected will generally be expected to receive similar treatment with respect to a period administratively excused or charged to annual leave.

II. AUTHORITY TO CLOSE

Where conditions are such as to indicate the advisability of closing an office or headquarters, the Director or designee has authority to close the agency.

III. EXCUSAL OF EMPLOYEES

Employees may be granted excused absence as follows:

A. EXCUSAL WHEN ADMINISTRATIVE PROBLEMS PREVENT WORKING

Employees may be excused when they are prevented from working because of such administrative problems as breakdown of equipment, lack of material, and power failures and there are no suitable duties that can be performed. The Director will determine whether or not employees will be excused.

B. HAZARDOUS WEATHER ADMINISTRATIVE LEAVE POLICY

1. When hazardous weather occurs in the Washington Metropolitan Area, the Office of Government Ethics will follow procedures established by the Office of Personnel Management (OPM). Employees should listen to the news media coverage on television or radio, or check the Government's "Operating Status" on the OPM website at www.opm.gov.
2. Supervisors should release individual employees prior to authorized early dismissal times only

to avoid hardships (e.g., when an employee's carpool driver is dismissed earlier or when younger children are released early from school and no alternative forms of child care are available to the employee).

3. When early dismissal is authorized, employees in an actual duty status will be excused from duty without charge to leave. Employees who are in a leave status when early dismissal occurs cannot be granted excused absence in lieu of the approved annual or sick leave.

C. TARDINESS

Excused absence may be granted during hazardous weather conditions, subject to practices established by OPM. When late arrival is authorized by the OPM, employees are expected to be at work as soon as possible, with reasonable allowance made for the distance they have to travel. This presumes that employees will make every effort to leave home earlier than usual, conditions permitting.

D. REPORTING FOR DUTY

Annual leave shall be charged when employees do not report for duty during hazardous weather unless it is determined that the employee made every reasonable effort to report for work but was unable to do so because of weather conditions. Factors that should be considered in granting administrative leave include: distance between the employee's residence and place of work; mode of transportation used; and efforts by the employee to report for work. The supervisor may grant administrative leave in amounts up to one workday in such cases.

IV. EXCUSED ABSENCE FOR OTHER CAUSES

When employees are prevented from working because of reasons such as a temporary shutdown of the building or civil disturbance, they may be excused without charge to leave or loss of pay. In these instances, instructions of local authorities and the Office of Personnel Management should be followed.

V. PARENT-TEACHER CONFERENCES

Supervisors are authorized to grant two hours excused absence for parent-teacher conferences up to three times per leave year.

VI. PREVENTIVE HEALTH SERVICES

Supervisors are authorized to grant up to four hours excused absence per leave year for participation in preventive health services. Services include immunizations, screening for prostate, cervical, colorectal, breast cancer, sickle cell anemia, blood lead level, blood cholesterol level, and health behavior counseling such as smoking cessation.

Visits to the OGE Health Unit are permitted without charge to leave when such visits are considered necessary to the employee's well being.

VII. PARTICIPATION IN CIVIC ACTIVITIES OF NATIONAL INTEREST

Excused absence to participate in civic activities in the national interest must be in accordance with the following provisions:

A. VOTING AND REGISTRATION

1. Employees will be excused in accordance with policy established by the Office of Personnel Management. Employees will be advised prior to each election concerning the hours during which polls are open in all subdivisions in which employees reside, and the amount of excused time to be granted for voting and registration.
2. Typically, polling places in the Washington, D.C. metropolitan area are open for extended periods of time. Therefore, excused absence should rarely be needed. Generally, supervisors may grant a limited amount of excused absence where the polls are not open at least three hours either before or after an employee's regular work hours. The employee may be permitted to report to work three hours after the polls open or leave from work three hours before the polls close, whichever is the least amount of time off. An employee's regular work hours are the times of day the employee normally arrives at and departs from work.

3. If an employees voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the employing agency may grant excused absence (not to exceed one day) to allow the employee to make the trip to the voting place to cast a ballot. If more than one day is needed, the employee may request annual leave or leave without pay for the additional period of absence.

B. BLOOD DONATIONS

At the request of the employee, excused leave shall be granted for up to four hours after donating blood to blood banks or, in emergencies, to individuals. The excused time is to be taken on the day the blood is donated and is in addition to the time required to travel to and from the blood center and to actually give blood. The purpose of this excused time is to permit a reasonable recuperative period after the donation of blood. If the employee is not accepted for blood donation, only the time necessary for the trip to and from the blood center is allowed on administrative leave.

VIII. PARTICIPATION IN MILITARY FUNERAL

Veterans or members of the Reserve or National Guard, who are scheduled to serve as pallbearers, members of a firing party or honor guard, will ordinarily be excused up to four hours to participate in military funerals, unless demands at the Office of Government Ethics preclude the absence.

IX. PARTICIPATION IN MEETINGS OF PROFESSIONAL ORGANIZATIONS

Supervisors are authorized to permit attendance at meetings of professional organizations and other groups where it is determined that the attendance will benefit OGE.

SUBCHAPTER 6 - VOLUNTARY LEAVE TRANSFER PROGRAM**I. PURPOSE**

This Subchapter provides Agency procedures for implementing regulations on the Voluntary Leave Transfer Program authorized by 5 U.S.C. Chapter 63, Subchapter III, and 5 C.F.R. Part 630, Subpart I, by which the unused accrued annual leave of one employee may be transferred for use by another employee who needs such leave because of a medical emergency.

II. DEFINITIONS PERTINENT TO THIS SUBCHAPTER

A. FAMILY MEMBER means the following relatives of the employee:

1. Spouse, and parents thereof;
2. Children, including adopted children, and spouses thereof;
3. Parents;
4. Brothers and sisters, and spouses thereof; and,
5. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

B. LEAVE DONOR means an employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by his/her own employing agency.

C. LEAVE RECIPIENT means a current employee for whom the employing agency has approved an application to receive annual leave from the annual leave accounts of one or more leave donors.

D. MEDICAL EMERGENCY means a medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave. A normal maternity situation is treated in the same manner as a request resulting from any other incapacitating medical condition of similar duration.

E. SHARED LEAVE STATUS means the administrative status of an employee while the employee is using transferred leave under the leave transfer program.

III. PROCEDURES

An OGE employee who has experienced a medical emergency as defined above, may request consideration for the leave transfer program. To qualify as a recipient, the employee must have exhausted all annual and sick leave, disregarding any advanced leave, because of a medical emergency which requires, or is expected to require, leave totaling at least 24 hours.

A. ACCRUAL OF ANNUAL AND SICK LEAVE

Any annual or sick leave accrued by an employee in a shared leave status under this program shall be transferred to the appropriate leave account of that employee, and shall become available for use:

1. As of the beginning of the pay period on or after the date on which the employee's medical emergency terminates; or,
2. If the employee's medical emergency has not yet terminated, once the employee has exhausted all transferred leave made available to the employee under this program.

B. USE OF ANNUAL AND SICK LEAVE

If the medical emergency continues after the leave recipient exhausts all transferred leave, an employee may use any annual or sick leave, as appropriate that was earned while the employee was in a shared leave status. The maximum amount of leave that may be accrued by a full-time employee while using leave from the leave transfer program (i.e., while in a shared leave status) is limited to a total of 40 hours of sick leave and 40 hours of annual leave. For part-time employees, the maximum amount of sick and annual leave that may be accrued while in a shared leave status is the average number of hours of work in the employee's weekly scheduled tour of duty. Leave earned while in a shared leave status must continue to be credited to separate accounts until the leave recipient exhausts all donated leave or the medical emergency terminates.

IV. ANNUAL LEAVE

Donated annual leave is available immediately, within the pay period donated, or may be retroactively substituted for leave without pay or advanced annual or sick leave.

V. REQUEST PROCEDURES

To request consideration, an employee should submit Optional Form 630, "Leave Recipient Application under the Voluntary Leave Transfer Program," to the Human Resources staff. If the employee is not capable of making application, another employee within the Agency or a personal representative may make the request on the employee's behalf. Human Resources will notify the potential leave recipient of approval or disapproval of the application within ten working days after receipt.

VI. DONOR PROCEDURES WITHIN THE AGENCY

If the request is approved, Human Resources may circulate a memorandum to all employees notifying them of the need. This memorandum need not be circulated if an eligible donor has already submitted an Optional Form 630-A, "Request to Donate Annual Leave to Leave Recipient (Within Agency)," that meets the needs of the donee. Donors may respond to the memorandum by submitting the Form 630-A subject to the following limitations:

A. Annual leave may not be transferred to a donor's immediate supervisor; and,

B. In any one leave year, a donor may contribute no more than one half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made(i.e., employees earning four hours of annual leave each pay period could donate up to 52 hours, employees earning six hours of annual leave each pay period could donate up to 80 hours, and employees earning eight hours of annual leave each pay period could donate up to 104 hours).

C. In the case of a leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, the maximum amount of annual leave that may be donated during the leave year shall be the lesser of:

1. One-half of the amount of annual leave he or

she would be entitled to accrue during the leave year in which the donation is made; or,

2. The number of hours in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

D. In an unusual circumstance, the limitation on the number of hours permitted for donation may be waived. Leave donors wishing to request a waiver should submit a written request to Human Resources, stating the full justification for the waiver. The Deputy Director for Office of Administration and Information Management will determine waivers on a case-by-case basis. Generally, waivers will not be granted for the sole purpose of the donor avoiding loss of leave at the end of the leave year. Criteria will include, but not be limited to:

1. Severity of recipient's medical emergency including length and number of leave hours currently needed; and,
2. Amount of earned and donated leave available to recipient.

VII. PROCEDURES FOR DONATIONS FROM AND TO EMPLOYEES OF OTHER AGENCIES

Under this program, acceptance of leave from donors outside the Agency is permitted. Human Resources will approve or disapprove offers of leave from donors outside the Agency. Such donations will generally be approved if any of the following conditions are met.

A. If a family member of a leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient.

B. If, in the judgment of Human Resources, the amount of annual leave transferred from leave donors employed by the Agency may not be sufficient to meet the needs of the leave recipient.

C. If, in the judgment of Human Resources, acceptance of leave transferred from another Agency would further the purpose of the Voluntary Leave Transfer Program.

Employees wishing to donate leave to an employee outside the Agency should submit Optional Form 630-B, "Request to Donate Annual Leave to Leave Recipient (Outside Agency)," to Human Resources.

VIII. TERMINATION AND RESTRICTIONS

A. The leave recipient's supervisor and Human Resources staff shall continuously monitor the status of the medical emergency affecting the leave recipient to ensure that the leave recipient continues to be affected by a medical emergency.

B. The leave recipient's entitlement to participate in the Voluntary Leave Transfer Program shall terminate:

1. When the leave recipient's Federal service is terminated;
2. At the end of the bi-weekly pay period in which OGE receives written notice from the leave recipient or personal representative that there is no longer a medical emergency;
3. At the end of the pay period in which OGE determines there is no longer a medical emergency; or,
4. At the end of the pay period in which OGE receives written notice that the Office of Personnel Management has approved an application for disability retirement.

C. When the medical emergency affecting the leave recipient is over, no further requests for the transfer of annual leave to the employee may be granted and any unused transferred annual leave shall be returned to the leave donor(s), consistent with 5 C.F.R. § 630.911. Donated annual leave may not be:

1. Transferred to another leave recipient;
2. Included in a lump-sum payment; or,
3. Made available for re-credit upon reinstatement by a Federal agency.

D. OGE may deem a medical emergency to continue for the purpose of providing a leave recipient an adequate period of time within which to receive donations of annual leave.

IX. COERCION PROHIBITED

No OGE employee may intimidate, threaten or coerce another OGE employee or Federal employee to donate,

receive or use annual leave under the provisions of this Subchapter. Intimidate, threaten or coerce includes promising to confer, or conferring, any benefit (such as an appointment, promotion or compensation) or effecting or threatening to effect a reprisal (such as deprivation of appointment, promotion or compensation).

X. RECORDS AND REPORTS

A. OGE will maintain records concerning the administration of the voluntary leave transfer program so that it can analyze program performance and report to OPM any information necessary to evaluate the effectiveness of the program.

B. The Human Resources staff will maintain the following information:

1. The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;
2. The grade or pay level of each leave recipient and leave donor, the gender of each leave recipient, and the total amount of transferred annual leave used by each leave recipient; and
3. Any additional information required for program performance evaluation or required by OPM.

SUBCHAPTER 7 - FAMILY AND MEDICAL LEAVE (FML)**I. PURPOSE**

All persons employed in permanent positions at the Office of Government Ethics who have completed at least 12 months of Federal service are entitled to provisions set forth in the Family and Medical Leave Act of 1993 (5 U.S.C. Chapter 63, Subchapter V), as implemented by 5 C.F.R. Chapter 630, Subpart L.

II. DEFINITIONS PERTINENT TO THIS SUBCHAPTER

A. ADOPTION means a legal process in which an individual becomes the legal parent of another's child.

B. CONTINUING TREATMENT BY A HEALTH CARE PROVIDER is one or more of the following situations where an employee or an employee's spouse, son, daughter, or parent is:

1. Treated two or more times for an illness or injury by a health care provider;
2. Treated two or more times for an illness or injury by a health care provider under the orders of, or on referral by, the individual's health care provider or is treated for the illness or injury on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider to resolve the health condition; or,
3. Under the continuing supervision of a health care provider, but may not necessarily be actively treated by a health care provider, due to a serious long-term or chronic condition or disability which cannot be cured.

C. FAMILY AND MEDICAL LEAVE (FML) is an employee's entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs. This entitlement is in addition to paid leave available to an employee through other Federal laws or regulations.

D. FOSTER CARE means twenty-four hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State, as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial

determination of the necessity for foster care, and involves agreement between the State and foster family to take the child.

E. HEALTH CARE PROVIDER means the following:

1. A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed services to conduct the examinations.
2. A person providing health services who is not a medical doctor, but who is certified by a national organization and licensed by a State to provide the service in question.
3. A Christian Science practitioner listed with the First Church of Christ Scientist, in Boston, Massachusetts.

F. IN LOCO PARENTIS means an individual who has day-to-day responsibility for the care and financial support of a child or in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

G. PARENT means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This does not include parents "in-law".

H. REDUCED LEAVE SCHEDULE means a work schedule under which the usual number of hours of regularly scheduled work per workday or workweek of an employee is reduced. The number of hours by which the daily or weekly tour of duty is reduced is counted as leave for the purpose of family or medical leave.

I. SERIOUS HEALTH CONDITION means an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to in-patient care in a hospital, hospice, or residential medical care facility;

2. Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by a health care provider;
3. Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity or more than three calendar days; or for prenatal care.

J. SON OR DAUGHTER means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis who is:

1. Under 18 years of age; or,
2. 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care that requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" or ADLs. ADLs include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, and using a post office.

K. SPOUSE means an individual who is a husband or wife, pursuant to a marriage that is a legal union between one man and one woman as defined and recognized under State law, including common law marriage between one man and one woman, in States where it is recognized.

III. ENTITLEMENT TO FML

Employees will be entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- A. The birth of a son or daughter of the employee and the care of such son or daughter;
- B. The placement of a son or daughter with the employee for adoption or foster care;

C. The care of a spouse, son, or daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or,

D. A serious health condition of the employee that makes the employee unable to perform the essential functions of his/her position.

IV. ACCOUNTING FOR 12 WEEK/12 MONTH ENTITLEMENT

A. The 12 weeks of leave provided for FML will equal 12 times the average number of hours in the employee's regularly scheduled administrative workweek.

B. The 12-month period for calculating the 12-week entitlement begins on the date the employee first takes leave for a family or personal need and continues for 12 months. An employee is not entitled to 12 additional workweeks of leave until the previous 12-month period ends and an event or situation occurs that entitles the employee to another period of FML.

C. The 12 week entitlement may begin prior to, or on the actual date of, the birth or placement for adoption or foster care of a son or daughter. Leave for a birth or placement must be concluded within 12 months after the date of birth or placement and shall not be taken intermittently or on a reduced leave schedule unless the employee and OGE management agree.

D. Leave for the care of an authorized family member or the serious health condition of the employee may be taken on an intermittent or reduced leave schedule when supported by medical documentation. FML taken intermittently or on a reduced leave schedule will be subtracted, on an hour-for-hour basis, from the total amount of leave available to the employee.

V. SUBSTITUTION OF PAID LEAVE

FML is generally taken as leave without pay (LWOP). The following exceptions apply:

A. An employee may elect to substitute paid time off for any or all of the leave taken. Paid time off must be available under applicable law and regulation in the category requested and must be used in accordance with applicable law, regulation, and procedures. The following kinds of paid leave may be substituted: accrued, accumulated, or advanced annual and sick leave; leave available through the Leave Transfer or Leave Bank

Program; compensatory time off; or, credit hours accrued under a flexi-time work schedule.

B. The employee's right to substitute paid time off may not be denied.

1. An employee may not be required to substitute paid time off for any or all of their FML entitlement.
2. Employees must notify their supervisors of their intent to substitute paid time off for LWOP prior to the beginning of the paid time off.

VI. REQUESTS

A. NOTICE OF LEAVE

1. When an employee submits a request to his/her supervisor to invoke FML for foreseeable medical problems or the birth or placement of a son or daughter, the request should be submitted not less than 30 days in advance of the requested leave. If the leave is for foreseeable medical treatment, the employee should consult with his/her supervisor and make a reasonable effort to schedule the treatment so as to minimize the disruption of Agency operations.
2. When a qualifying medical emergency or situation occurs and the employee cannot submit a request for FML within the 30-day notice period, the request to invoke FML shall be made by the employee, or person acting in his/her behalf, within a reasonable period of time appropriate to the circumstances involved, as soon as practicable, but not later than 15 days following commencement of the qualifying family or medical emergency. Medical certification under such circumstances must also be submitted within the two week time frame. Provisional leave shall be provided pending medical certification. Failure to submit medical certification as required may result in disapproval of FML and in charges to other appropriate leave including AWOL.

3. OGE may waive the notice requirements set forth above, or may delay the taking of leave, under certain circumstances as set forth in 5 C.F.R. § 630.1207.

B. DOCUMENTATION OF REQUESTS

All requests for FML will be documented by submitting the OPM Form 71. The employee's request for this leave should be in accordance with the time limits discussed above. In the remarks area of the SF-71, the following information must be provided:

1. Identify the leave as "FML" for either family leave (for a birth, adoption or foster care, or the care of a spouse, son, daughter, or parent with a serious health condition) or medical leave (for the employee's serious health condition), and document the beginning and ending dates of the employee's 12 month period of FML entitlement.
2. Attached to the request should be the medical certification as described below.
3. In the event of an emergency, the request may be provided by telephone, facsimile, telegraph or other electronic means. In these situations, notice from an employee's spouse, family member or other responsible party will suffice until the employee is able to contact the supervisor. When the employee is able to contact the supervisor, he/she should provide an explanation of the emergency that prevented following normal procedures and should complete the application described above.

C. CONTENT OF MEDICAL CERTIFICATION

Each request for FML will be supported by medical certification issued by the health care provider of the employee or the family member of the employee, as appropriate. Written medical certification will include:

1. The date the serious health condition commenced.
2. The probable duration of the serious health condition.
3. The appropriate medical facts within the knowledge of the health care provider regarding

the serious health condition, including a general statement as to the incapacitation, examination, or treatment that may/will be required by a health care provider.

4. In support of FML requested for the care of an eligible family member, a statement from the health care provider that the person requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs or in making arrangements to meet such needs; and would benefit from the employee's care or presence.
5. A separate statement from the employee on the care he/she will provide and an estimate of the amount of time needed to care for his/her spouse, son, daughter, or parent.
6. In support of FML requested for the personal serious illness of the employee, a statement from the employee's health care provider that the employee is unable to perform the essential functions of his or her position, based on written information provided by the Agency on the essential functions of the employee's position or, if not provided, discussion with the employee about the essential functions of his/her position.
7. In support for intermittent leave or a reduced leave schedule for planned medical treatment, the statement will include the dates on which such treatment is expected to be given and the duration of such treatment.

D. SECOND AND THIRD OPINION

If the validity of the original certification is questionable, the employee may be required to obtain the opinions of a second or third health care provider before FML is approved. These opinions will be at OGE expense and administered according to applicable regulations.

E. REVIEW AND PROCESSING

Supervisors will review applications for FML in accordance with the procedures provided in this Chapter, and forward the application, with a recommendation on disposition, to the Deputy Director in charge of the Office for approval, subject to the technical concurrence

of Human Resources. The Deputy Director (or supervisor) will forward the approved application and all supporting documentation to Human Resources for review.

F. WRITTEN DECISION

The employee will be provided a written decision on the request no later than ten calendar days after complete documentation is submitted.

G. INADEQUATE CERTIFICATION

If the employee is unable to provide the requested medical certification before the leave begins, or if questions regarding the validity of the documentation remain unresolved, OGE will grant provisional leave, pending final acceptable certification. If, after the leave begins, acceptable certification is not provided, the employee may be charged AWOL or may be allowed to request annual or sick leave or LWOP, in accordance with applicable procedures for use of these kinds of leave.

H. MEDICAL RECERTIFICATION

An employee may be required to submit subsequent medical recertification from the health care provider on a periodic basis, not more often than every 30 calendar days. Such recertification will be at the Agency's expense. Medical recertification may be required more often than every 30 days if an employee requests an extension of the original leave period. If circumstances described in the original medical certification have changed significantly, or the Agency receives information that casts doubt upon the continuing validity of the medical certification, recertification could be prompted.

I. RETURN TO DUTY

Upon return to duty, the employee will be placed in the position he/she occupied prior to the use of FML, or, if this position is not available, in a position equivalent in pay, status, and other terms and conditions of employment. If the employee's entitlement to the position changes while on leave because of a Reduction-in-Force or similar circumstances, the employee will be placed in the status required by these circumstances.

J. TEMPORARY EMPLOYEES

Temporary employees who have 12 months of continuous service are eligible to use FML. The Office of Government Ethics management may require these employees to use accrued paid leave in lieu of LWOP. All other provisions

and procedures of this policy are applicable to this group of employees.

K. RECORDS

Human Resources will maintain all records necessary for personnel administration of the FML program. Timekeepers should maintain documentation with the employee's Time and Attendance records for payroll administration.

VII. **ABSENCE DUE TO PARENTAL AND FAMILY RESPONSIBILITIES OTHER THAN FML**

A. EMPLOYEE RESPONSIBILITY

An employee should ask for leave as far in advance as possible, particularly if the absence is to be prolonged, as is usually the case in leave for childbirth, for the care of a newborn child, or adoption of a child. This gives the supervisor time to make necessary adjustments to cope with the absence, such as recruitment of a temporary employee or changing work assignments.

B. ABSENCE FOR MATERNITY REASONS

1. Pregnancy is a condition which eventually requires the employee to be absent from the job because of incapacitation. Absence for pregnancy and confinement is to be treated like any other medically certified temporary condition.
2. Leave for maternity reasons may be a combination of three separate kinds of leave: sick leave, annual leave and leave without pay.
3. Sick leave may be used to cover the time required for physical examinations and to cover the period of incapacitation. After delivery and recuperation, the employee may desire a period of adjustment or need time to make arrangements for the care of the child. Such additional leave requirements may be taken care of by the use of available annual leave or leave without pay.
4. Supervisors will not set any arbitrary cutoff date which requires an employee to cease work without recognizing the physical capability of the employee to perform the duties of the job. However, the supervisor and the employee may mutually agree, in writing, on a firm date for

the leave to begin. If agreement cannot be reached, any date established by the supervisor must be fully justified, documented, and submitted to the Deputy Director, Office of Administration and Information Management, for concurrence prior to the effective date. However, if medical certification is submitted by the employee attesting to her ability to work beyond the cutoff date, it will be the final determining factor.

5. All sick leave granted under these guidelines must be supported by a medical certificate attesting to the employee's incapacity to perform duties for the period for which sick leave is requested.

C. ABSENCE FOR PATERNITY REASONS

A male employee may request annual leave or leave without pay for purposes of assisting or caring for his minor children or for the mother of his newborn child while she is incapacitated for maternity reasons. Sick leave may be granted in accordance with paragraph B. above.

D. LEAVE FOR ADOPTION

Adoption is often a long and arduous process for a prospective parent. Since there are many arrangements that adoptive parents must make, supervisors should be flexible in the granting of leave during this process as with natural parents. Leave for adoption may be annual leave, sick leave or leave without pay.

E. CONTINUED EMPLOYMENT AFTER CHILDBIRTH OR ADOPTION

An employee wishing to return to work following approved parental leave and delivery may return to the same position or one of like seniority and status and pay, unless termination is otherwise required by expiration of appointment, Reduction-in-Force, for cause, or for similar reasons unrelated to the maternity absence.

VIII. RECORDS AND REPORTS

A. OGE will maintain records on employees who take leave under this Subchapter for review of program performance and for submitting to OPM such records and reports as OPM may require.

B. At a minimum, OGE will maintain the following information concerning each employee who takes leave under this subpart:

1. The employee's rate of basic pay, as defined in 5 C.F.R. § 550.103;
2. The occupational series for the employee's position;
3. The number of hours of leave taken under 5 C.F.R. § 630.1203(a), including any paid leave substituted for leave without pay under 5 C.F.R. § 630.1205(b); and
4. Whether leave was taken-
 - a) Under 5 C.F.R. §§ 630.1203(a) (1), (2) or (3); or
 - b) Under 5 C.F.R. § 630.1203(a) (4)

C. When an employee transfers to a different agency, OGE will provide the gaining agency with information on leave taken under 5 C.F.R. § 630.1203(a) by the employee during the 12 months prior to the date of transfer. OGE will provide the following information:

1. The beginning and ending dates of the employee's 12-month period, as determined under 5 C.F.R. § 630.1203(c); and
2. The number of hours of leave taken under 5 C.F.R. § 630.1203(a) during the employee's 12-month period as determined under 5 C.F.R. § 630.1203 (c).

SUBCHAPTER 8. COMPENSATORY TIME OFF FOR TRAVEL

I. COVERAGE AND AUTHORITIES

This subchapter implements the Federal Workforce Flexibility Act provisions concerning compensatory time off for travel, as set forth in 5 CFR Part 550, Subpart N and 5 U.S.C. 5550b. It covers all OGE employees except Presidential appointees and members of the Senior Executive Service.

II. PURPOSE

This subchapter establishes Office of Government Ethics (OGE) policy and procedures for granting compensatory time off for time in a travel status away from an employee's official duty station, when the travel time is not otherwise compensable.

III. DEFINITIONS

- A. *Compensable* refers to periods of time that are creditable as hours of work for the purpose of determining a specific pay entitlement, even when that work time may not actually generate additional compensation because of applicable pay limitations (such as overtime pay limitations).
- B. *Compensatory time off* means compensatory time off for travel that is credited under the authority of this subchapter.
- C. *Official duty station* means the geographic area surrounding an employee's regular work site that is the same as the area designated by OGE for the purpose of determining overtime pay, consistent with 5 CFR 550.112(j) and 551.442(d).
- D. *Regular working hours* means the days and hours of an employee's regularly scheduled administrative workweek established under the OGE Personnel Manual Chapter 610.
- E. *Scheduled tour of duty for leave purposes* means an employee's regular hours for which he or she may be charged leave when absent. For full-time employees, it is the 40-hour workweek; for employees with an uncommon tour of duty, it is the uncommon tour of duty.

- F. *Travel* means officially authorized travel - i.e., travel for work purposes that is approved by an OGE supervisor or manager on a travel authorization, or on a blanket travel authorization or agency-approved equivalent.
- G. *Travel status* means travel time as defined in this subchapter that is creditable in accruing compensatory time off for travel under this subchapter, excluding travel time that is otherwise compensable under other legal authority.
- H. *Bona fide meal period*. A bona fide meal period is a period set aside for a regular meal. It must be long enough to allow the employee to use it for this purpose. It must occur at a scheduled hour or within a specified period of time of day which, in light of the employee's working hours, is suitable for a normal meal period, and the employee must be completely relieved from duty. This time is not considered work time and it is not compensated.

IV. CREDITABLE TRAVEL TIME

- A. Subject to the policies and procedures contained in this subchapter, a covered OGE employee will be credited with compensatory time off for time in a travel status if the employee is required to travel away from his or her official duty station and the travel time is not otherwise compensable hours of work under other legal authority.

B. Travel Status

1. Time in a travel status includes the time employees actually spend traveling between their official duty station (the OGE headquarters office) and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel, except for exclusions specified in this subchapter. Time spent at a temporary duty station between arrival and departure is not time in a travel status. The three airports, Reagan National, Dulles International and BWI, are considered to be within the Washington/Baltimore metropolitan area. OGE employees are to use the airport nearest to their residence. If for some reason the flight

cannot be booked at the airport nearest their home, the employee must document the reason on the authorization for approval. The OGE supervisor or manager who approves an OGE employee's request for compensatory time off for travel may otherwise determine what constitutes "usual waiting time" on a case-by-case basis, for unusual circumstances.

2. Bona fide meal periods during actual travel time or waiting time are not creditable as time in a travel status.
3. If an employee experiences an extended (i.e., not usual) waiting time between actual periods of travel, during which the employee is free to rest, sleep or otherwise use the time for his or her own purposes, the extended waiting time is not creditable as time in a travel status. The OGE supervisor or manager who approves an OGE employee's request for compensatory time off for travel determines what constitutes an "extended waiting time" on a case-by-case basis.

C. Travel Between Home and a Temporary Duty Station

1. If an OGE employee is required to travel directly between his or her home and a temporary duty station outside the limits of the employee's official duty station, the travel time is creditable as time in a travel status if otherwise qualifying under this subchapter. However, the time the employee would have spent in normal home-to-work or work-to-home commuting must be deducted from such travel hours.
2. When OGE offers an employee one mode of transportation and the employee is permitted to use an alternative mode of transportation, the employee's supervisor or manager must determine the estimated amount of time in a travel status the employee would have had if the employee had used the mode of transportation offered by OGE. The employee is credited with the lesser of the estimated time in a travel status or the actual time in a travel status.

3. When OGE offers an employee travel at a time or by a route, and the employee is permitted to use an alternative time or route, the employee's supervisor or manager must determine the estimated amount of time in a travel status the employee would have had if the employee had used the time and/or route offered by OGE. The employee is credited with the lesser of the estimated time in a travel status or the actual time in a travel status.
4. In the case of an employee who is on a multiple-day travel assignment and who chooses, for personal reasons, not to use temporary lodgings at the temporary duty station, but to return home at night or on a weekend, only travel from home to the temporary duty station on the first day and travel from the temporary duty station to home on the last day that is otherwise qualifying as time in a travel status under this subpart is mandatorily creditable (subject to the deduction of normal commuting time). Travel to and from home on other days is not creditable travel time unless OGE, at its discretion, determines that credit should be given based on the net savings to the Government from reduced lodging costs, considering the value of lost labor time attributable to compensatory time off. The dollar value of an hour of compensatory time off for this purpose is equal to the employee's hourly rate of basic pay.

D. Time Spent Traveling To or From a Transportation Terminal As Part of Travel Away from the Official Duty Station

1. If an OGE employee is required to travel between home and a transportation terminal (such as an airport or train station), within the limits of his or her official duty station, as part of travel away from that duty station, the travel time outside regular working hours to or from the terminal is considered to be equivalent to commuting time and is not creditable time in a travel status. Creditable time spent at an airport before a flight is one hour of usual waiting time before a domestic flight or two

hours of usual waiting time before an international flight.

2. If the transportation terminal in the example identified in D.1. above is outside the limits of the employee's official duty station, the travel time to or from the terminal outside regular working hours is creditable as time in a travel status, but is subject to an offset for the time the employee would have spent in normal home-to-work or work-to-home commuting.
3. If the employee travels between a worksite and a transportation terminal, the travel time outside regular working hours is creditable as time in a travel status, and no commuting time offset applies.

V. CREDITING COMPENSATORY TIME OFF FOR TRAVEL

A. Compensatory time off for travel is approved of, recorded, tracked and managed separately from other forms of overtime and compensatory time. To accommodate this, OGE employees must submit all requests for compensatory time off for travel on OGE Form 318 (see Appendix 1). An OGE timekeeper may only record compensatory time off for travel that has been approved in writing by an OGE supervisor or manager on a properly completed OGE Form 318. Completed, signed copies of OGE Form 318 are retained as part of time and attendance records, subject to the same access, audit and control procedures as those records.

B. Compensatory time off for travel will be credited in one-quarter of an hour (15 minute) increments.

C. An employee must submit a request for compensatory time off for travel in an e-mail, spreadsheet, memorandum or completed OGE Form 318 (including employee signature and date) to the immediate supervisor or appropriate OGE approving official within 5 working days of the date on which travel was completed. If the request is not submitted within this time period, the employee forfeits any entitlement to the compensatory time off for travel. A supervisor or manager may submit a written request to the Deputy Director, Office of Administration and Information Management (OAIM), to waive this

requirement on a case-by-case basis for one travel authorization. The Deputy Director, OAIM, may only waive the time period requirement for such mitigating circumstances as an extended leave time following the travel, an intervening death in the family, a subsequent work-related injury or a subsequent prolonged illness.

- D. If an employee fails to comply with the procedures set forth in this subchapter for approving and crediting compensatory time off for travel, no compensatory time for travel may be credited.
- E. There is no limitation on the amount of compensatory time off for travel an employee may earn.

VI. USAGE OF ACCRUED COMPENSATORY TIME OFF FOR TRAVEL

- A. An employee must request the supervisor's permission to schedule the use of accrued compensatory time off for travel as is done for annual leave, sick leave and compensatory time used. The request must be made in advance of the use of the leave, rather than on an emergency basis, as if it were a request for using annual leave. An employee should complete an SF-71, Request for Leave or Approved Absence, and check the block entitled "Other paid absence" and enter in item 6, Remarks, "Compensatory time off for travel."
- B. An employee must use earned compensatory time off for travel in increments of one-quarter of an hour (15-minutes).

VII. FORFEITURE OF UNUSED COMPENSATORY TIME OFF FOR TRAVEL

- A. After 26 Pay Periods. An employee must use accrued compensatory time off for travel by the end of the 26th pay period after the pay period during which it was credited. If an employee fails to use the compensatory time off for travel within 26 pay periods after it was credited, the compensatory time off is forfeited. There are two exceptions:

- 1. The employee separates from Federal service or is placed on a leave without pay status to perform service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102),

and later returns to Federal service through the exercise of a reemployment right provided by law, Executive order or regulation; or

2. The employee separates from Federal service or is placed in a leave without pay status because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81, and later recovers sufficiently to return to work.

3. If either of the exceptions under A.1 or A.2 above apply, whether in the same or in a successor agency, the employee must use all of the compensatory time off for travel by the end of the 26th pay period following the pay period in which the employee returns to duty, or such compensatory time off for travel is forfeited.

B. Upon Transfer to Another Federal Agency. When an employee voluntarily transfers to another agency (including a promotion or change to lower grade action), he or she must forfeit his or her unused compensatory time off for travel.

C. Upon Separation. When an employee separates from Federal service, other than the exceptions specified in A.1 or A.2 above, any unused compensatory time off for travel is forfeited.

D. Upon Movement to a Non-Covered Position. If an employee moves to a Federal position not covered by this subchapter, he or she forfeits any unused compensatory time off for travel. This requirement does not prevent the OGE from using another legal authority, if available, to give the employee credit for compensatory time off equal to the forfeited amount.

**VIII. PROHIBITION AGAINST PAYMENT FOR UNUSED COMPENSATORY TIME
OFF FOR TRAVEL**

As provided by 5 U.S.C. 5550b(b), an individual may not receive payment under any circumstances for any unused compensatory time off he or she earned under this subchapter. This prohibition against payment applies to surviving beneficiaries in the event of the individual's death.

IX. INAPPLICABILITY OF PREMIUM PAY AND AGGREGATE PAY CAPS

Accrued compensatory time off for travel under this subchapter is not considered in applying the biweekly or annual premium pay caps or the aggregate limitation on pay.

APPENDIX 1. REQUEST FOR COMPENSATORY TIME FOR TRAVEL (OGE Form 318)

Instructions for Completing OGE Form 318, Request for Compensatory Time for Travel

1. Enter the first and last name of the traveler in the Employee Name block.
2. Enter the beginning and ending dates of travel in the Date(s) of Travel field, such as "2/6/05 – 2/8/05."
3. In the Travel Authorization Number field, enter the travel authorization number contained on the related travel authorization form for this travel.
4. Under item 1.a., Total Travel Time for Travel to a temporary duty station, enter in the white block on the right side of the form the total time spent during the travel from OGE headquarters to a temporary duty station. All time must be recorded on this form in increments of 15 minutes, such as 1.00, 1.25, 1.50 and 1.75.
5. Enter all non-creditable time for travel to the temporary duty station under the appropriate "Minus" category. Use the "Other" category for one or more instances that do not fit in another "Minus" field.
6. Under item 1.b., enter the total time recorded under the "Minus" fields.
7. Enter the net travel time in item 1.c., the white block on the right side of the form, by subtracting the time recorded in item 1.b from the time recorded in item 1.a.
8. Under item 2.a., Total Travel Time for Travel from a temporary duty station, enter in the white block on the right side of the form the total time spent during travel from a temporary duty station to the OGE headquarters.
9. Enter all non-creditable time for travel from the temporary duty station under the appropriate "Minus" category. Use the "Other" category for one or more instances that do not fit in another "Minus" field.
10. Under item 2.b., enter the total time recorded under the "Minus" fields.
11. Enter the net travel time in item 2.c., the white block on the right side of the form, by subtracting the time recorded in item 2.b from the time recorded in item 2.a.
12. Enter the total creditable compensatory time for travel under item 3 in the white box on the right side of the form. Calculate this amount by adding the time recorded in block 1.c. to the time recorded in block 2.c. This is the amount of creditable compensatory time for travel the OGE traveler is claiming for the trip.
13. The OGE employee traveler signs and dates the form in the "Submitted By:" area at the bottom of the form.
14. The OGE supervisor or manager responsible for approving the time signs and dates the form in the "Approved:" area at the bottom of the form.
15. Upon completion of the data entry into timekeeping system used by OGE, the timekeeper enters at the bottom of the form the date on which the entry is made in the "Date Credited in Time/Attendance System:" field, and initials the "Timekeeper:" field.



REQUEST FOR COMPENSATORY TIME FOR TRAVEL

Employee Name:	Date(s) of Travel:	Travel Authorization No.:
	Type of Travel Time	Hours (0.00 show quarter hours as .25, .50 or .75)
1. Travel to temporary duty station	a. Total Travel Time	
<i>Minus</i>		
Travel time within regular working hours or other compensable time		
Travel to airport/other within limits of official duty station		
Bona fide meal period		
Normal Commuting Time (if applicable)		
Other		
b. SUBTOTAL (Add all <i>Minus</i> Time)		
c. Compensatory Time Off for Travel (Subtract 1.b. from 1.a.)		
2. Travel from temporary duty station	a. Total Travel Time	
<i>Minus</i>		
Travel time within regular working hours or other compensable time		
Travel from airport/other within limits of official duty station		
Bona fide meal period		
Normal Commuting Time (if applicable)		
Other		
b. SUBTOTAL (Add all <i>Minus</i> Time)		
c. Compensatory Time Off for Travel (Subtract 2.b. from 2.a.)		
3. Total Compensatory Time for Travel (Add 1.c. and 2.c)		

Submitted By: _____ Date: _____
Employee

Approved: _____ Date: _____
Supervisor

Date Credited in Time/Attendance System: _____ Timekeeper: _____

APPENDIX 2. FREQUENTLY ASKED QUESTIONS CONCERNING COMPENSATORY TIME OFF FOR TRAVEL

Taken from OPM's CPM 2005-03 - Attachment 1

Questions and Answers on Compensatory Time Off for Travel

Q1. What is compensatory time off for travel?

A. Compensatory time off for travel is a new form of compensatory time off that may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.

Q2. When is this provision effective?

A. This provision is effective on January 28, 2005.

Q3. Are all employees covered by this provision?

A. The new compensatory time off provision applies to an "employee" as defined in 5 U.S.C. 5541(2) who is employed in an "Executive agency" as defined in 5 U.S.C. 105, without regard to whether the employee is exempt from or covered by the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended. The definition includes employees in senior-level (SL) and scientific or professional (ST) positions, but not members of the Senior Executive Service or prevailing rate employees.

Q4. What qualifies as travel for the purpose of this provision?

A. To qualify for this purpose, travel must be officially authorized. In other words, travel must be for work purposes and must be approved by an authorized agency official or otherwise authorized under established agency policies.

Q5. An employee receives compensatory time off for travel only for those hours spent in a travel status. What qualifies as time in a travel status?

A. Travel status includes only the time actually spent traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel.

Q6. What is meant by "usual waiting time"?

A. Airline travelers generally are required to arrive at the airport at a designated pre-departure time (e.g., 1 or 2 hours before the scheduled departure, depending on whether the flight is domestic or international). Such waiting time at the airport is considered usual waiting time and is creditable time in a travel status. In addition, time spent at an intervening airport waiting for a connecting flight (e.g., 1 or 2 hours) also is creditable time in a travel status, subject to exclusions for bona fide meal periods. In all cases, determinations regarding what is creditable as "usual waiting time" are within the sole and exclusive discretion of the employing agency.

Q7. What if an employee experiences an "extended" waiting period?

A. If an employee experiences an unusually long wait prior to his or her initial departure or between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes, the extended waiting time that is outside the employee's regular working hours is not creditable time in a travel status. An extended waiting period that occurs during an employee's regular working hours is compensable as part of the employee's regularly scheduled administrative workweek.

Q8. Do meal periods count as time in a travel status?

A. For the purpose of earning compensatory time off for travel, bona fide meal periods are not considered time in a travel status. For example, if an employee spends an uninterrupted hour eating a meal at an airport restaurant while waiting for a connecting flight, that hour is not considered time in a travel status.

Q9. What happens once an employee reaches a temporary duty station?

A. Once an employee arrives at the temporary duty station, he or she is no longer considered to be in a travel status. Any time spent at a temporary duty station between arrival and departure is not creditable travel time for the purpose of earning compensatory time off.

Q10. When is it appropriate for an agency to offset creditable time in a travel status by the amount of time the employee spends in normal commuting between home and work?

A. If an employee travels directly between his or her home and a temporary duty station outside the limits of the employee's official duty station (e.g., driving to and from a 3-day conference), the agency must deduct the employee's normal home-to-work/work-to-home commuting time from the creditable travel time. The agency must also deduct an employee's normal commuting time from the creditable travel time if the employee is required—outside of regular working hours—to travel between home and a transportation terminal (e.g., an airport or train station) outside the limits of the employee's official duty station.

Q11. What if an employee travels to a transportation terminal within the limits of his or her official duty station?

A. An employee's time spent traveling outside of regular working hours to or from a transportation terminal within the limits of his or her official duty station is considered equivalent to commuting time and is not creditable time in a travel status for the purpose of earning compensatory time off.

Q12. What if an employee travels from a worksite to a transportation terminal?

A. If an employee travels between a worksite and a transportation terminal, the travel time outside regular working hours is creditable as time in a travel status, and no commuting time offset applies.

Q13. How is compensatory time off for travel earned and credited?

A. Compensatory time off for travel is earned for qualifying time in a travel status. Agencies may authorize credit in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes). Agencies must track and manage compensatory time off for travel separately from other forms of compensatory time off.

Q14. Is there a limitation on the amount of compensatory time off for travel an employee may earn?

A. No.

Q15. How does an employee request credit for compensatory time off for travel?

A. Agencies may establish procedures for requesting credit for compensatory time off for travel. An employee must comply with his or her agency's procedures for requesting credit of compensatory time off, and the employee must file a request for such credit within the time period established by the agency.

Q16. How does an employee use accrued compensatory time off for travel?

A. An employee must request permission from his or her supervisor to schedule the use of his or her accrued compensatory time off for travel in accordance with agency policies and procedures. Compensatory time off for travel may be used when the employee is granted time off from his or her scheduled tour of duty established for leave purposes. Employees must use accrued compensatory time off for travel in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes).

Q17. How long does an employee have to use accrued compensatory time off for travel?

A. An employee must use his or her accrued compensatory time off for travel by the end of the 26th pay period after the pay period in which it was credited or the employee must forfeit such compensatory time off, except in certain circumstances. (See Q18.)

Q18. Under what circumstances does an employee maintain credit for accrued compensatory time off for travel beyond the 26th pay period after the pay period in which it was credited?

A. Unused compensatory time off for travel will be held in abeyance for an employee who separates, or is placed in a leave without pay status, and later returns following (1) separation or leave without pay to perform service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) and a return to service through the exercise of a reemployment right or (2) separation or leave without pay due to an on-the-job injury with entitlement to injury compensation under 5 U.S.C. chapter 81. The employee must use all of the compensatory time off held in abeyance by the end of the 26th pay period following the pay period in which the employee returns to duty, or such compensatory time off will be forfeited.

Q19. May unused compensatory time off for travel be restored if an employee does not use it by the end of the 26th pay period after the pay period in which it was credited?

A. Except in certain circumstances (see Q18), any compensatory time off for travel not used by the end of the 26th pay period after the pay period in which it was credited must be forfeited.

Q20. What happens to an employee's unused compensatory time off for travel upon separation from Federal service?

A. Except in certain circumstances (see Q18), an employee must forfeit all unused compensatory time off for travel upon separation from Federal service.

Q21. May an employee receive a lump-sum payment for accrued compensatory time off for travel upon separation from an agency?

A. No. The law prohibits payment for unused compensatory time off for travel under any circumstances.

Q22. What happens to an employee's accrued compensatory time off for travel upon transfer to another agency?

A. When an employee voluntarily transfers to another agency (including a promotion or change to lower grade action), the employee must forfeit all of his or her unused compensatory time off for travel.

Q23. What happens to an employee's accrued compensatory time off for travel when the employee moves to a position that is not covered by the regulations in 5 CFR part 550, subpart N?

A. When an employee moves to a position in an agency that is not covered by the compensatory time off for travel provisions (e.g., the United States Postal Service), the employee must forfeit all of his or her unused compensatory time off for travel. However, the gaining agency may use its own legal authority to give the employee credit for such compensatory time off.

Q24. Is compensatory time off for travel considered in applying the premium pay and aggregate pay caps?

A. No. Compensatory time off for travel may not be considered in applying the biweekly or annual premium pay limitations established under 5 U.S.C. 5547 or the aggregate limitation on pay established under 5 U.S.C. 5307.

Q25. When are criminal investigators who receive availability pay precluded from earning compensatory time off for travel?

A. Compensatory time off for travel is earned only for hours that are not otherwise compensable. The term "compensable" is defined in 5 CFR 550.1403 to include any hours of a type that are creditable under other compensation provisions, even if there are compensation caps that limit the payment of premium pay for those hours (e.g., the 25 percent cap on availability pay and the biweekly premium pay cap). For availability pay recipients, this means that hours of travel are not creditable as time in a travel status for compensatory time off purposes if the hours are (1) compensated by basic pay, (2) regularly scheduled overtime hours creditable under 5 U.S.C. 5542, or (3) "unscheduled duty hours" as described in 5 CFR 550.182(a), (c), and (d).

Q26. If an employee is required to travel on a Federal holiday (or an "in lieu of" holiday), is the employee entitled to receive compensatory time off for travel?

A. Although most employees do not receive holiday premium pay for time spent traveling on a holiday (or an "in lieu of" holiday), an employee continues to be entitled to pay for the holiday in the same manner as if the travel were not required. Thus, employees may not earn compensatory time off for travel during basic (non-overtime) holiday hours because they are entitled to their rate of basic pay for those hours. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is *not otherwise compensable*.

Q27. If an employee's regularly scheduled tour of duty is Sunday through Thursday and the employee is required to travel on a Sunday during regular working hours, is the employee entitled to earn compensatory time off for travel?

A. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. Thus, an employee may not earn compensatory time off for traveling on a workday during regular working hours because the employee is receiving his or her rate of basic pay for those hours.

APPENDIX 3. EXAMPLES OF CREDITABLE TRAVEL TIME***Example 1: Travel to a temporary duty station on a workday****From home to business meeting*

6:00 - 7:00 a.m.	7:00 - 8:00 a.m.	8:00 - 8:30 a.m.	8:30 - 11:30 a.m.	11:30 a.m. - 12:30 p.m.
Drive to airport	Wait at airport	Wait at airport	Plane departs/lands	Drive to worksite
<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>

From business meeting to home

5:00 - 6:00 p.m.	6:00 - 6:30 p.m.	6:30 - 7:30 p.m.	7:30 - 10:30 p.m.	10:30 - 11:30 p.m.
Drive to airport	Dinner at airport	Wait at airport	Plane departs/lands	Drive home
<i>Creditable travel time</i>	<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Creditable travel time</i>	<i>Noncreditable travel time</i>

On a workday, an employee is required to travel to a temporary duty station for an afternoon meeting. The employee's regular working hours are 8:00 a.m. to 4:30 p.m. In total, the employee spends 13 hours (6:00 a.m. to 12:30 p.m. and 5:00 p.m. to 11:30 p.m.) traveling to and from the worksite. However, the time between 8:00 a.m. and 12:30 p.m. is compensable as part of the employee's regular working hours. Also, an employee's time spent traveling outside of regular working hours to or from a transportation terminal (e.g., an airport or train station) within the limits of his or her official duty station is considered to be equivalent to commuting time and is not creditable travel time. (See 5 CFR 550.1404(d).) In this case, the employee spends 2 hours traveling to and from an airport within the limits of his official duty station. Finally, bona fide meal periods during actual travel or waiting time are not considered to be creditable travel time. (See 5 CFR 550.1404(b)(2).) Therefore, the 30 minutes the employee spends having dinner while waiting at the airport on the return trip home is not creditable travel time.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	13 hours
<i>minus</i>	
Travel time within regular working hours	4.5 hours
Travel to/from airport within limits of official duty station	2 hours
Bona fide meal period	0.5 hour
Compensatory time off for travel	6 hours

Example 2: Travel to a temporary duty station on a non-workday

Travel from home to a hotel on a Sunday

5:00 - 6:00 p.m.	6:00 - 7:30 p.m.	7:30 - 10:00 p.m.	10:00 - 10:30 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Drive to hotel
Noncreditable travel time	Creditable travel time	Creditable travel time	Creditable travel time

Travel from a hotel to home on the following Saturday

6:30 - 7:00 a.m.	7:00 - 7:30 a.m.	7:30 - 10:30 a.m.	10:30 a.m. - 1:00 p.m.	1:00 - 2:00 p.m.
Drive to airport	Breakfast at airport	Wait at airport—2 hour delay	Plane departs/lands	Drive home
Creditable travel time	Noncreditable travel time	Creditable travel time	Creditable travel time	Noncreditable travel time

An employee is required to travel to a temporary duty station for a week-long conference. The employee's regular working hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Because the conference begins early Monday morning, the employee travels to a hotel at the temporary duty station the Sunday evening before the conference. The conference is scheduled to continue into the evening on Friday, so the employee returns home on Saturday morning.

In total, the employee spends 13 hours (5:00 p.m. to 10:30 p.m. on Sunday and 6:30 a.m. to 2:00 p.m. on the following Saturday) traveling to and from the conference. However, the hour the employee spends on Sunday traveling to the airport and the hour the employee spends on Saturday traveling from the airport within the limits of her official duty station is considered equivalent to commuting time and is not creditable time in a travel status. Also, the 30 minutes the employee spends having breakfast while waiting at the airport on the return home is considered a bona fide meal period and is not creditable travel time.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	13 hours
<i>minus</i>	
Travel to/from airport within limits of official duty station	2 hours
Bona fide meal period	0.5 hour
Compensatory time off for travel	10.5 hours

Example 3: Travel from a temporary duty station on a workday (with cancelled connecting flight)

From temporary duty station to intervening airport for connecting flight on a Friday.

5:30 - 6:30 a.m.	6:30 - 8:00 a.m.	8:00 - 11:00 a.m.	11:00 - 3:00 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Connecting flight delayed due to severe weather. Flights are cancelled.
Creditable travel time	Creditable travel time	Regular working hours	Regular working hours

Employee checks into hotel near airport—No creditable travel time. Employee returns to airport on Saturday morning.

6:30 - 7:00 a.m.	7:00 - 8:30 a.m.	8:30 a.m. - 12:00noon	12:00noon - 1:00 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Drive home
Creditable travel time	Creditable travel time	Creditable travel time	Noncreditable travel time

On a Friday (workday), an employee is required to travel from a temporary duty station to home. However, due to severe weather, the employee's connecting flight is cancelled until Saturday morning (nonworkday). On Friday, the employee's regular working hours are 8:00 a.m. to 4:30 p.m. In total, the employee spends 16 hours (5:30 a.m. to 3:00 p.m. and 6:30 a.m. to 1:00 p.m.) traveling from the worksite. However, the time between 8:00 a.m. and 3:00 p.m. is compensable as part of the employee's regular working hours. The extended waiting period from 3:00 p.m. until the employee returned to the airport on Saturday morning is not creditable travel time, since the employee was free to use the time for his or her own purposes. (See 5 CFR 550.1404(b)(3).) An employee's time spent traveling outside of regular working hours to or from a transportation terminal (e.g., an airport or train station) within the limits of his or her official duty station is considered to be equivalent to commuting time and is not creditable travel time. (See 5 CFR 550.1404(d).) In this case, the employee spent 1 hour traveling from an airport within the limits of his official duty station.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	16 hours
<i>minus</i>	
Travel time within regular working hours	7 hours
Travel from airport within limits of official duty station	1 hour
Compensatory time off for travel	8 hours

Example 4: Driving to and from a temporary duty station on a workday*Travel to and from a training session*

6:00 - 7:00 a.m.	7:00 - 8:00 a.m.	8:00 a.m. - 4:30 p.m.	4:30 - 5:30 p.m.	5:30 - 6:30 p.m.
Drive to training session	Drive to training session	Training	Drive home	Drive home
Noncreditable travel time	Creditable travel time	Regular working hours	Creditable travel time	Noncreditable travel time

An employee is required to travel to a temporary duty station on a workday for a 1-day training session. The training location is a 2-hour drive from the employee's home. The employee's regular working hours are 8:00 a.m. to 4:30 p.m. In total, the employee spends 4 hours (6:00 a.m. to 8:00 a.m. and 4:30 p.m. to 6:30 p.m.) driving to and from the training session.

If an employee travels directly between home and a temporary duty station outside the limits of his or her official duty station, the time spent traveling outside regular working hours is creditable travel time. However, the agency must deduct the time the employee would have spent in normal home-to-work/work-to-home commuting. (See 5 CFR 550.1404(c).) In this case, the employee's normal daily commuting time is 2 hours (1 hour each way). Therefore, 2 hours must be deducted from the employee's creditable travel time.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	4 hours
<i>minus</i>	
Normal commuting time	2 hours
Compensatory time off for travel	2 hours

Example 5: Travel to multiple temporary duty stations on a workday*Travel from home to first presentation site*

6:00 - 7:00 a.m.	7:00 - 8:00 a.m.	8:00 - 8:30 a.m.	8:30 - 10:00 a.m.	10:00 - 10:30 a.m.	10:30 - 12:00noon
Drive to airport	Wait at airport	Wait at airport	Plane departs/lands	Drive to site	Presentation
<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>

Travel from first presentation site to second presentation site

12:00noon to 12:30 p.m.	12:30 - 1:30 p.m.	1:30 - 2:30 p.m.	2:30 - 3:00 p.m.	3:00 - 4:30 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Drive to site	Presentation
<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>

Travel from second presentation site to home

4:30 - 5:00 p.m.	5:00 - 5:30 p.m.	5:30 - 6:30 p.m.	6:30 - 9:30 p.m.	9:30 - 10:30 p.m.
Drive to airport	Dinner at airport	Wait at airport	Plane departs/lands	Drive home
<i>Creditable travel time</i>	<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Creditable travel time</i>	<i>Noncreditable travel time</i>

An employee is required to travel on a workday to two temporary duty stations to make presentations to stakeholders. The employee's regular working hours are 8:00 a.m. to 4:30 p.m. In total, the employee spends 13.5 hours traveling (6:00 a.m. to 10:30 a.m., 12:00 noon to 3:00 p.m., and 4:30 p.m. to 10:30 p.m.) between home and the two presentation sites. However, the time between 8:00 a.m. and 4:30 p.m. is compensable as the employee's regular working hours. Also, the 2 hours the employee spends traveling outside of regular working hours to and from the airport within the limits of the official duty station is not creditable travel time. Finally, the 30 minutes the employee spends having dinner while waiting at the airport on the return home is considered a bona fide meal period and is not creditable travel time.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	13.5 hours
<i>minus</i>	
Travel time within regular working hours	5.5 hours
Travel to/from airport within limits of official duty station	2 hours
Bona fide meal period	0.5 hour
Compensatory time off for travel	5.5 hours

CHAPTER 650

TIME & ATTENDANCE PROCEDURES

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SUBCHAPTER 1 – GENERAL PROVISIONS

I. PURPOSE

This Chapter establishes internal procedures for administration of the System for the Time and Attendance Reporting (**STAR Web 5.0 Based Web Version**). The version for establishing this Chapter is based on **STAR Web 5.0 Version**.

II. AUTHORITY

This Chapter implements the legal and regulatory requirements as set forth by the National Finance Center, hereafter referred to as the NFC. You may locate the requirements on the web – Title I, Chapter 7, Section 5, System for Time and Attendance Reporting (**STAR Web 5.0 WEB BASED VERSION**)

III. RESPONSIBILITY

- A. The *Deputy Directors and General Counsel* of the Office of Agency Programs (OAP), Office of Administration and Information Management (OAIM) and Office of General Counsel and Legal Policy (OGCLP) are responsible for designating employees on their staff who will be responsible for maintaining OPM Form 71, Leave and Absences, preparing time and attendance (T&A) and, entering the T&A Reports in STAR WEB. The T&A Reports for the Office of the Director will be prepared by the timekeeper of Office of Administration and Information Management (OAIM). T&A Reports for Office of International Assistance & Government Initiatives (OIAGI) will be prepared and processed by the timekeeper for OGCLP.
- B. *Time and Attendance Timekeepers* are responsible for the timely and accurate submission of bi-weekly time and attendance reports. These individuals are responsible for maintaining accurate current-leave year records of their assigned employees' use of annual and sick leave, overtime, compensatory time, military leave, and time-off awards. Timekeepers are also responsible for the protection of personal identifier information (i.e. Social Security numbers).
- C. *Supervisors* are responsible for ensuring the T&A Reports are correct (i.e. regular hours, annual/sick leave, military, etc.) before signing. Supervisors must review and certify T&A records and supporting documentation. If any discrepancies occur, the supervisor is to return the T&A Report to the Timekeeper so that appropriate corrections can be made. The T&A Report must be reviewed again and certified after changes have been made. Supervisors are also responsible for ensuring that timekeepers are properly trained in time and attendance.

- D. *Employees* are responsible for ensuring his/her T&A Report is documented accurately prior to initialing. Employees must inform their supervisor and Timekeeper of their work hours and leave.
- E. The *Management Services Assistant for OAIM* will serve as the Lead Timekeeper and is responsible for assisting all Timekeepers in keeping abreast of T&A changes, either via email or meetings. The Lead Timekeeper will also direct other Timekeepers to act in the absence of a Timekeeper to ensure the processing of T&A Reports in a timely fashion. T&A records will be maintained in one location as determined by the Lead Timekeeper and the Agency's Records Officer. The Lead Timekeeper serves as custodian of prior year T&A files and will maintain a log/record of the files being maintained in the central location.

The Lead Timekeeper will advise supervisors and timekeepers of time and attendance training opportunities. The Lead Timekeeper will also assist Timekeepers in determining the need for corrected T & A reporting and will participate with the timekeepers in conducting audits of T&A records.

- F. The *Human Resources staff* is responsible for overseeing the T&A activities of the Lead Timekeeper and for keeping the Lead Timekeeper abreast of any changes regarding time and attendance.
- G. The *OGE Time and Attendance Working Group* will meet regularly to discuss policies and procedures, software problems and upgrades, and specific problems to achieve consensus on proposals to the Administration Division. This group consists of the Human Resources staff, the Lead Timekeeper, and all other Timekeepers. This group is chaired by the Human Resources staff and meets, at a minimum, on the fourth Thursday of every other month.
- H. The *Deputy Director for OAIM*, with the assistance of the Human Resources Officer, is responsible for providing broad policy and procedural guidance in the administration of time and attendance.

IV. OPERATING POLICIES

- A. Each timekeeper is responsible for knowing the policies and procedures set forth in OGE Human Resources Manual Chapter 610 (Hours of Duty) and 630 (Absence and Leave) and NFC instructions regarding bi-weekly reporting and maintaining leave balances.
- B. To ensure consistency, all Timekeepers will prepare the time and attendances reports in one format as prescribed by the HR staff and Lead Timekeeper.
- C. To ensure consistency, all Timekeepers will maintain their T&A files in the same manner **(an individual file will be maintained on each employee)**.
- D. Corrections to data in the NFC's TINQ system (Time Inquiry-Leave Update System) can only be made by the Human Resources staff and/or the Lead Timekeeper.
- E. Differing opinions between the Lead Timekeeper and other Timekeepers are to be resolved by the Human Resources staff.
- F. NFC will only discuss Time and Attendance matters with designated point-of-contact. OGE's points-of-contact are the Human Resources staff and the Lead Timekeeper. Employees are to raise their concerns or questions to the appropriate Timekeeper. If the Timekeeper is unable to address the concern, he/she is to contact the Lead Timekeeper. (If the Lead Timekeeper is absent, Timekeepers may then contact the Human Resources staff). If the Lead Timekeeper is unable to address the concern, he/she will either contact the Human Resources staff or the NFC staff for resolution. Timekeepers must research the STAR WEB Manual before raising the issue to the Lead Timekeeper and/or Human Resources staff.
- G. **All T&A Reports shall be submitted to supervisor and/or employee in a folder or envelope (marked addressee only) because of privacy act.**

SUBCHAPTER 2 – ABOUT STAR WEB 5.0

I. GENERAL

In accordance to Title I, Chapter 7, Section 5, System for Time and Attendance Reporting, STAR Web 5.0 Version is designed, developed, and maintained by the National Finance Center (NFC for personal computers (PC) running with either Internet Explore 6.0 (or higher) or Netscape Navigator 6.23 (or higher). STAR Web 5.0 is used by agencies to prepare, print, and transmit T&As to be sent to the NFC for processing. Transaction code (TC) and leave type tables used in STAR 5.0 are maintained at NFC. Because STAR Web 5.0 is a real-time-Web-based application, accounting information is validated through the Management Account Structure Codes System (MASC) as the timekeeper enters each line on the T&A. This helps to eliminate errors therefore, resulting in less corrected T&A reports.

II. STAR Web 5.0 is used to:

- Maintain a detailed record for each employee. This record contains information relating to the employee's pay plan, work schedule, and other pertinent employee data needed for T&A reporting;
 - Gather data entered by Timekeepers for the purpose of recording attendance and leave and for calculating employee wages each pay period;
 - Enter T&A data at any time during the pay period;
 - Enter corrected/split T&A reports;
 - Perform certain edits to determine if the data is correct;
 - Print T&As to be reviewed and approved by supervisory personnel; and
 - Mark T&As for transmission to NFC.
- A. The T&A reports are processed through the T&A Validation System (TIME) which reads, collects, edits, audits and validates the data for payment. All errors encountered are reflected on an NFC system-generated error list which the HR staff provides to the Lead Timekeeper for action. The T&A records in question are placed in an error suspense file. These T&A records are corrected by NFC and are processed through TIME again. After T&A records pass all edits and are validated, the database is updated for subsequent payment processing.
- B. Timely submission of T&A reports is necessary because of the impact on the employee's pay. T&A records should be closed on the last day of the pay period (second Friday) and be processed as soon as possible. T&A reports should be transmitted to NFC no later than the Tuesday following the last day of the period.

SUBCHAPTER 3 - MAINTAINING EMPLOYEES LEAVE ACCOUNT

I. GENERAL

Timekeepers must maintain his/her employee's leave account. The leave account consists of leave brought forward from the prior pay period, leave earned during the current pay period, leave used for the processing pay period, and the leave balance to date.

II. DOCUMENTING LEAVE

All timekeepers must be knowledgeable of the NFC's procedures for maintaining an employee's leave account. The OGE has developed a leave record form (incorporated into this manual chapter as Appendix A) and it is to be used to record leave taken.

"Excused Absences" are of particular concern. When the Director allows employees to leave at a specified time (i.e. 2 hours before his/her departure time) the Timekeeper is to code the time and attendance report as if the employee stayed until the end of his/her tour of duty. If an employee was at work and left prior to the Director's early departure decision, the employee will be charged annual leave. Keep in mind the Director is granting excused absence based on his/her decision and not government-wide decision by Director of OPM or an Executive Order from the President.

III. THE LEAVE ERROR REPORT

The error report is used to verify current leave balances in Star Web against current leave balances in the databases at NFC. The Leave Error Report is available in STAR Web 5.0 and is only available for the most recent pay period (The Human Resources staff is also able to generate a database leave report). The Human Resources staff will forward the report to the Lead Timekeeper for review, distribution, and follow-up to ensure the error has been corrected.

SUBCHAPTER 4 - PREPARING A BIWEEKLY T&A REPORT

- I.** All Timekeepers must be knowledgeable of the NFC's procedures for preparing bi-weekly reports. In accordance with those procedures, the Timekeeper normally begins preparing T&A reports on the 2nd Thursday of each pay period by obtaining any additional leave slips. If the Timekeeper has not received any additional leave slips by noon of that day, he/she prepares the T&A report for the employee's review and initials.
- II.** The last Friday of each pay period, T&A reports should be error free (the extra day would provide sufficient time to obtain additional leave slips and/or correct T&A reports) and submitted to the supervisor by 9:00 a.m. The Timekeeper is to advise the supervisor that the deadline for processing the reports into the system is noon that day.
- III.** Upon retrieving the T&A Records from the supervisor, the Timekeeper finalizes/processes the employees' T&A reports in STAR Web by the end of his/her tour of duty Tuesday.

SUBCHAPTER 5 - AUDITS

GENERAL

- I. An audit is conducted whenever a problem has been identified. The audit will be documented on USDA form AD-717 (incorporated into this manual chapter as Appendix B; this form can be found on the NFC's website). Audits require the participation of the appropriate Employee, Timekeeper, the Lead Timekeeper, and if necessary, the Human Resources staff.
- II. The cover sheet found in (Appendix C) is used to certify the audit of T&A reports. The Lead Timekeeper and Timekeeper will complete the AD-717 and the audit cover sheet; obtain signatures of the employee and the appropriate Timekeeper; sign the cover sheet, **and submit the AD-717 to the Lead Timekeeper for review. When the Lead Timekeeper is satisfied with the audit, the Lead Timekeeper will sign the cover sheet and place the documents with the T&A reports for the pay period in question.**
- III. Should an employee refuse to sign a leave audit, the Timekeeper will annotate the audit with the following comment, "Employee chose not to sign the leave audit," and date the audit. The Timekeeper and the Lead Timekeeper will then sign the audit.

IMPORTANT NOTICE

NFC will only discuss time and attendance matters with the HR staff and/or the Lead Timekeeper. No employee, other than the Lead Timekeeper or HR staff should be in contact with NFC. If the Lead Timekeeper is absent, the timekeeper must contact HR for guidance rather than calling NFC directly. Keep in mind, the first question asked by HR will be "have you checked the STAR WEB Manual". If so, you should provide the section you reviewed. HR will determine whether a call needs to be made to NFC. The HR staff will keep in contact with the NFC POC to see if she/he has received calls from anyone other than HR and the Lead Timekeeper. You must have reviewed the STAR WEB Manual to ensure your problems cannot be resolved.

This Chapter 751/752 is effective as of September 15, 2009. This Chapter 751/752 will apply to all disciplinary and adverse actions taken on or after September 15, 2009, whether the conduct in question occurred before or after September 15, 2009.

OFFICE OF GOVERNMENT ETHICS PERSONNEL MANUAL

This Chapter 751/752 applies to all persons who are employed by the State of Illinois, whether full-time or part-time, and who are subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act. This Chapter 751/752 does not apply to persons who are employed by the State of Illinois but who are not subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

CHAPTER 751/752

(a) "Adverse action" means a removal, suspension, demotion, or other disciplinary action taken against a person employed by the State of Illinois, whether full-time or part-time, and who is subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

(b) "Disciplinary action" means a suspension, demotion, or other disciplinary action taken against a person employed by the State of Illinois, whether full-time or part-time, and who is subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

DISCIPLINARY AND ADVERSE ACTIONS

(a) "Disciplinary action" means a suspension, demotion, or other disciplinary action taken against a person employed by the State of Illinois, whether full-time or part-time, and who is subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

(b) "Adverse action" means a removal, suspension, demotion, or other disciplinary action taken against a person employed by the State of Illinois, whether full-time or part-time, and who is subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

(c) "Person" means any individual who is employed by the State of Illinois, whether full-time or part-time, and who is subject to the provisions of Chapter 751/752 of the Illinois Government Ethics Act.

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SUBCHAPTER 1: GENERAL

1-1 Effective date

This Chapter 751/752 is effective as of September 25, 2009. This Chapter 751/752 will apply to all disciplinary and adverse actions taken on or after September 25, 2009, whether the conduct at issue occurred before or after September 25, 2009.

1-2 Rescission of earlier policies

This Chapter 751/752 replaces and supersedes all policies established in OGE's earlier policy issuances on disciplinary and adverse actions, including Chapter 751 and Chapter 752 of OGE's Personnel Manual. Chapter 751 and Chapter 752 of OGE's Personnel Manual are rescinded.

1-3 Definitions

- (a) "Adverse action" means a removal, a suspension for more than 14 days, a reduction in grade, a reduction in pay, or a furlough of 30 days or less as those terms are defined in 5 U.S.C. Ch. 75.
- (b) "Days" means calendar days, unless otherwise specified.
- (c) "Disciplinary action" means a suspension without pay for 14 days or less.
- (d) "Employee" has the meaning ascribed to the word in 5 U.S.C. § 7501 for disciplinary actions and the meaning ascribed to the word in 5 U.S.C. § 7511 for adverse actions.
- (e) "Reprimand" means a written memorandum or letter admonishing an employee for misconduct. A reprimand also may be called an admonishment. The label of such a memorandum or letter is not significant.
- (f) "Suspension" has the meaning ascribed to the word under 5 U.S.C. § 7501.

1-4 Coverage and effect

This Chapter 751/752 covers all competitive service and excepted service employees at OGE. This Chapter 751/752 does not cover Senior Executive Service employees at OGE. This Chapter 751/752 applies only to disciplinary actions covered under 5 U.S.C. § 7502 and adverse actions covered under 5 U.S.C. § 7512. To the extent that a provision of this Chapter 751/752 is inconsistent with a provision of law or regulation, any such provision of Chapter 751/752 is inoperative. Nothing in this Chapter 751/752 is intended to broaden the rights of any individual beyond rights established in law or regulation.

SUBCHAPTER 2: POLICY

OGE will take disciplinary and adverse actions for such cause as will promote the efficiency of the service.

SUBCHAPTER 3: PROCEDURES

3-1 Employee rights

An employee against whom OGE proposes a disciplinary action has the rights established in 5 U.S.C. § 7503, when that section is applicable. An employee against whom OGE proposes an adverse action has the rights established in 5 U.S.C. § 7513, when that section is applicable.

3-2 Material relied upon

Where practicable, OGE normally will provide the employee or the employee's representative with a copy of the material upon which OGE relied in proposing the action. However, OGE reserves the right to require the employee to inspect the material on OGE's premises where OGE determines such arrangements are reasonably necessary.

3-3 Representation

The employee may be represented by an attorney or another representative. However, the representative may not be an individual whose representational activities in connection with the matter would cause a conflict of interest. A representative who is a Federal employee also may be restricted with regard to the use of official time and the approval of leave, particularly if such representation affects the performance of official duties.

3-4 Proposing official

Any supervisor at OGE may propose a disciplinary or adverse action to a subordinate in the supervisor's chain of command, after obtaining clearance by the Office of General Counsel and Legal Policy. In addition, any member of the Senior Executive Service at OGE may propose a disciplinary or adverse action against any OGE employee, after obtaining clearance by the Office of General Counsel and Legal Policy. Failure to obtain clearance by the Office of General Counsel and Legal Policy will not automatically negate the action against the employee, but it may serve as a basis for a separate disciplinary or adverse action against the proposing official and may affect the performance rating of the proposing official.

3-5 Deciding official

The deciding official may be the Director, any member of the Senior Executive Service assigned to OGE, or any official detailed to perform the duties of a Senior Executive Service position. If the proposing official is one of these eligible persons, either the proposing official or another eligible person may be the deciding official. The deciding official need not be in the employee's chain of command. The employee does not have a right to select or recommend a deciding official.

3-6 Period for responding

Unless the matter involves a possible criminal act or a possible risk to health, safety, property, or information security, OGE will afford an employee 14 days to respond to a proposed disciplinary action, except when Subchapter 4 below is applicable. Unless the matter involves a possible criminal act or a possible risk to health, safety, property, or information security, OGE will afford an employee 21 days to respond to a proposed adverse action, except when Subchapter 4 below is applicable. OGE may grant brief extensions of this response period for good cause shown in a written request submitted by the employee or the employee's representative before expiration of the period for responding.

3-7 Use of official time

With the prior approval of the employee's supervisor, the employee may use up to 4 hours of official time to respond to a notice of proposed disciplinary action. With the prior approval of the employee's supervisor, the employee may use up to 8 hours of official time to respond to a notice of proposed adverse action.

3-8 Responding to a proposed action

An employee may respond in writing, orally or both in writing and orally to a notice of proposed disciplinary or adverse action. However, an employee must submit a written request to make an oral response before expiration of the period for responding. The employee must schedule the oral response to occur within a reasonable time period specified by OGE. If timely filed, the employee also may submit affidavits and other documentary evidence with the response(s).

3-9 Presenting oral responses

The right to present an oral response does not include the right to call witnesses or convene a hearing. The agency will prepare a brief written summary of the employee's oral response, and the agency will provide a copy of the summary to the employee as soon as practicable.

3-10 Considering the response

If timely filed or presented, OGE will give serious consideration to the employee's response(s).

3-11 The decision

OGE will issue a written decision to the employee as soon as practicable and, in all cases, before taking a disciplinary or adverse action against the employee. When determining the appropriate penalty for a sustained action, deciding officials are encouraged to address any relevant Douglas factor(s) in the decision letter. As restated below, the Douglas factors are considerations that the Merit Systems Protection Board has determined to be helpful in selecting an appropriate penalty for employee misconduct, Douglas v. Veterans Admin., 5 M.S.P.R. 280, 305-06 (1981):

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- (2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- (3) The employee's past disciplinary record;
- (4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- (5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties;
- (6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) Consistency of the penalty with any applicable agency table of penalties;
- (8) The notoriety of the offense or its impact upon the reputation of the agency;
- (9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) Potential for the employee's rehabilitation;
- (11) Mitigating circumstances surrounding the offense such as unusual job tension, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

3-12 Taking an action

OGE will take a disciplinary or adverse action only after 30 days have passed from the issuance of a notice of proposed action, except when authorized by law or regulation to take the action sooner, as in cases of emergencies and other circumstances.

SUBCHAPTER 4: EMERGENCIES OR OTHER CIRCUMSTANCES

The policies and procedures articulated in this Chapter 751/752 are superseded whenever a law or regulation provides an exception for such actions in emergencies or other circumstances.

SUBCHAPTER 5: REPRIMAND

5-1 No prior notice

An employee is not entitled to prior notice of a reprimand.

5-2 Cause

OGE may issue a reprimand to an employee on the basis of any conduct issue, including neglect of duty or any other form of misconduct.

5-3 Issuing official

Any supervisor at OGE may issue a reprimand to a subordinate in the supervisor's chain of command. In addition, the Director, any member of the Senior Executive Service assigned to OGE, or any official detailed to perform the duties of a Senior Executive Service position may issue a reprimand to any OGE employee. The issuing official is encouraged to obtain review by the Office of General Counsel & Legal Policy before issuing a reprimand.

5-4 Contents of a reprimand

A reprimand should advise the employee of the reason for the reprimand. Ideally, the reprimand will caution the employee that further instances of misconduct may lead to more serious action.

SUBCHAPTER 6: TABLE OF PENALTIES

Because disciplinary and adverse actions are highly fact-specific, OGE is discontinuing the use of a table of penalties. Proposing and deciding officials have the discretion to impose penalties in the range of reprimand to removal for all offenses. Proposing and deciding officials must use good judgment in considering the totality of the circumstances, including both mitigating and aggravating factors.

ADMINISTRATIVE GRIEVANCE SYSTEM

CHAPTER 771

ADMINISTRATIVE GRIEVANCE SYSTEM

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SUBCHAPTER 1. GENERAL PROVISIONS

1-1. Coverage. This chapter describes the Office of Government Ethics (OGE) internal Administrative Grievance System as required by 5 CFR, Part 771, Subpart C. The Administrative Grievance System is available to employees of OGE who are not covered by a negotiated grievance procedure between a recognized bargaining unit and OGE.

1-2. Policy. It is the policy of OGE to deal fairly and impartially with employees. The purpose of the Administrative Grievance System is to provide a means by which employees may receive prompt and fair review of matters of concern or dissatisfaction to them when these matters are under the control of OGE management.

1-3. Definitions. For the purposes of this chapter:

a. Bargaining Unit Employee means an employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority, for which a labor organization has been granted exclusive recognition.

b. Days means calendar days.

c. Deciding Official is the Deputy Director, OGE, unless he/she is involved in the grievance. In that case, the Director, OGE will be the deciding official.

d. Employee means a current employee of OGE or a former employee of OGE for whom a remedy can be provided.

e. Employee Representative is a person designated by the grievant and who is willing to serve as a representative to the grievant at any stage in the grievance process.

f. Fact-finder means a person designated to conduct an independent, fact-finding inquiry on a grievance. A fact-finder must be a person who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, or otherwise is or was involved in, or made a decision on the matter being grieved, except when the deciding official is the Director, OGE.

g. Grievance means a request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of OGE management.

h. Grievance File means a separate file which contains all documents relating to the grievance.

i. Personal Relief means specific remedy directly benefiting the grievant(s) and may not include a request for disciplinary or other action affecting another employee.

1-4. Grievance Coverage. This chapter applies to any matter of concern or dissatisfaction relating to the employment of an employee which is subject to the control of OGE management including any matter in which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her.

1-5. Matters Excluded From Coverage.

- a. The content of published OGE (internal) regulations and policy.
- b. A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission.
- c. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.
- d. The return of a Senior Executive Service (SES) career appointee to the General Schedule or another pay system during the one year period of probation or for less than fully successful executive performance under 5 U.S.C. 3592.
- e. A preliminary warning notice of an action which, if effected, would be covered under the appeal or grievance system or excluded from coverage by subparagraph 1-5b above.
- f. An action which terminates a temporary promotion within a maximum period of two years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.
- g. The substance of the critical elements and performance standards of an employee's position which are established in accordance with 5 U.S.C. Chapter 43, and 5 CFR, Part 430.
- h. The granting of or failure to grant or the amount of an award granted under 5 CFR 430, Subpart E or under 5 CFR 451; or the adoption of or failure to adopt an employee suggestion or invention under Part 451; or the granting of or failure to grant an award of the rank of meritorious or distinguished executive under 4507 of 5 U.S.C. and 5 CFR 451, Subpart B.
- i. The receipt of or failure to receive a performance award under section 5384 of 5 U.S.C., or a quality step increase under section 5336 of Title 5, U.S.C.
- j. A decision to grant or not to grant a general increase, merit increase, or performance award under the Performance Management and Recognition System, or a decision on the granting of or failure to grant cash awards or honorary recognition under 5 U.S.C. chapter 54 and 5 CFR 540.
- k. The termination of a probationer for unsatisfactory performance under subpart H of Part 315, 5 CFR.
- l. A performance evaluation for an SES employee.
- m. The return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period under subpart I of Part 315, 5 CFR.
- n. An action which terminates a term promotion at the completion of the project or specific period, or at the end of a rotational assignment in excess of two years but not more than five years, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay.

o. Separation actions such as termination of temporary appointment, termination of a probationer for misconduct, or any other separation action which is appealable to the Merit Systems Protection Board.

p. The reassignment of a Senior Executive Service appointee following the appointee's receipt of an unsatisfactory rating under section 4314 of Title 5, U.S.C.

q. The termination under subpart D of 5 CFR, Part 359 of an SES career appointee during probation for unsatisfactory performance.

r. An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee which (1) assigns the employee from one geographical location to another, or (2) returns the employee from an overseas assignment.

1-6. Rights of the Grievant. The grievant has the right to:

a. freedom from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance.

b. be accompanied, represented, and advised by a representative of his or her own choosing;

c. challenge a decision to disallow the choice of a representative in accordance with paragraph 1-8 of this subchapter.

d. communicate or consult with the personnel office, the administrative officer, employee counselor or an EEO counselor.

e. a reasonable amount of official time, normally one hour, to present the grievance if he or she is otherwise in a duty status. OGE will not grant official time for preparation of a grievance.

1-7. Rights of the Employee's Representative.

a. The employee's representative is assured freedom from restraint, interference, coercion, discrimination or reprisal.

b. The employee's representative, if employed by OGE, is allowed a reasonable amount of official time, normally one hour, to present a grievance if he or she is otherwise in a duty status. OGE will not grant official time for preparation of a grievance.

1-8. Disallowance of an Employee's Choice of Representation.

a. A grievant's choice of representative may be disallowed because of:

(1) priority needs of OGE;

(2) unreasonable cost to the Government;

(3) conflict of position (having an EEO counselor act as the grievant's representative); or

(4) conflict of interest.

b. A disallowance decision may be made at any time during the processing of a grievance and must be documented in writing to the grievant and the grievance file.

c. To challenge a disallowance decision, the grievant shall send a written

request to the Deputy Director, OGE, within three days of the disallowance decision.

d. Within ten days of the receipt of the disallowance challenge, the Deputy Director shall issue the final agency decision on the matter.

SUBCHAPTER 2. GRIEVANCE PROCEDURE

2-1. Informal Grievance. Most grievances can be resolved at an informal stage, and it is in the interest of the employee and management to do so whenever possible.

a. The responsibilities of the employee in the informal stage:

(1) A grievance matter covered by this chapter must, as a first step, be presented orally or in writing to the immediate supervisor.

(2) The time limit for presenting an informal grievance is 15 days from the act or occurrence. A grievance concerning an ongoing practice may be presented at any time.

(3) An employee must clearly state that the grievance procedure is being initiated, explain the matter of concern or dissatisfaction, and state the personal relief being requested.

(4) If a representative is desired, the grievant should advise the supervisor so that arrangements can be made for the use of official time to present the grievance if the representative is an OGE employee.

b. The responsibilities of the Supervisor in the informal stage:

(1) A supervisor receiving a grievance must try to obtain all relevant information, objectively consider the matter, and attempt to resolve the grievance within ten days.

(2) If the matter grieved is the result of an action taken by a higher level supervisor, the immediate supervisor is responsible for taking the matter to the higher level official to resolve the grievance. The supervisor will contact the official and arrange for a meeting between that official and the employee, and the immediate supervisor will accompany the employee to the meeting with that higher level official. If the Director is involved in the processing of an informal grievance, the process will terminate with the decision at the informal stage.

(3) While attempting to resolve the grievance, the supervisor may consult with the personnel office, other OGE officials, administrative officer, EEO counselor and/or an ethics counselor.

(4) When resolution cannot be made within the ten day time limit, the supervisor may extend the time limit an additional five days by advising the employee in writing of the reason for delay and the date that a full reply can be expected.

c. Resolution under the Informal Procedure:

(1) When the informal procedure discussed above results in resolution of the grievance to the employee's satisfaction, any corrective action will be taken promptly and the employee informed of the action by the supervisor.

(2) When the matter cannot be resolved informally to the employee's satisfaction, the supervisor must advise the employee of the right to file a formal grievance within five working days of the date a decision is given in the informal stage.

(3) In order to eliminate any future questions concerning the resolution or the time limits for pursuit of the grievance, the supervisor will document any resolution agreed upon, furnishing a copy to the grievant.

2-2. Formal Grievance. An employee may not present a formal grievance until it has been processed through the informal procedure. An employee has the right to present a formal grievance if (1) he or she is not satisfied with the resolution proposed to an informal grievance; (2) if no response was received within the ten day time limit or within a five day extension; or (3) if resolution was achieved but the corrective action has not been taken or begun within a reasonable time limit (normally 30 days).

a. Responsibility of the Employee. A formal grievance must be in writing and:

- (1) be addressed to the Personnel Officer, OGE;
- (2) contain sufficient detail to identify the basis for the grievance;
- (3) indicate the supervisor contacted for informal resolution;
- (4) contain the date the informal grievance was initiated;
- (5) contain the date the supervisor's response to the informal grievance was received;
- (6) state why the informal response is not acceptable;
- (7) specify the personal relief requested; and
- (8) provide the name, telephone number and address of the representative if one has been selected.

b. Upon receipt of a formal grievance, the Personnel Officer will:

- (1) Establish and maintain a grievance file which contains all materials relating to the grievance. (Upon request, the file must be furnished to the grievant and/or the representative.)
- (2) Determine whether the employee is covered by this chapter; whether the grievance is timely, is a matter covered by the grievance procedure, was processed through the informal process, and contains the information required in paragraph 2-2a above.
- (3) Reject a grievance when the employee is excluded from coverage of this chapter, the grievance is not timely, or consists of a matter excluded from coverage under the grievance system. The rejection must be in writing and give specific reasons for the rejection.
- (4) Return to the employee a grievance that has not gone through the informal procedure advising the grievant of the requirement to use the informal procedure if the time limit for filing an informal grievance has not elapsed.
- (5) Return to the employee a grievance which does not contain the information required in paragraph 2-2a of this subchapter. The employee should be advised of the specific information needed and must respond within five days if the grievance is to be pursued.
- (6) Forward the grievance file to the deciding official if it is acceptable as a formal grievance and meets the requirements of paragraph 2-2a.

(7) Monitor the processing of the formal grievance to see that the matter is considered within the time limits and assist management officials at any stage of the procedure.

c. The Deciding Official's Responsibilities

(1) The deciding official will be the Deputy Director, OGE, unless he/she was involved in the informal processing of the grievance, in which case, the deciding official will be the Director.

(2) The deciding official will consider all information presented at the informal stage, consider the reason(s) the matter was not resolved to the employee's satisfaction at the informal stage, review the nature of the relief requested by the employee, and obtain any additional information needed to reach a decision.

(3) The deciding official will attempt to resolve the grievance after fully considering the issues involved, and present in writing to the employee and the representative, within ten days after receipt of the grievance, a decision on the matter. A copy of this letter will be sent to the Personnel Officer for inclusion in the grievance file. The letter must contain the information required in paragraph 2f of this chapter.

(3) If the deciding official requires additional time to reach a decision on the grievance, the time limit for making a decision may be extended for five additional days. The employee and the representative will be notified in writing of the extension.

(4) If the deciding official decides a formal inquiry is necessary to obtain additional information, he/she may assign a fact-finder. This is to be done within ten days of the receipt of the grievance file. The deciding official will advise the employee and the employee's representative of the referral to the fact-finder (See paragraph 2d of this chapter).

(5) Within ten days of receipt of the report and recommendation of the fact-finder, the deciding official will either:

(a) accept the fact-finder's recommendations and issue a decision including the report of findings and citing the reasons for the decision;

(b) grant the relief requested by the employee without regard to the fact-finder's recommendations; or

(c) reject the fact-finder's recommendations as unacceptable for resolving the matter and issue a decision citing the reasons for the decision.

d. Selection of a Fact-Finder

(1) The deciding official will appoint a fact-finder whose training and experience demonstrate the capability of analyzing complex and controversial disputes and who is willing to serve as a fact-finder on grievance matters. Fact-finders must be at the GS-13 level or higher, and will normally be OGE employees.

(2) The fact-finder will not be in a position which is administratively directly or indirectly under the jurisdiction or supervision of the official involved in the grievance, except when that official is the Director or Deputy Director.

(3) The fact-finder should be advised that the necessary inquiry and any hearing required must take priority over other responsibilities in order that the grievance may be processed within the prescribed time limits.

(4) In some circumstances, it may be appropriate to request a fact-finder from another Federal agency to conduct the inquiry on a grievance in OGE. The Personnel Officer will assist in these arrangements.

(5) Since arranging for the use of an outside fact-finder will probably delay processing of the grievance, the deciding official will inform the employee and employee's representative of any anticipated delay.

e. Responsibilities of the Fact-Finder.

(1) The fact-finder will have 30 calendar days in which to conduct an inquiry.

(2) The inquiry may take any of the following forms:

(a) gathering of available documentary evidence relating to the case;

(b) taking statements of involved persons;

(c) conducting personal interviews;

(d) holding group meetings; or

(e) holding a hearing.

(3) The fact-finder will determine the extent of the inquiry including whether or not a hearing is necessary. An employee has no right to a hearing.

(4) The fact-finder shall establish a file with all relevant data. The file is to be made available to the employee, the employee's representative and the deciding official for review and comment. Comment must be received by the fact-finder within five days.

(5) The fact-finder shall prepare a report and recommendations and submit the report along with the file to the deciding official.

f. Content and Finality of the Grievance Decision.

(1) Grievance decisions at the formal level are final. There is no provision for further administrative review beyond the procedures outlined in this chapter. After resolution of a formal grievance, an employee may not initiate a grievance based on the same allegations unless corrective action was not actually taken as specified in the final decision.

(2) The written decision must be signed and issued by the deciding official.

(3) The decision must include a report of findings and the reason(s) for the determination.

(4) The decision must advise the employee of any adjustment, resolution, or other action to be taken as a part of the decision, and of the time table for implementing the resolution.

(5) The written decision must advise the employee that this is a final decision and that there is no further administrative review of the matter.

SUBCHAPTER 3. GRIEVANCE PROCESSING

3-1. Requirement for Prompt Processing. Grievances will be given full, impartial, and prompt consideration. The decision on a grievance processed through the formal procedure should be issued within 90 days after the initiation of the informal procedure. Any delay beyond the time limits specified in section 2 below must be documented in the record by the Personnel Officer at the time a specified time limit is exceeded.

3-2. Processing Time Limits. The following grievance processing time limits are established to ensure prompt resolution of matters raised through the grievance procedure.

<u>Step Involved</u>	<u>Time Limit *</u>
Filing an informal or in writing.	15 days after the event, action, decision grievance either orally or occurrence. A grievance about a continuing condition or practice may be filed at any time.
Decision at informal stage	10 days after receipt of written grievance or verbal presentation of the grievance. This time limit may be extended an additional 5 days.
Filing a formal grievance	5 days after the decision on an informal grievance is rendered; after the 10th day if no response is received on the informal grievance; or after the 15th day if extended.
Grievance forwarded to the deciding official or rejected and returned to the employee by the Personnel Officer.	5 days after receipt.
Decision by the deciding official or referral to a fact-finder.	10 days after receipt of the grievance.
Completion of the fact-finder's inquiry and submission of the file to grievant, the representative and the deciding official.	30 days after referral.
Deciding Official's action on fact-finder's report.	10 days after receipt of fact-finder's

*If the time limit expires on a Saturday, Sunday or holiday, the time limit for filing or completing the action extends to the end of the next workday.

3-3. Cancellation of a Grievance.

a. A grievance must be cancelled when:

- (1) The employee withdraws the grievance in writing;
- (2) The employee leaves employment with OGE unless the grievant seeks personal relief or benefits that may be granted after the employment has terminated;
- (3) The employee dies, unless the grievance involves a question of pay or benefits that may be paid after the death of an employee; or
- (4) The employee fails to proceed with the grievance, such as failing to furnish essential information requested to process the grievance, failing to appear at a scheduled conference, failing to take some necessary action to move the grievance forward or failing to appear at a fact-finder's inquiry. If the employee's failure to act results from circumstances beyond the employee's control, consideration may be given to proceeding with the grievance processing.

b. Cancellation of a grievance must be documented by the official in possession of the file at the time cancellation is warranted. Copies of the memorandum stating the reason(s) for cancellation must be sent to the grievant, the representative and the Personnel Officer.

3-4. Grievance Files. Once a grievance progresses past the informal stage, an official grievance file must be established. The Personnel Officer is the custodian of grievance files, collecting the appropriate documents from the informal stage. These files must contain all documents related to the grievance, including but not limited to any statements of witnesses, records or copies thereof, the fact-finder's file and report, the report or transcript of the hearing, statements made by parties to the grievance, and the decision. Grievance files will be retained for three years after the close of the fiscal year in which a final decision was issued or the grievance was cancelled. The grievant and the representatives may have access to the file at any time in the proceedings. Further disclosure is covered by the Privacy and Freedom of Information Acts.

1. The purpose of this study is to determine the effect of the independent variable on the dependent variable.

2. The independent variable is the variable that is manipulated or changed by the researcher.

3. The dependent variable is the variable that is measured or observed by the researcher.

4. The hypothesis is a statement that predicts the relationship between the independent and dependent variables.

5. The research design is the plan or strategy that the researcher uses to collect and analyze data.

6. The data collection methods are the techniques used to gather information about the variables of interest.

7. The data analysis is the process of organizing, summarizing, and interpreting the data.

8. The conclusion is the final statement that summarizes the findings of the study and answers the research question.

OFFICE OF GOVERNMENT ETHICS

HUMAN RESOURCES MANUAL

CHAPTER 792

HEALTH AND COUNSELING PROGRAMS

August 2005

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SUBCHAPTER 1 - HEALTH AND COUNSELING PROGRAMS**I. POLICY**

This chapter establishes the Office of Government Ethics (OGE) health and counseling programs for all OGE employees. The health fitness of OGE employees for efficient performance of their assigned duties is an important element in a progressive system of human resources and in the effective administration of OGE programs. Accordingly, OGE maintains an effective and constructive occupational health program, including employee assistance services, and an effective employee drug testing program, in conjunction with the U.S. Department of Health and Human Services (HHS) and the U.S. Office of Personnel Management (OPM).

II. GENERAL

OGE maintains its occupational health program by providing access to a Federal Occupational Health (FOH) Health Center, by providing services through the OGE Employee Assistance Program (EAP), and by administering the OGE Drug-Free Workplace Plan. OGE offers appropriate prevention, treatment and rehabilitation programs and services for employees with alcohol and/or drug programs. Short-term counseling and/or referral, or offers thereof, comprise the appropriate prevention, treatment and rehabilitation programs and services for alcohol abuse, alcoholism, and/or drug abuse required under 5 C.F.R. § 792.105.

III. COVERAGE

This chapter applies to all OGE employees.

IV. RESPONSIBILITIES

A. OPM provides overall leadership for the Government-wide alcoholism and drug abuse program for Federal employees, in cooperation with HHS. As such, OPM will provide guidance and technical assistance to OGE as necessary to help OGE carry out its alcoholism and drug abuse program, and will periodically review the OGE program to determine its effectiveness. HHS oversees the operations of its FOH Health Centers and the services they provide.

B. The Deputy Director, Office of Administration and Information Management, is responsible for the overall administration of the OGE Health and Counseling programs.

Operational responsibility is delegated to the Administration Division.

C. Whenever an OGE manager or supervisor becomes aware that a Federal employee's use of alcohol and/or drugs may be contributing to a performance or conduct deficiency, the manager or supervisor shall recommend counseling and refer the employee to the agency's EAP. Supervisors and managers should also refer employees to EAP services when emotional, relationship, family, legal or financial problems or job concerns appear to be contributing to an employee's performance or conduct deficiency. If an employee fails to participate in any rehabilitative program, or, having participated, the employee fails to bring conduct or performance up to a satisfactory level, the supervisor or manager should take or recommend appropriate performance-related, disciplinary or adverse action.

D. Employees are responsible for reporting occupational disease or problems to first-level supervisors, and for abstaining from the use of illegal drugs both on and off duty. Employees are also responsible for avoiding the abuse of alcohol to the point that it affects job performance.

E. The Administration Division will submit an annual report to OPM on counseling activities for the past fiscal year, or other program-related information, as required by OPM.

**SUBCHAPTER 2. FEDERAL OCCUPATIONAL HEALTH (FOH) HEALTH
CENTER AND
OGE EMPLOYEE ASSISTANCE PROGRAM (EAP)**

I. FEDERAL OCCUPATIONAL HEALTH (FOH) HEALTH CENTER

A. The Department of Health and Human Services operates more than 270 Federal Occupational Health (FOH) Health Centers across the country, providing services to more than 333,000 Federal employees each year. The FOH Health Center services enhance the health and well-being of employees and maximize productivity by minimizing time away from work.

B. OGE has established a contract with FOH to utilize the Pension Benefit Guaranty Corporation's (PBGC's) Health Unit located at 1200 K Street, NW., Room 170. Some of the benefits include the following:

1. Health Screenings. The FOH provides for screenings such as for blood pressure, cholesterol, diabetes, vision and tuberculosis.
2. Physician-Prescribed Services. To minimize time away from work, FOH medical staff will administer services prescribed by the employee's personal physician, such as allergy treatments, blood pressure and glucose monitoring.
3. On-site First Aid. FOH professionals provide first aid for minor injuries and illnesses, respond to medical emergencies and refer employees to primary care providers for follow-up care.
4. Immunizations. FOH Health Centers provide a variety of immunizations including those for influenza, tetanus and pneumonia. Current information for required and recommended vaccinations for travel abroad, whether for Government business or pleasure, is also provided.
5. Health Awareness Programs. FOH offers workshops on topics such as cancer risks, nutrition, smoking cessation and stress reduction.

C. FOH Centers maintain employee health records and ensure compliance with all applicable laws, rules and regulations related to the proper maintenance of such records, maintenance of the confidentiality of such

records and the disclosure of the contents of such records.

II. OGE EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. The purpose of the OGE EAP is to resolve personal problems, particularly those of alcoholism and/or other drug abuse that impacts or may impact on employee conduct and work performance, in the quickest, least restrictive, most convenient and least costly manner possible. The range of problems addressed by the EAP includes any employee problem(s) that may adversely impact on job behavior, performance, attendance and/or conduct. These problems include, but are not limited to emotional, alcohol and drug-related, family and relationship, financial and legal problems.

B. EAP program staff maintains records on employees who have obtained counseling and ensures compliance with all applicable laws, rules and regulations related to the proper maintenance of such records, maintenance of the confidentiality of such records and the disclosure of the contents of such records.

C. INFORMATION ABOUT THE OGE EAP

What is the Employee Assistance Program (EAP)?

The Employee Assistance Program (EAP) is a service available to all employees at no cost. The primary purpose is to assist those employees who need drug or alcohol rehabilitation referrals or support services. The EAP is also available to help resolve a wide variety of other problems which can affect your work performance and personal health. The EAP available to OGE employees is staffed by professional counselors who will discuss the problem with you and, after mutually helping you review the issues or problem, will provide short-term counseling. If needed, the counselor will also refer you to other professional services and resources within your community for further information and assistance. The OGE Human Resources staff can provide additional information about the program, including contact information.

Will my Boss be involved in the Employee Assistance Program (EAP)?

OGE supervisors and managers are encouraged to participate in working to resolve issues that affect employees. Since the EAP process is voluntary, the employee will give permission to involve the

supervisor. The more assistance an employee has in the workplace to complete the mission, the better it is for everybody.

What kinds of problems does the EAP help resolve?

EAP counselors will work with OGE employees to help resolve a wide variety of problems including alcohol and drug abuse, work and family pressures, legal and financial problems, job stress, and other concerns which can affect their work performance and personal health.

Does the EAP offer more than counseling services?

In addition to counseling employees on an individual basis, the EAP often sponsors lunchtime seminars, sends out employee newsletters, and provides information designed to help employees and co-workers establish a healthier and more rewarding lifestyle.

How and when may I contact the EAP?

A telephone call is normally all it takes to make an appointment with an EAP counselor. Help is available at any time, employees can call 1-800-222-0364. EAP operating hours are usually flexible so the employees can make appointments before, during, and after the workday.

Will matters I discuss with the EAP counselor be kept confidential?

Yes, your privacy is protected by strict confidentiality laws and regulations and by professional ethical standards for counselors. The details of your discussions with the counselor may not be released to anyone without your written consent.

How successful is the EAP in helping employees?

Periodic evaluations conducted by the U.S. Office of Personnel Management indicate that the vast majority of the thousands of employees who annually seek assistance from Federal Government EAP programs are helped in overcoming their problems.

How much will the EAP cost me?

There is no cost to employees who receive counseling and other services provided by the Agency's EAP. Costs for outside treatment and professional services, which can result in personal expense, may be covered by your Federal Employee Health Benefits plan or private

insurance. The EAP counselor will work with you to identify the best available outside treatment program and services in line with your individual finances.

When is the best time to contact the EAP?

Employees should not wait too long! The sooner employees seek help, the sooner their problems can be resolved. Problems left unresolved can often lead to more serious situations with a greater risk that health or job performance will be jeopardized. If employees take advantage of the help and support offered through your EAP and address problems before they become serious, employees and OGE will both be winners.

SUBCHAPTER 3 - DRUG-FREE WORKPLACE PLAN

I. BACKGROUND

A. On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off-duty. In a letter to all executive branch employees dated October 4, 1986, the President reiterated his goal of ensuring a safe and drug-free workplace for all Federal workers.

B. The Executive Order recognized that illegal drug use was seriously impairing a portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the Federal Government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. OGE is concerned with the wellbeing of its employees, the successful accomplishment of its mission, and the need to maintain employee productivity. The intent of OGE policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is, quite simply, incompatible with Federal service.

C. On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. § 7301 note (1987), (hereafter, the "Act"), in an attempt to establish uniformity among federal agency drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal Government's drug testing program.

D. The purpose of OGE Drug-Free Workplace Plan is to set forth objectives, policies, procedures, and implementation guidelines, to achieve a drug-free Federal workplace, consistent with the Executive Order and section 503 of the Act.

II. POLICY

A. OGE, as a result of its responsibility to provide overall direction on executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as well as the sensitive nature of its work, has a compelling obligation to eliminate illegal drug use from its workplace.

B. The mission of OGE includes:

1. Develop, promulgate, and review rules and regulations pertaining to employee conflicts of interest, post-employment restrictions, standards of ethical conduct, and public and confidential financial disclosure reports in the executive branch;
2. Review executive branch public financial disclosure statements to determine possible violations of applicable laws or regulations and determine appropriate corrective actions;
3. Administer executive branch blind trusts;
4. Implement statutory responsibility to provide information on and promote understanding of ethical standards in executive agencies;
5. Provide ethics training on the standards of conduct, the conflict of interest laws, the Executive Orders and Regulations to executive branch ethics practitioners in Washington, D.C. and in Federal regional centers;
6. Prepare formal advisory opinions, informal letter opinions, and policy memoranda on how to interpret and comply with conflict of interest, post-employment, standards of conduct, and financial disclosure requirements in the executive branch;
7. Consult with agency ethics officials in individual cases requiring advisory opinions;
8. Monitor and review executive agency ethics programs, including financial disclosure systems, referring possible violations of conflict of interest laws to the Department of Justice and advising them on prosecutions and appeals;

9. Review possible administrative ethics violations and order corrective action or recommend disciplinary action; and
10. Comment on proposed ethics-related legislation, evaluate the effectiveness of conflict of interest regulations and policies of other executive branch agencies and recommend amendments and improvements where appropriate.

C. The mark of a successful drug-free workplace program also depends on how well OGE can inform its employees of the hazards of drug use, and on how much assistance it can provide drug users. Equally important is the assurance to employees that personal dignity and privacy will be respected in reaching OGE's goal of a drug-free workplace. Therefore, this plan includes policies and procedures for:

Employee assistance;

Supervisory training;

Employee education; and

Identification of illegal drug use through drug testing on a carefully controlled and monitored basis.

III. NATURE, FREQUENCY, AND TYPE OF DRUG TESTING TO BE INSTITUTED

A. Section 503 of the Act requires the OGE Plan to specify the nature, frequency, and type of drug testing to be instituted. The OGE Plan includes the following types of drug testing:

1. Random testing of those employees in sensitive positions that have been designated as testing designated positions;
2. Reasonable suspicion testing;
3. Accident or unsafe practice testing;
4. Voluntary testing; and
5. Testing as part of or as a follow-up to counseling or rehabilitation.

B. OGE does not currently plan to conduct applicant testing. However, applicants selected to fill a TDP will be required to submit to a drug test prior to appointment (see section XVI).

C. The frequency of testing for random testing, voluntary testing, and follow-up testing is specified at Appendix 3C. The Director reserves the right to increase or decrease the frequency of testing based on OGE's mission, need, availability of resources, and experience in the program, consistent with the duty to achieve a drug-free workplace under the Executive Order.

IV. DRUGS FOR WHICH INDIVIDUALS WILL BE TESTED

Section 503 of the Act requires OGE to specify the drugs for which individuals shall be tested. OGE will test for the following drugs:

1. Marijuana;
2. Cocaine;
3. Amphetamines;
4. Opiates; and
5. Phencyclidine (PCP).

V. SCOPE

Upon certification by HHS in accordance with section 503 of the Act, this policy shall be effective immediately for OGE employees.

VI. REFERENCES

A. AUTHORITIES

1. Executive Order 12564;
2. Executive Order 10450;
3. Executive Order 12356;
4. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. § 7301 note (1987);
5. Mandatory Guidelines for Federal Drug Testing Programs, which includes Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 53 F. Reg. 11970 (1988), as revised (1994);

6. Civil Service Reform Act of 1978, Pub. L. 95-454;
7. Sections 523 and 527 of the Public Health Service Act and implementing regulations at 42 C.F.R. Part 2, Confidentiality of Alcohol and Drug-Abuse Patient Treatment Records;
8. The Privacy Act of 1974 (5 U.S.C. § 552a), prescribing requirements governing the maintenance of records by agencies pertaining to the individuals and access to these records by the individual(s) to whom they pertain;
9. 49 C.F.R. Part 10, implementing the Privacy Act of 1974 within OGE; and
10. Federal Employees Substance Abuse Education and Treatment Act of 1986, Pub. L. 99-570;

B. GUIDANCE

OGE Personnel Manual, Chapter 792, Health Programs, implementing the Wellness, Drug-Free Workplace Plan, and EAP within the agency.

VII. DEFINITIONS

A. Applicant means any individual tentatively selected:

1. For employment with OGE; or
2. For a Testing Designated Position (TDP), and who has not, immediately prior to the selection, been subject to random testing.

B. Employee Assistance Program (EAP) means the OGE-based counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

C. Employee Assistance Program Administrator means the individual responsible for ensuring the development, implementation and review of the agency EAP.

D. EAP Coordinator means the individual designated by the EAP Administrator to be responsible for implementing and operating the EAP within OGE by providing counseling, treatment, and education services to employees and services regarding the OGE EAP.

E. Medical Review Officer (MRD) means the individual responsible for receiving laboratory results generated from the OGE Drug-Free Workplace Program who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

F. Illegal Drugs means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

G. Random Testing means a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs, and may either be:

1. Uniform-unannounced testing of testing designated employees occupying a specified area, element or position; or
2. A statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

H. Employees in Sensitive Positions mean:

1. Employees in positions designated by the Director, OGE, as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive, or employees in positions designated by the Director, OGE, as sensitive in accordance with Executive order No. 10450, as amended;
2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the Director, OGE, under section 4 of Executive Order No. 12356;
3. Individuals serving under Presidential appointments;
4. Law enforcement officers as defined in 5 U.S.C. §§ 8331(20) and 8401(17); or

5. Other positions that the Director, OGE, determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

I. Supervisor means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment. 5 U.S.C. § 7103 (a) (10).

J. Testing Designated Positions (TDPs) mean employment positions within OGE which have been designated for random testing under section XIV, paragraph B. of this plan.

K. Verified Positive Test Result means a test result that was positive on an initial FDA-approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by HHS, and reviewed and verified by the Medical Review Officer in accordance with this Plan and the HHS Guidelines.

VIII. EMPLOYEE ASSISTANCE PROGRAM

A. FUNCTION

The OGE EAP plays an important role in preventing and resolving employee drug use by: demonstrating OGE's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and follow-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program. The EAP, however, shall not be involved in the collection of urine samples or the initial reporting of test results. Specifically, the EAP shall:

1. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitor the employees' progress through treatment and rehabilitation;
2. Provide needed education and training to all levels of OGE on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP with the drug testing program, and related treatment, rehabilitation, and confidentiality issues; and
3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records are maintained in accordance with section XIX of this Plan.

B. REFERRAL AND AVAILABILITY

1. Any employee found to be using drugs shall be referred to the EAP. The EAP shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of drug use. The EAP shall provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use. The EAP is available not only to OGE employees, but, when feasible, to the families of employees with drug problems, and to employees with family members who have drug problems.
2. In the event the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Counselor's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator shall be final and shall not be subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the factors in section XI, paragraph E., item 6 in making a referral shall not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

C. LEAVE ALLOWANCE

Employees shall be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session, up to a maximum of 25 hours, during the assessment/referral phase of rehabilitation. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

D. RECORDS AND CONFIDENTIALITY

All EAP operations shall be confidential in accordance with section XIX of this plan.

E. The Associate Director for Administration in OGE shall be responsible for oversight of the OGE EAP, and will provide, with the support of the Director, OGE, high level direction and promotion of the EAP. The OGE EAP Plan is described in detail in Subchapter 2 of this Chapter.

IX. SUPERVISORY TRAINING

A. OBJECTIVES

As supervisors have a key role in establishing and monitoring a drug-free workplace, OGE shall provide training to assist supervisors and managers in recognizing and addressing illegal drug use by OGE employees. The purpose of supervisory training is to understand:

1. OGE's policies relevant to work performance problems, drug use, and the EAP;
2. The responsibilities of offering EAP services;
3. How employee performance and behavioral changes should be recognized and documented;
4. The roles of the MRO, medical staff, supervisors, personnel, and EAP personnel;
5. The ways to use the OGE EAP;
6. How the EAP is linked to the performance appraisal and the disciplinary process; and
7. The process of reintegrating employees into the workforce.

B. IMPLEMENTATION

The OGE Administration Division is responsible for implementing supervisory training, and will develop a training package to ensure that all employees and supervisors are fully informed of OGE's Drug-Free Workplace Plan.

C. TRAINING PACKAGE

Supervisory training is required of all supervisors and may be presented as a separate course, or be included as part of an ongoing supervisory training program. Training is provided as soon as possible after a person assumes supervisory responsibility. Training courses should include:

1. Overall OGE policy relevant to a Drug-Free Workplace;
2. The prevalence of various employee problems with respect to drugs and alcohol;
3. The EAP approach to handling problems including the supervisor's role and relationship to EAP;
4. How to recognize employees with possible problems;
5. Documentation of employee performance or behavior;
6. Skills in confronting employees with possible problems;
7. OGE procedures for referring employees to EAP;
8. Disciplinary action, and removals from sensitive positions as required by Section 5(c) of the Executive Order;
9. Reintegration of employees into the workforce; and
10. Written materials which the supervisor can use at the work site.

X. EMPLOYEE TRAINING

A. OBJECTIVES

The EAP Administrator shall offer drug education to all OGE employees. Drug education should include education and training to all levels of OGE on:

1. Types and effects of drugs;

2. Symptoms of drug use, and the effects on performance and conduct;
3. The relationship of the EAP to the drug testing program; and
4. Other relevant treatment, rehabilitation, and confidentiality issues.

B. MEANS OF EDUCATION

Drug education activities may include:

1. Distribution of written materials;
2. Videotapes;
3. Lunchtime employee forums; and
4. Employee drug awareness days.

XI. SPECIAL DUTIES AND RESPONSIBILITIES

A. The Metropolitan Area Counseling Consortium will be responsible for the duties of the EAP Administrator and EAP Coordinator. The duties of the Drug Program Coordinator (DPC) will be performed separately by the OGE Human Resources Officer, who will be responsible for implementing the EAP. The actual counseling and treatment services will be provided by OGE's consortia.

B. DPC

OGE shall have a DPC assigned to carry out the purposes of this plan. The DPC shall be responsible for implementing, directing, administering, and managing the drug program within OGE. The DPC shall serve as the principal contact with the laboratory and for collection activities in assuring the effective operation of the testing portion of the program. In carrying out these responsibilities, the DPC shall, among other duties:

1. Arrange for all testing authorized under this plan;
2. Ensure that all employees subject to random testing receive individual notice as described in section XII, paragraph B. of this plan, prior to implementation of the program, and that such employees return a signed acknowledgment of receipt form;

3. Document, through written inspection reports, all results of laboratory inspections conducted;
4. Coordinate with and report to the Director, OGE, on DPC activities and findings that may affect the reliability or accuracy of laboratory results; and
5. In coordination with the EAP Administrator, publicize and disseminate drug program educational materials, and oversee training and education sessions regarding drug use and rehabilitation.

C. EMPLOYEE ASSISTANCE PROGRAM ADMINISTRATOR

The Administrator shall:

1. Receive verified positive test results from the MRO;
2. Assume the lead role in the development, implementation, and evaluation of the EAP;
3. Prepare reports on OGE's EAP activity.

D. EMPLOYEE ASSISTANCE PROGRAM COORDINATOR

The EAP Coordinator shall:

1. Implement and operate the EAP within OGE;
2. Provide for counseling and treatment services to all employees referred to the EAP by their supervisors or on self-referral, and otherwise offer employees the opportunity for counseling and rehabilitation;
3. Coordinate with the Director, OGE, the MRO and supervisors, as appropriate;
4. Work with the DPC to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace;
5. Assist supervisors with performance and/or personnel problems that may be related to illegal drug use;
6. Monitor the progress of referred employees during and after the rehabilitation period, and provide feedback to supervisors in accordance with 42 C.F.R. Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records;

7. Ensure that training is provided to assist supervisors in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs;
8. Maintain a list of rehabilitation or treatment organizations which provide counseling and rehabilitative programs, and include the following information on each such organization;
 - a) Name, address, and phone number;
 - b) Types of services provided;
 - c) Hours of operation, including emergency hours;
 - d) The contact person's name and phone number;
 - e) Fee structure, including insurance coverage;
 - f) Client specialization;
 - g) Other pertinent information; and
9. Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification and educational level of staff, and the organization's policy concerning progress reports on clients and post-treatment follow-up.

E. EMPLOYEE ASSISTANCE COUNSELORS

The Employee Assistance Counselors provided through OGE's consortia shall:

1. Serve as the initial point of contact for employees who ask or are referred for counseling;
2. Provide counseling and treatment services to all employees referred to the EAP by their supervisors or on self-referral;
3. Be familiar with all applicable law and regulations including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program;
4. Meet the qualifications as determined by the EAP Administrator and be trained in counseling

employees in the occupational setting, and in identifying drug use;

5. Document and sign the treatment plan prescribed for all employees referred for treatment, after obtaining the employee's signature on this document; and
6. In making referrals, consider the:
 - a) Nature and severity of the problem;
 - b) Location of the treatment;
 - c) Cost of the treatment;
 - d) Intensity of the treatment environment;
 - e) Availability of inpatient/outpatient care;
 - f) Other special needs, such as transportation and child care; and
 - g) The preferences of the employee.

F. MEDICAL REVIEW OFFICER

OGE has a MRO under contract to carry out the purposes of this Plan. The MRO shall, among other duties:

1. Receive all laboratory test results;
2. Assure that an individual who has tested positive has been afforded an opportunity to discuss the test result in accordance with section XVIII, paragraph D. of this Plan;
3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the EAP Administrator, and the Associate Director for Administration, including a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings;
4. Coordinate with and report to the Director of OGE, on all activities and findings on a regular basis; and
5. Coordinate with the OGE DPC wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.

G. SUPERVISORS

1. Supervisors will be trained to recognize and address illegal drug use by employees, and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. Except as modified by the Director of OGE, to suit specific program responsibilities, first-line supervisors shall:

- a) Attend training sessions on illegal drug-use in the workplace;
- b) Initiate a drug test based on reasonable suspicion as described in section XV of this Plan;
- c) Refer employees to the EAP for assistance in obtaining counseling and rehabilitation, upon a finding of illegal drug use;
- d) Initiate appropriate disciplinary action upon a finding of illegal drug use; and
- e) In conjunction with human resources specialists, assist higher-level supervisors and the EAP Administrator in evaluating employee performance and/or personnel problems that may be related to illegal drug use.

2. A higher-level supervisor shall review and concur, in advance, with all tests ordered on the basis of a reasonable suspicion in accordance with section XV of this Plan.

H. IMPLEMENTATION

At the direction of the Director of OGE, each Division head shall implement the Drug-Free Workplace Plan within his or her Division, and ensure that it is efficiently and effectively accomplished in accordance with this Plan and all other applicable regulations.

I. GENERAL PROGRAM PROVISIONS

Testing may proceed under this Plan as soon as OGE is prepared to commence testing.

J. GOVERNMENT CONTRACTORS

1. The Associate Director for Administration shall act as the Contracting Officer for the administration of the three related contracts for the positions and responsibilities of the following: the Metropolitan Counseling Consortium for the EAP, the Department of the Interior for the DPC, and HHS for the MRO.
2. The Associate Director for Administration shall ensure that the contract for the DPC requires laboratories to be duly certified according to sub-part C of the HHS Guidelines and that any other contracts to implement this Plan conform to the technical specifications of the HHS Guidelines.

XII. NOTICE

A. GENERAL NOTICE

A general notice from the Director of OGE, announcing the testing program, as required by the Executive Order Section 4(a), will be provided to all employees no later than sixty (60) days prior to the implementation date of the plan. The notices shall be provided immediately upon completion of the certification procedures pursuant to Section 503 of the Act, and shall explain:

1. The purpose of the Drug-Free Workplace Plan;
2. That the plan will include both voluntary and mandatory testing;
3. That those who hold positions selected for random testing will also receive an individual notice, prior to the commencement of testing, indicating that their position has been designated a TDP;
4. The availability and procedures necessary to obtain counseling and rehabilitation through the EAP;
5. The circumstances under which testing may occur;

6. That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug;
7. That the laboratory assessment is a series of tests which are highly accurate and reliable, and that, as an added safeguard, laboratory results are reviewed by the MRO;
8. That positive test results verified by the MRO may only be disclosed to the employee, the OGE EAP Administrator, the appropriate management officials necessary to process an adverse action against the employee, or a court of law or administrative tribunal in any adverse personnel action; and
9. That all medical and rehabilitation records in an EAP will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the patient.

B. INDIVIDUAL NOTICE

In addition to the information provided in the general notice, an individual notice will be distributed to all employees in TDPs explaining that:

1. the employee's position has been designated a "testing designated position;"
2. the employee will have the opportunity to voluntarily admit to being a user of illegal drugs and receive counseling or rehabilitation, and shall not be subject to disciplinary action; and
3. the employee's position will be subject to random testing no sooner than thirty (30) days following the notice.

C. SIGNED ACKNOWLEDGMENT

Each employee in a TDP shall be asked to acknowledge in writing that he or she has received and read the notice which states that their position has been designated for random drug testing, and that refusal to submit to testing will result in initiation of disciplinary action, up to and including dismissal. If the employee refuses to sign the acknowledgement, the employee's supervisor shall note on the

acknowledgement form that the employee received the notice. This acknowledgement, which is advisory only, shall be centrally collected for easy retrieval by the Division Head. An employee's failure to sign the notice shall not preclude testing that employee, or otherwise affect the implementation of this order since the general sixty (60) day notice will previously have notified all agency employees of the requirement to be drug-free.

D. ADMINISTRATIVE RELIEF

If an employee other than the Director, believes his or her position has been wrongly designated a TDP, that employee may file an administrative appeal to the Deputy Director, Office of Administration and Information Management (OAIM), who has authority to remove the employee from the TDP list. The appeal must be submitted by the employee, in writing, to the Deputy Director, OAIM, within fifteen (15) days of notification, setting forth all relevant information. The Deputy Director, OAIM, shall review the appeal based upon the criteria applied in designating that employee's position as a TDP. The OAIM Deputy Director's decision is final and is not subject to further administrative review. The Director shall appeal to the Personnel Officer of the White House, following the same procedure.

XIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES

A. DETERMINATION

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from an arrest or criminal conviction;
3. A verified positive test result; or
4. An employee's voluntary admission.

B. MANDATORY ADMINISTRATIVE ACTIONS

OGE shall refer an employee found to use illegal drugs to the EAP, and, if the employee occupies a sensitive position, immediately remove the employee from that position without regard to whether it is a TDP. At the discretion of the Director of OGE, however, and as

part of an EAP, an employee may return to duty in a sensitive position if the employee's return would not endanger public health or safety or national security.

C. RANGE OF CONSEQUENCES

1. Disciplinary action taken against an employee found to use illegal drugs may include the full range of disciplinary actions, including removal. The severity of the action chosen will depend on the circumstances of each case, and will be consistent with the Executive Order. OGE shall initiate disciplinary action against any employee found to use illegal drugs but shall not discipline an employee who voluntarily admits to illegal drug use in accordance with section XIII, paragraph F. of this Plan.
2. Such disciplinary action, consistent with the requirements of any governing collective bargaining agreement and the Civil Service Reform Act and other statutes, OGE policies, and regulations, may include any of the following measures but some disciplinary action must be initiated:
 - a) Reprimanding the employee in writing;
 - b) Placing the employee in an enforced leave status;
 - c) Suspending the employee for fourteen (14) days or less;
 - d) Suspending the employee for fifteen (15) days or more;
 - e) Suspending the employee until the employee successfully completes the EAP or until OGE determines that action other than suspension is more appropriate; and/or
 - f) Removing the employee from service.

D. INITIATION OF MANDATORY REMOVAL FROM SERVICE

OGE shall initiate action to remove an employee for:

1. Refusing to obtain counseling or rehabilitation through an EAP as required by the Executive Order after having been found to use illegal drugs;

2. Not refraining from illegal drug use after a first finding of such use. All letters to propose and decide on a separation action shall be prepared in consultation with the Human Resources Officer.

E. REFUSAL TO TAKE DRUG TEST WHEN REQUIRED

An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including dismissal. No applicant who refuses to be tested shall be extended an offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

F. VOLUNTARY REFERRAL

1. Under Executive Order 12564, OGE is required to initiate action to discipline any employee found to use illegal drugs in every circumstance except that such discipline is not required for an employee who:
 - a) Voluntarily admits his or her drug use;
 - b) Completes counseling or rehabilitation through an EAP; and
 - c) Thereafter refrains from drug use.
2. Because the Order permits an agency to create a "safe harbor" for an employee who meets all three of these conditions, OGE has decided to create such a "safe harbor" and will not initiate disciplinary action against employees who satisfy the "safe harbor" provisions described in paragraph 3 below.
3. A fundamental purpose of OGE's drug testing plan is to assist employees who themselves are seeking treatment for drug use. For this reason, OGE will not initiate disciplinary action against any employee who meets all three of the following safe harbor conditions:
 - a) Voluntarily identifies himself/herself as a user of illegal drugs prior to being identified through other means;
 - b) Obtains counseling or rehabilitation through an EAP; and

- c) Thereafter refrains from using illegal drugs.
- 4. This self-referral option allows any employee to step forward and identify himself/herself as an illegal drug user for the purpose of entering a drug treatment program under the EAP. In stepping forward, and consistent with section XVII, paragraph B. of this Plan, an employee may volunteer for a drug test as a means of identification. Although this self-identification test may yield a verified positive test result, such result shall not subject an employee to discipline assuming the three safe harbor requirements are met.
- 5. Since the key to this provision's rehabilitative effectiveness is an employee's willingness to admit his or her problem, this provision is not available to an employee who requests protection under this provision after:
 - a) Being asked to provide a urine sample in accordance with this Plan; or
 - b) Having been found to have used illegal drugs pursuant to section XIII, paragraph A., items 1 and 2 of this Plan.

XIV. RANDOM TESTING

A. DETERMINING THE TESTING DESIGNATED POSITIONS (TDPs)

- 1. Three considerations have been identified as appropriate for agency heads in determining whether incumbents of a position within a pool of sensitive positions should be subject to random drug testing. The following considerations guided a task force consisting of the Deputy Director, Associate Director for Administration and the Human Resources Officer in arriving at a recommendation for determining OGE TDPs:
 - a) The scope of the agency's mission (i.e., national security, public health or safety, law enforcement, or medical services);
 - b) That the selection process does not result in arbitrary, capricious, or discriminatory selection based on impermissible criteria; and

- c) That any recommended TDP be justified based on a rational application of the selection criteria.

2. Guidance implementing the Executive Order identifies specific criteria to use in designating positions as TDPs as follows:

- a) Presumptively Included Testing Designated Positions: Includes employees authorized to carry firearms, motor vehicle operators carrying passengers; aviation flight crew members and air traffic controllers and railroad operating crews.
- b) Preferred Testing Designated Positions: Includes positions in the following major categories:

- i. Health and Safety: Includes positions with responsibilities that could cause immediate, substantial physical injury if carried out under the influence of drugs, such as employees having access to firearms, railroad employees engaged in safety sensitive tasks and aviation personnel.
- ii. Presidential appointees requiring Senate confirmation (PAS).
- iii. Law enforcement personnel with proximity to criminals, drugs, or drug traffickers.
- iv. Drug rehabilitation or equivalent employee assistance personnel.
- v. Personnel with access to "truly sensitive information", for example, national security material that a court can assume will damage national interests if compromised.

3. Guidance for positions which are typically not included as TDPs includes:

- a) Positions whose sensitivity level is based on the need to foster public trust or generalized requirements for integrity, honesty or responsibility; and

b) Positions whose sensitivity level is based upon access to sensitive information not amounting to the "truly sensitive" criteria.

4. Discretionary guidance requires that agencies review all otherwise non-designated positions for a causal connection between the employees duties and the feared harm that could result as a result of illegal drug use.

B. AGENCY DESIGNATED TESTING DESIGNATED POSITIONS

1. The positions designated as TDPs and the rationale supporting that conclusion are found at Appendix 3A.
2. The positions in OGE which have been identified as having a security clearance of secret and higher are excluded from designation as TDPs because there is no contact with "truly sensitive information" of national security material that would damage national interests if compromised.
3. The remainder of the positions at OGE are not included as TDPs because the mission of OGE does not include sensitive matters in terms of national security, public health or safety, law enforcement and medical services. Control systems are in place to prevent improper action, and OGE has a record of good internal controls within a relatively low-risk environment.

C. IMPLEMENTING RANDOM TESTING

1. In implementing the program of random testing for TDP positions, the Drug Program Coordinator shall:
 - a) Ensure that the means of random selection remains confidential; and
 - b) Evaluate periodically whether the numbers of employees tested and the frequency with which those tests will be administered satisfy OGE's duty to achieve a drug-free work force.
2. The sensitive positions occupying TDPs are specified in Appendix 3A. The random scheduling techniques are found at Appendix 3B. The frequency of testing is found at Appendix 3C.

D. NOTIFICATION OF SELECTION

An individual selected for random testing, and the individual's first-line supervisor, shall be notified the same day the test is scheduled, preferably, within two hours of the scheduled testing. The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.

E. DEFERRAL OF TESTING

1. An employee selected for random drug testing may obtain a deferral of testing if the employee's first-line and a higher level supervisor concurs that a compelling need necessitates a deferral on the grounds that the employee is:

- a) In a leave status (sick, annual, administrative or leave without pay); or
- b) In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.

2. An employee whose random drug test is deferred will be subject to an unannounced test within the following sixty (60) days.

XV. REASONABLE SUSPICION TESTING**A. GENERAL**

Reasonable suspicion testing may be required of any employee in a position which is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable suspicion testing may also be required of any employee in any position when there is reasonable suspicion of on-duty drug use or on-duty drug impairment.

B. GROUNDS FOR TESTING

1. Reasonable suspicion testing may be based upon, among other things:
 - a) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;

- b) A pattern of abnormal conduct or erratic behavior;
 - c) Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking;
 - d) Information provided either by reliable and credible sources or independently corroborated; or
 - e) Newly discovered evidence that the employee has tampered with a previous drug test.
2. Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard.

C. PROCEDURES

1. If an employee is suspected of using illegal drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. This evidence shall be discussed with the Deputy Director, OAIM, for concurrence that reasonable suspicion testing is appropriate.
2. When the OAIM Deputy Director's concurrence of a reasonable suspicion determination has been made, the supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing. This report should include the appropriate dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken.

D. OBTAINING THE SAMPLE

The employee may be asked to provide the urine sample under observation in accordance with the criteria in section XVIII, paragraph B.

E. SUPERVISORY TRAINING

In accordance with section IX of this Plan, supervisors will be trained to address illegal drug use by employees, to recognize facts that give rise to a reasonable suspicion, and to document facts and

circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

XVI. APPLICANT TESTING

OGE has determined that applicants selected for testing designated positions will be required to submit to a drug test prior to appointment as a condition of employment. The following procedures for applicant testing will apply:

A. VACANCY ANNOUNCEMENTS

1. Every vacancy announcement for positions designated for applicant testing shall state:

"All applicants tentatively selected for this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment."

2. Each applicant will be notified that appointment to the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this statement notice will not preclude applicant testing if advance written notice is provided applicants in some other manner.

B. PROCEDURES

1. The DPC shall direct applicants to an appropriate collection facility. The drug test must be undertaken as soon after notification as possible, and no later than 48 hours after notice to the applicant. Where appropriate, applicants may be reimbursed for reasonable travel expenses.
2. Applicants shall be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be reviewed only by the MRO to determine whether the individual is using an otherwise illegal drug.

C. HUMAN RESOURCES OFFICIALS

Upon notification that an individual has been tentatively selected for employment with OGE, the Human Resources Officer shall assure, after consultation with the MRO, that a drug test has been

conducted on that individual and determine whether the test result is a verified positive result.

D. CONSEQUENCES

OGE will decline to extend a final offer of employment to any applicant with a verified positive test result, and such applicant may not reapply to OGE for a period of six months. The Human Resources Officer shall be directed to object to the applicant on the basis of failure to pass the physical, a lack of personal characteristics necessary to relate to public employment or failure to support the goals of OGE. OGE shall inform such applicant that a confirmed presence of an illegal drug in the applicant's urine precludes OGE from hiring the applicant.

XVII. ADDITIONAL TYPES OF DRUG TESTING

A. INJURY, ILLNESS, UNSAFE, OR UNHEALTHFUL PRACTICE TESTING

OGE is committed to providing a safe and secure work environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based upon circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization; or
2. The accident results in damage to government or private property in excess of \$10,000.00. If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the Deputy Director, OAIM, for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

B. VOLUNTARY TESTING

In order to demonstrate their commitment to OGE's goal of a drug-free workplace and to set an example for other federal employees, employees not in TDPs may volunteer for unannounced random testing by notifying the DPC. These employees will then be included in the pool of TDPs subject to random testing, and be subject to the same conditions and procedures, including the provisions of section XIII, paragraph F. of this Plan. Volunteers shall remain in the TDP pool until they withdraw from participation by notifying the DPC of such intent at least 48 hours prior to a scheduled test. Employees who volunteer will be tested once a year.

C. FOLLOW-UP TESTING

All employees referred through administrative channels who undergo a counseling or rehabilitation program for illegal drug use through the EAP will be subject to unannounced testing following completion of such a program for a period of one year. Such employees shall be tested at the frequency stipulated in the abeyance contract, or, in the alternative, at an increased frequency of once every three months. Such testing is distinct from testing which may be imposed as a component of the EAP.

XVIII. TEST PROCEDURES IN GENERAL

A. MANDATORY GUIDELINES FOR FEDERAL DRUG TESTING

OGE shall adhere to the Mandatory Guidelines for Federal Drug Testing Programs promulgated by HHS consistent with the authority granted by Executive Order 12564, and to the requirements of Section 503 of the Act. OGE's drug testing program shall have professionally trained collection personnel, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. PRIVACY ASSURED

Any individual subject to testing under this Plan, shall be permitted to provide urine specimens in private, and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual provide the urine specimen when such

personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when:

1. The individual:

- a) Has previously been found by OGE to be an illegal drug user; or
- b) Has previously tampered with a sample; or

2. Facts and circumstances suggest that the individual:

- a) Is an illegal drug user;
- b) Is under the influence of drugs at the time of the test; or
- c) Has equipment or implements capable of tampering with or altering urine samples; or

3. The specimen:

- a) has a temperature outside the range of 32.5 - 37.7 degrees C / 90.5 - 99.8 degrees F; or
- b) Shows signs of contaminants.

C. FAILURE TO APPEAR FOR TESTING

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. If an individual fails to appear at the collection site at the assigned time, the collector shall contact the DPC to obtain guidance on action to be taken.

D. OPPORTUNITY TO JUSTIFY A POSITIVE TEST RESULT

1. When a confirmed positive result has been returned by the laboratory, the MRO shall perform the duties set forth in the HHS Guidelines. For example, the MRO may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Evidence to justify a positive result may include, but is not limited to:

- a) A valid prescription; or
- b) A verification from the individual's physician verifying a valid prescription.

2. Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner the MRO deems most efficient or necessary. If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result. The MRO shall immediately contact the EAP Administrator upon obtaining a verified positive test result.

E. EMPLOYEE COUNSELING AND ASSISTANCE

While participating in a counseling or rehabilitation program, and at the request of the program coordinator, the employee may be exempted from the random TDP pool for a period not to exceed sixty (60) days, or for a time period specified in an abeyance contract or rehabilitation plan approved by the Director of OGE. Upon completion of the program, the employee immediately shall be subject to follow-up testing pursuant to section XVIII, paragraph C. of this Plan.

F. SAVINGS CLAUSE

To the extent that any of the procedures specified under section XVIII of this Plan are inconsistent with any of those specified in the Mandatory Guidelines promulgated by HHS, or any subsequent amendment

thereto, such HHS Guidelines or amendment shall supersede the procedures specified under section XVIII of this Plan, but only to the extent of the inconsistency.

XIX. RECORDS AND REPORTS

A. CONFIDENTIALITY OF TEST RESULTS

1. The laboratory may disclose laboratory test results only to the MRO or the staff of the MRO. Any positive result which the MRO justifies by acceptable and appropriate medical, or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. § 552a, et seq., and Section 503(e) of the Act, and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with this order. Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.
2. In order to comply with Section 503(e) of the Act, the results of a drug test of an OGE employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be:
 - a) To the MRO;
 - b) To the EAP Administrator when the employee is receiving counseling or treatment or is otherwise participating;
 - c) To any supervisory or management official within OGE having authority to take adverse personnel action against such employee; or
 - d) Pursuant to the order of a court of competent jurisdiction, or where required by the United States Government to defend against any challenge against any adverse personnel action.

3. For purposes of section XIX of this Plan, "management official" includes any management, government, security or personnel official whose duties necessitate review of the test results in order to process adverse personnel action against the employee. In addition, test results with all identifying information removed shall also be made available to OGE personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

B. EMPLOYEE ACCESS TO RECORDS

1. Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to:
 - a) Such employee's drug test; and
 - b) The results of any relevant certification, review, or revocation of proceedings, as referred to in Section 503(a)(1)(A)(ii)(III) of the Act.
2. Except as authorized by law, an applicant who is the subject of a drug test, however, shall not be entitled to this information.

C. CONFIDENTIALITY OF RECORDS IN GENERAL

1. All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile program records. In order to efficiently implement this Plan and to make information readily retrievable, the DPC shall maintain all records relating to reasonable suspicion testing, suspicion of tampering with evidence, and any other authorized documentation necessary to implement this Plan.
2. All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the OGE Personnel Office. Such shall remain confidential, locked in a combination safe, with only authorized individuals who have a "need-to-know" having access to them. Official Personnel Action documents, SF-50, will be placed in each individuals Official Personnel Folder and maintained in a locked cabinet.

D. EMPLOYEE ASSISTANCE PROGRAM RECORDS

The EAP Administrator shall maintain only those records necessary to comply with this Plan. After an employee is referred to an EAP, the EAP will maintain all records necessary to carry out its duties. All medical and or rehabilitation records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by 42 C.F.R. Part 2, including the provision of written consent by the employee. With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress. (42 C.F.R. 2.1 et seq. (1986), revised regulations promulgated at 52 C.F.R. § 21796, June 9, 1987.)

E. MAINTENANCE OF RECORDS

OGE shall establish or amend a recordkeeping system to maintain the records of OGE's Drug-Free Workplace Program consistent with OGE's Privacy Act System of Records and with all applicable federal laws, rules and regulations regarding confidentiality of records including the Privacy Act 5 U.S.C. § 552a. If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the Director of OGE. The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of this Plan, and include:

1. Notices of verified positive test results referred by the MRO;
2. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
3. Anonymous statistical reports; and
4. Other documents the DPC, MRO, or EAP Administrator deems necessary for efficient compliance with this Plan.

F. RECORDS MAINTAINED BY GOVERNMENT CONTRACTORS

Any contractor hired to satisfy any part of this Plan shall comply with the confidentiality requirements of

this Plan, and all applicable federal laws, rules, regulations and guidelines.

G. STATISTICAL INFORMATION

1. The DPC shall collect and compile anonymous statistical data for reporting the number of:

- a) Random tests, reasonable suspicion tests, accident or unsafe practice tests, follow-up tests, or applicant test administered;
- b) Verified positive test results;
- c) Voluntary drug counseling referrals;
- d) Involuntary drug counseling referrals;
- e) Terminations or denial of employment offers resulting from refusal to submit to testing;
- f) Terminations or denial of employment offers resulting from alteration of specimens;
- g) Terminations or denial of employment offers resulting from failure to complete a drug abuse counseling program; and
- h) Employees who successfully complete EAP.

2. This data, along with other pertinent information, shall be compiled for inclusion in OGE's annual report to Congress as required by section 503(f) of the Act. This data shall also be provided to HHS semi-annually to assist in overall program evaluation and to determine whether changes to the HHS Guidelines may be required.

APPENDIX 3A**IDENTIFICATION OF TESTING DESIGNATED POSITIONS**

Position: Director, Office of Government Ethics

Rationale for Designation as Testing Designated Position (TDP). This position is the agency head and is a presidential appointee. The Director is the final decision making authority in the determination of policy. If the Director were to be influenced by drugs, the mission and effectiveness of OGE could be severely hampered by the curtailment or improper conclusions in relation to the identification of conflicts of interest.

APPENDIX 3B**RANDOM SCHEDULING TECHNIQUES**

Random testing will be conducted on employees in the Testing Designated Position pool (i.e., those employees identified as holding a Testing Designated Position, volunteers for unannounced random testing, and those placed in the pool as a result of follow-up testing requirements). Testing will be accomplished using random sampling and random scheduling techniques. At a time determined by the random scheduling method, the Associate Director for Administration will ensure that a random list of employees to be tested is generated from the list of Testing Designated Positions. The names of the employees to be tested shall be extracted from an automated personnel listing by comparing the last four digits of the employees' social security numbers against a list of four digit random numbers. The list will be kept secure and confidential. Follow-up dates for those persons unable to be tested due to absence, or other appropriate reasons also will be arranged by the Drug Program Coordinator or Assistants.

Notification to employees of the dates and times of the tests shall be done by the Human Resources Officer. Only those employees with a need to know (e.g., those responsible for notifying employees in testing designated positions of the date and time of the test) will have knowledge of the dates of scheduled tests.

Follow-up testing will be done every three months for the first year and randomly scheduled once every year for the next four years. Thereafter, the employee will be scheduled as part of the pool of TDPs for random testing.

APPENDIX 3C

FREQUENCY OF TESTING

CATEGORY	PERCENT OF POOL	FREQUENCY
Random Pool	25%	Annual
Voluntary Pool	25%	Annual
Follow-Up Pool	100%	Once every 3 months for 4 years; then as part of the Random Pool.

Chapter 810. Workers' Compensation Program

I. Purpose. This chapter sets forth the policies and procedures of the Office of Government Ethics concerning job-related injuries and workers' compensation.

II. References.

Statute: 5 U.S.C. Section 8101 et seq.

Code of Federal Regulations: 5 CFR 339.305

5 CFR Part 353

20 CFR, Parts 1, 10, and 25

III. Policy.

A. OGE's policy is to provide a safe and healthful working environment for employees. In cases of job-related injuries or diseases, claims will be investigated and processed in a timely manner. When necessary, management will explore possibilities to accommodate employees who suffer from job-related injuries or diseases, with restricted or limited duty assignments in accordance with the physical limitations recommended by a physician.

B. Responsibilities.

1. The Deputy Director, Office of Administration and Information Management (OAIM), is designated the SES-level employee responsible for Office of Workers' Compensation Programs (OWCP) activities in the Agency.

2. Deputy Directors and Associate Directors. The Deputy Directors, General Counsel, Associate Directors and Deputy General Counsel are responsible for implementing the Workers' Compensation Program (WCP) within their respective Divisions and Offices. Among other responsibilities they will:

a. work with the Administration Division to ensure that the office space they oversee is as safe as possible, and take action to correct identified unsafe conditions, or other environmental or work factors that may increase the likelihood of job-related injuries; and

b. Alert the Deputy Director, OAIM, of situations or planned actions that could result in an increase in job-related injuries.

3. Supervisors. Supervisors will:

- a. Ensure that employees receive the opportunity for required medical attention.
- b. Ascertain the facts regarding job-related injuries and diseases reported by employees.
- c. Provide employees with the required forms and when necessary, assist employees with the completion of these forms.
- d. In coordination with the Administration Division, Human Resources staff, ensure that the required forms are completed and sent to OWCP within 10 working days after the notification of an injury/disease.
- e. Where appropriate, ensure that restricted or limited duty assignments are implemented in accordance with the physical limitations imposed by a physician.
- f. Monitor claims and seek to controvert claims for which there is no basis.

4. Employees. Employees will:

- a. Immediately report to their direct supervisor any work-related injury or disease.
- b. Complete the appropriate Department of Labor, Office of Workers' Compensation Program (OWCP) required forms in a timely manner.
- c. Keep the supervisor informed of medical status, including provision of periodic medical reports from the attending physician, upon request.
- d. Seek restoration to duty as soon as the medical condition permits.

5. Human Resources (HR) Staff. The Human Resources staff will:

- a. Provide technical advice and assistance to the Deputy Director, OAIM or to the appropriate Associate Directors, Deputy Directors, General Counsel or Deputy General Counsel on all non-medical workers' compensation-related matters.
- b. Provide the employee and the supervisor with the required forms, and provide assistance on forms completion.
- c. After certification, forward the forms within 10 days to the OWCP for processing. Develop and maintain in the Employee Medical File (EMF) a record of each injury/disease.
- d. Review active cases and associated costs, and maintain contact with the employee to determine the earliest practicable date for the employee's return to work.
- e. Monitor claims for compensation and assist management officials to controvert claims for which there is no basis.

- f. Track pending and approved claims, including continuation of pay (COP), to ensure compliance with appropriate organizational, OGE and DOL requirements.
- g. Examine Federal Employees Compensation Act chargeback bills to ensure that the organization pays only for cases that involve its eligible employees and that any bills submitted by the DOJ employee are forwarded to the DOL in a timely manner.
- h. Assist management officials and employees in determining the cause of accidents and illnesses, and in eliminating or mitigating these causes.
- i. Assist management officials in structuring and providing restricted or limited duty assignments to employees who suffer from job-related diseases or injuries.
- j. Serve as liaison between the OGE offices and the OWCP on all non-medical related matters.

6. OGE Budget Officer. The Budget Officer will approve and certify the payment of approved claims and COP that have been approved by the HR staff consistent with III.B.5.f. above.

7. The Administrative Services Staff. The two Administrative Officers will take action to correct unsafe working conditions identified by OGE supervisors, managers or employees, consistent with the responsibilities set forth above.

IV. Inquiries. If you have any questions concerning this policy, please contact the Administration Division, Human Resources staff.

CHAPTER 920

SENIOR EXECUTIVE SERVICE

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SUBCHAPTER 1. SES PERFORMANCE APPRAISAL SYSTEM

I. COVERAGE and AUTHORITIES

The Senior Executive Service (SES) Performance Appraisal System covers all Office of Government Ethics (OGE) employees who occupy positions identified as part of the Senior Executive Service and implements regulations contained in 5 CFR, Part 430, Subparts C and D and 5 U.S.C. Chapter 430 and 5307 (d). This subchapter must be approved and certified by the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) before implementation. No provision is made for exceptions to this requirement.

II. PURPOSE

The Office of Government Ethics' Senior Executive Performance Appraisal System establishes a process that holds senior executives accountable for their individual and organizational performance in order to improve the overall performance of the Agency and, thus, the government by:

- A. Setting expectations for excellence in senior executive performance;
- B. Linking senior executive performance with the results-oriented goals of the OGE's strategic planning (mission, strategic goals, program/policy objectives, and/or annual performance plans and budget priorities);
- C. Establishing and communicating to each senior executive his/her individual and organizational goals and expectations. Such expectations reflect anticipated organizational performance; clearly describe performance that is measurable, demonstrable, or observable; and focus on outputs, outcomes, milestones, or other deliverables;
- D. Appraising senior executive performance using measures that balance organizational results; customer, stakeholder, and employee feedback; quality, quantity, timeliness, and cost effectiveness factors; and individual competencies and behavior that can distinguish outstanding performance.
- E. Using performance results as a basis for pay, awards, training, performance, retention, removal, and other personnel decisions.

III. DEFINITIONS

- A. **Appraisal System.** The policies, practices, and procedures an agency establishes under 5 U.S.C. Chapter 43 and 5 CFR part 430, subparts B and C, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance. This includes appraisal systems and appraisal programs as defined at Part 430.203 and performance management systems as defined at Part 430.303.
- B. **Annual Summary Rating.** The rating of record assigned by an appointing authority after considering the recommendations of a Performance Review Board (PRB). The appointing authority is the Director, OGE, for all SES members. In his/her absence, the Acting Director is the appointing authority.
- C. **Appointing Authority.** Department or Agency Head, or other official with authority to make appointments in the SES. For OGE, this official is the Director.

- D. **Appraisal.** The act or process of reviewing and evaluating the performance of the executive against the described performance elements and requirements.
- E. **Appraisal Period.** The period of time established by an appraisal system for which a senior executive's performance will be appraised and rated. The appraisal period for OGE is October 1 through September 30 of each year. The minimum appraisal period is 120 days.
- F. **Critical Element.** A key component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that unsatisfactory performance on the element would result in unsatisfactory performance in the position.
- G. **Initial Summary Rating.** The summary rating made by the senior executive's supervisor and provided to the Performance Review Board.
- H. **"Other Performance" (Non-Critical) Element.** A component of an executive's position which does not meet the definition of a critical element, but is of sufficient importance to warrant being used to appraise performance. Non-critical or "other performance" elements are optional and may be used at the supervisor's discretion.
- I. **Outstanding Performance.** Performance that substantially exceeds the normally high performance expected of any senior employee, as evidenced by exceptional accomplishments or contributions to the Agency's performance.
- J. **Performance.** The senior executive's accomplishment of assigned work as specified in the performance plan.
- K. **Performance Award.** A cash award which recognizes and rewards SES career appointees for their performance during the appraisal cycle. A performance award does not increase base pay.
- L. **Performance Evaluation.** The comparison of the actual performance of senior employees against their performance requirements as specified in their performance plans and may take into account their contributions to Agency performance, where appropriate.
- M. **Performance Management.** The description of OGE's methods which integrate performance, pay, and awards systems with its basic management functions for the purpose of improving individual and organizational effectiveness in the accomplishment of OGE's mission and goals.
- N. **Performance Plan.** The written summary of work the senior executive is expected to accomplish during the appraisal period and the requirements against which performance will be evaluated. The plan addresses all critical elements and any other performance elements established; communicates what a senior employee is expected to do and the manner in which he/she is expected to do it; and may include contributions to Agency performance, where appropriate, as well as results-oriented measures of performance used under the Government Performance and Results Act (GPRA).
- O. **Progress Review.** A review of the executive's progress toward achieving the performance requirements and is not in itself a rating.
- P. **Relative Performance.** The performance of a senior employee with respect to the performance of other senior employees, including their contribution to Agency performance, where appropriate.

IV. TIMING OF PERFORMANCE APPRAISALS

- A. Each senior executive will be given an annual summary rating. This rating shall take into consideration performance for all assigned work given to the executive throughout the appraisal period of October 1 through September 30 of each year. The annual summary rating of the executive's performance is made by the executive's supervisor after considering the recommendations of the Performance Review Board (PRB).
- B. When a senior executive changes positions during the appraisal period and has served in his/her position for 120 days, a performance appraisal must be prepared to cover the position from which the senior executive is changing. This rating is not to be considered as an initial rating, but is to be considered at the time an initial summary rating is prepared.
- C. An official performance appraisal may not be made on a career appointee within 120 days following the beginning of a new Presidential administration.
- D. The minimum appraisal period for OGE's senior executives is 120 calendar days. The appraisal period of an executive which does not meet the minimum requirement by the end of the normal appraisal period (September 30) will be extended for the number of days necessary to meet the minimum requirement, at which time an initial summary rating will be prepared. The performance appraisal period may be terminated at any time, after completing the 120-day minimum requirement, when it is determined that adequate basis exists on which to appraise and rate the executive's performance.
- E. When an executive is detailed or temporarily reassigned within the OGE and the detail or temporary assignment is expected to last for 120 days or longer, written critical elements and performance requirements must be provided to the executive as soon as possible, but no later than 30 calendar days after the beginning of a detail or temporary assignment. Ratings on critical elements must be prepared for these details and temporary assignments and must be considered in deriving the executive's next initial summary rating.
- F. When an executive is detailed outside of the OGE, reasonable effort to obtain an appraisal from the outside organization will be made and this information shall be considered in deriving the executive's next initial summary rating.
- G. When an executive transfers from OGE, an initial summary rating must be prepared, if the executive has served under a performance plan for the minimum appraisal period of 120 calendar days. If the executive leaving is a rating official, he/she should complete an appraisal on each SES subordinate before leaving.

V. PERFORMANCE PLAN

A. MANAGERIAL GUIDANCE

At the beginning of each rating cycle, the executive's supervisor will discuss with each subordinate executive the Agency's major efforts and objectives for the appraisal period. Additional guidance may include: OGE Strategic and Performance Plan requirements; internal planning documents of the Director; needs of the ethics community; certain equal opportunity goals; implementing certain management improvement strategies; methods to increase productivity; etc.

B. IDENTIFICATION OF PERFORMANCE ELEMENTS

The SES member and supervisor will also discuss and document at the beginning of each rating cycle, the plans for the senior executive's specific organization(s). This discussion is to identify what must be accomplished during the coming year, as well as critical elements, projects, specific objectives, and measurements of progress.

1. Generally, executive's performance elements should address both organizational and individual aspects of the position.
 - a. Organizational Elements control the operation and accomplishments of an organization under the executive's control.
 - b. Individual Elements are aspects of a position that the executive accomplishes personally.
2. An individual performance element should be addressed in the simplest form, e.g., formulates policy; manages human resources, etc. The outcome associated with an individual performance element may be the product (i.e. a new policy) or an individual's managerial capability (i.e. how well the executive manages human resources).
3. Organizational performance elements are determined by an organization's mission, program objectives and priorities, legislative mandates, national policy, etc. They stem from various planning documents (e.g. budget, functional statements, program plans for the organization under the executive's control, etc). The executive will ensure that performance plans of employees within his/her area of responsibility are aligned with organizational goals and that employees are appraised realistically against clear, measurable standards of performance.
4. Each performance element should be reviewed to ensure that it is stated in a manner that explains what the task/function/activity is and why and how it is performed to facilitate establishing levels of performance. Performance elements should be discussed in terms of relative priority so that both the executive and the supervisor are aware of the relative importance of each function. Each performance element must be meaningful to the executive's success and/or failure in performing the work of his/her position.
5. Measurements of progress include appropriate measures or indicators of employee and/or customer/stakeholder feedback; quality quantity, timeliness and cost effectiveness, as applicable; and those technical, leadership and/or managerial competencies or behaviors that contribute to and are necessary to distinguish outstanding performance.

C. DESIGNATION OF CRITICAL AND OTHER PERFORMANCE ELEMENTS

1. The supervisor should review the identified performance elements and determine which elements are so important that performance below the minimally satisfactory level of one or more such elements would result in unsatisfactory performance in the position as a whole. Elements so identified are "critical elements." Elements that do not meet the criteria for critical elements shall be designated as non-critical or "other performance elements." Use of non-critical or "other performance elements" is optional.
2. Critical elements may be added or deleted based on changes in the nature of the executive's position, fiscal climate, needs of the Agency, etc.

D. ESTABLISHMENT OF PERFORMANCE LEVEL REQUIREMENTS

1. Performance level requirements or expectations of performance are prepared jointly by the supervisor and the executive. The content of the final product is the supervisor's responsibility since he/she is responsible for assigning work to accomplish the organization's mission.
2. Performance level requirements must be developed in writing for the Fully Successful and Outstanding levels of performance for all performance elements.
3. Appraisals against performance level requirements will be used as a basis for training, rewarding, reassigning, and changing base pay.
4. Performance level requirements can be expressed in many ways. Important considerations in determining how to express a performance level requirement are:
 - a. Is it understood the same way by the supervisor who establishes it and by the executive who will be held accountable for achieving it?
 - b. Is it derived from and consistent with OGE regulations and procedures, legal decisions and the provisions of law that govern the executive branch ethics program? Is it consistent with available funding, program and performance goals, budget decisions, and expressions of Presidential and Congressional priorities?
 - c. Is it expressed in terms that can be measured? When feasible, these terms ought to be quantitative. To the extent possible, requirements need to be defined in ways that permit measurement of quantity, the overall contribution to the ethics program, the use of resources in accordance with managerial guidance, etc. It is also recognized that not all performance requirements can be quantified. Examples of important non-quantifiable types of indices are (1) the levels of coordination and cooperation with other organizations; (2) the quality of services; and (3) the provision of legal advice.
5. Performance elements and performance level requirements should be communicated orally to the senior executive at the beginning of the appraisal period and a written performance plan will normally be provided to the senior executive within 30 days of the beginning of the appraisal period. Both the senior executive and the supervisor must sign the performance requirements, each retaining a copy.

VI. APPRAISAL OF PERFORMANCE

A. MONITORING PERFORMANCE

Supervisors of senior executives must conduct at least one formal progress review with each subordinate executive during the appraisal period and are encouraged to conduct periodic "informal" reviews. However, at least one official progress review must be conducted by April 30. Such reviews should be documented in Part II of the Executive Performance Agreement, OGE Form 303.

The review should be a discussion of actual performance as appraised against performance elements and performance level requirements, potential problem areas, special needs, etc. A periodic progress review, at any point during the rating period, is particularly important in the case of an executive whose performance is at a level which may result in an overall annual summary

rating of either Minimally Successful or Unsatisfactory, if continued through the end of the appraisal period. If a Minimally Successful or Unsuccessful level is being performed at the time of the progress review, a performance requirement at that level should be developed to distinguish between the level being performed and the desired Fully Successful level.

B. INITIAL SUMMARY RATING

1. Based on written requirements, a written initial rating of the senior executive's performance will be made by the executive's supervisor, not later than October 30. Each performance element will be rated at one of the five rating levels. The levels and their definitions are as follows:
 - a. Outstanding – Performance that substantially exceeds the normally high performance expected of any senior employee, as evidenced by exceptional accomplishments or contributions to the Agency's performance. The majority of critical elements are rated Outstanding. No "other performance" (non-critical) performance element is rated below Exceeds Fully Successful.
 - b. Exceeds Fully Successful – Performance is noticeably above the Fully Successful level. The majority of the critical elements are rated at least Exceeds Fully Successful. No critical or non-critical elements are rated below Fully Successful.
 - c. Fully Successful – Such performance fully meets the requirements of the senior executive's position. Fully Successful denotes solid, satisfactory, and consistent performance. All critical elements are rated at least Fully Successful level. No more than one "other performance" (non-critical) element is rated Minimally Successful and no "other performance" (non-critical) element is rated Unsatisfactory.
 - d. Minimally Successful - Performance is marginally acceptable. Performance meets some but not all of the requirements of the Fully Successful level.
 - e. Unsatisfactory - Performance is of poor quality that falls well below the Fully Successful performance level requirements in terms of the executive's responsibilities and commitments. Performance at this level is synonymous with unacceptable performance. One or more critical elements are rated Unsatisfactory.
2. The following numerical scores will be assigned for each level of performance identified in the competencies and business results section of the executives individual performance plan and will be used to determine the executives initial summary rating:

Expectations- Ratings

Competencies (40% of overall evaluation)

☐ Unsatisfactory

Placed insufficient emphasis on one or more of the four competencies. Actions taken were inappropriate, ineffective or undermined OGE strategic goals or annual performance plan accomplishment. (Numerical Value – 0)

☐ **Minimally Successful**

Placed less than desired emphasis on each of the four competencies. Actions taken barely supported accomplishment of the OGE annual performance plan and strategic goals.
(Numerical Value – 2)

☐ **Fully Successful**

Placed appropriate emphasis on each of the four competencies. Appropriate actions were taken to support accomplishment of the OGE annual performance plan and strategic goals.
(Numerical Value – 6)

☐ **Exceeds Fully Successful**

Place more than desired emphasis on each of the four competencies. Actions taken to support accomplishment of the OGE annual performance plan and strategic goals were noticeably more than expected. (Numerical Value – 8)

☐ **Outstanding**

Placed substantial emphasis on each of the four competencies. Actions taken to support accomplishment of the OGE annual performance plan and strategic goals were substantially more than expected. (Numerical Value -10)

Business Results (60% of overall evaluation)

☐ **Unsatisfactory**

Did not achieve or make substantial progress towards achievement of desired results.
(Numerical Value – 0)

☐ **Minimally Successful**

Barely achieved or made limited substantial progress towards achievement of desired results.
(Numerical Value – 2)

☐ **Fully Successful**

Achievement or made progress towards achievement of desired results. (Numerical Value – 6)

☐ **Exceeds Fully Successful**

Achievement or progress towards achievement was noticeably more than expected.
(Numerical Value – 8)

☐ **Outstanding**

Achievement or progress towards achievement was substantially more than expected.
(Numerical Value – 10)

Initial Summary Rating

A score for the executive's performance in meeting the preceding rating expectations is obtained by multiplying the numerical value (assigned to executive's performance) by the weighted percentage of the overall evaluation. A value total is derived by combining the scores for Competencies and Business Results. The value total will be the basis for determining the initial summary rating.

The executive's value total is:

EXPECTATIONS	RATING	NUMERICAL VALUE	WEIGHTED PERCENTAGE	SCORE
Competencies			40%	
Business Results			60%	
			VALUE TOTAL	

The executive's value total determines the initial summary rating as follows:

LEVEL OF PERFORMANCE	VALUE TOTAL RANGE	PERFORMANCE DESCRIPTION
Outstanding (O)	9.0-10	Consistently superior; significantly exceeds expectations of the ES performance standard.
Exceeds Fully Successful (ES)	7.0-8.9	Consistently exceeds expectations of the FS performance standard.
Fully Successful (FS)	5.0-6.9	Consistently meets performance expectations
Minimally Satisfactory (MS)	1.0-4.9	Marginally acceptable; needs improvement; occasionally less than FS performance.
Unsatisfactory (U)	0	Undeniably unacceptable; generally less than FS performance.

Based upon the range of value totals identified above, the executive's initial summary rating would be unsatisfactory; minimally successful, fully successful; exceeds fully successful or outstanding.

- At the end of the annual rating cycle, the initial summary rating is provided to the executive for an opportunity to respond in writing. The rated executive may request review of the rating by an individual in a higher executive level than that of the supervisor, unless there is no one at a higher level, before the rating is reviewed by the Performance Review Board (PRB). If a written response is prepared, the response is provided to both the official making the higher level review and the PRB. Comments made by the higher level reviewing official are provided to the senior executive, the supervisor, and the PRB.

C. ANNUAL SUMMARY RATING

- No forced distribution of summary rating levels may be made.
- A written annual summary rating of record of the executive's performance shall be made by the OGE Director only after considering the recommendation by the PRB with respect to the performance of the senior executive.
- When a rating of record cannot be prepared at the end of the appraisal period, the executive's appraisal period shall be extended for the amount of time necessary to meet the 120 day minimum appraisal period at which time a rating of record shall be prepared.
- When an executive moves from one OGE office to another anytime during the appraisal period and 120 days has passed since the last rating of record, an interim rating must be prepared to cover the period since the last rating of record. The interim rating will be taken into consideration when deriving the next annual summary rating.

5. When an executive's annual performance is rated at a level below the Fully Successful level, the executive shall be provided assistance in improving his/her performance. Such assistance may include formal training, on the job training, counseling or closer supervision. However, under circumstances described below, a less than Fully Successful rating of record may require reassignment within the SES or removal.

D. PERFORMANCE REVIEW BOARD (PRB)

1. The PRB, whose members are appointed by the Director, will make recommendations on the performance of senior executives. Each individual PRB panel will be composed of five members, three career SES members from outside OGE and two members from OGE's cadre of SES employees. The Chair of each PRB panel will be an OGE SES employee. Outside members of the PRB will be changed as deemed appropriate by the Chair. It is intended that OGE SES members will not serve on the PRB more than two consecutive years to ensure that all OGE SES employees participate in the PRB process. A notice of any new appointment to the PRB will be published in the Federal Register. The members of the PRB will be appointed in such a manner as to ensure consistency, stability, and objectivity in performance appraisals.
2. When appraising the performance of a career senior executive, more than 50% of the PRB panel members will be SES Career appointees unless it has been determined (with OPM approval) that there exists an insufficient number of career appointees available.
3. The PRB panel will review and evaluate the initial summary rating, the executive's written response, if any, recommendations of a higher-level reviewer, if any, and will conduct such further review as appropriate. The PRB must make a written recommendation concerning each executive's rating of record.
4. Individual PRB members may not take part in any PRB deliberations involving their own appraisals.
5. The PRB may not prescribe a distribution of levels of ratings. It must ensure, however, that the performance elements and requirements have been stringently applied in arriving at the summary ratings.

VII. USING PERFORMANCE RESULTS

- A. The OGE Director is responsible for ensuring that the senior executive appraisal process makes meaningful distinctions based upon relative performance and considerations of the Agency's performance. In this regard, the Director is responsible for assessing the Agency's performance overall, as well as each of its major program and functional areas. Such assessments may include the Agency's performance accomplishments, as reported to OMB and Congress, and other program measures and indicators. The Director's findings, and if appropriate his/her guidelines regarding individual evaluations, are furnished to other rating/reviewing officials at the conclusion of the appraisal period but before ratings are recommended to the Performance Review Board so that this information may serve as a basis for individual performance evaluations.
- B. OGE senior executives who have demonstrated the highest levels of individual performance and/or contributions to the agency's performance receive the highest annual summary rating, as well as the largest corresponding pay adjustments, cash awards and levels of pay. The Director assigns final ratings for all senior executives and approves performance awards after considering the recommendation of the PRB. If the Director position is vacant, or the Director is unavailable (e.g., due to serious illness), the Acting Director will assign final ratings and approve performance awards.

If the Acting Director is an SES member, his/her final rating will be that rating recommended by the PRB.

- C. A career appointee who receives a final rating of Fully Successful or higher is eligible to be awarded a monetary performance award. The amount of the award will be determined by the Director. The award amount may not be less than 5 percent of, nor more than 20 percent of, the appointee's basic rate of pay. Such bonuses are subject to the statutory salary ceiling limits. Awards will be paid in a lump-sum and will be in addition to the appointee's basic rate of pay or rank stipend.
- D. Career SES members may be also recommended by the Director for the Presidential Rank Awards of "Distinguished" and "Meritorious" Executives.
- E. Ratings other than Fully Successful may require reassignment or removal from the SES under 5 U.S.C. 4314 (b)(3)&(4), according to provisions of 5 CFR 359, Subpart E. Such action is required under the following circumstances:
 - 1. A rating of record at the Unsatisfactory level requires either reassignment within the SES or removal from the SES.
 - 2. Receipt of two ratings of record at the Unsatisfactory level within 5 consecutive years requires removal from the SES.
 - 3. Receipt of two ratings of record at Minimally Successful level within 3 consecutive years requires removal from the SES.
 - 4. A career executive may not be involuntarily removed from the SES based upon Less Than Successful performance within 120 days after the appointment of a new agency head or the appointment of the executive's immediate supervisor who is a non-career appointee and has the authority to remove the career executive. This restriction does not apply to a pending removal action based upon an annual summary rating of Unsatisfactory.

VIII. APPEALS

- A. A senior executive may neither grieve nor appeal a performance appraisal under this system.
- B. Allegations by an SES executive that a prohibited personnel practice has occurred in connection with the performance appraisal process may be presented to the Office of the Special Counsel.

IX. TRAINING AND PROGRAM EVALUATION

- A. Training and information will be provided to senior executives as needed to assist each executive in meeting his/her performance expectations.
- B. The OGE Human Resources Officer will conduct a yearly performance evaluation of this manual chapter to ensure proper implementation and to recommend improvements as needed.

X. RECORDS

- A. Each executive must be provided a copy of the following documents at the time they are prepared:
 - 1. The initial summary rating, along with notification of the right to respond in writing and to request a higher level review before the rating becomes final;
 - 2. Any comments and recommended changes by a higher level executive; and
 - 3. The annual summary rating.
- B. Performance related records for senior executives are to be maintained in an Employee Performance Folder for five years from the date the rating is issued. When an executive leaves the OGE, all performance related documents that are less than five years old will be forwarded (along with the executive's Official Personnel Folder) to the gaining agency or the National Records Center. Other retention requirements are as specified in 5 CFR 293.404 and the Federal Guide to Personnel Recordkeeping.

SUBCHAPTER 2. SENIOR EXECUTIVE SERVICE RECRUITMENT PROGRAM

2-1. Policies. The Office of Government Ethics will utilize all effective and proper methods to recruit Senior Executive Service (SES) candidates from available sources of qualified applicants, recruiting from within the ranks of the civil service and/or from outside the civil service as the position warrants. Selections for OGE positions will be based solely on merit, without regard to race, creed, color, national origin, sex, physical handicap, political belief or other irrelevant factors.

a. Responsibilities.

(1) Director, Office of Government Ethics (OGE). The Director appoints members of the Executive Resource Board (ERB). The Director will make the final selection from among the best qualified candidates recommended for selection and will give fair consideration to all candidates referred.

(2) Executive Resources Board (ERB). The ERB (or a panel of three ERB members) considers the qualifications of candidates and makes recommendations to the Director, OGE (appointing authority), regarding the selection of those candidates.

2-2. Vacancy Announcements.

a. All vacancies will, as a minimum, be announced government-wide soliciting from all groups of qualified individuals within the civil service. At the discretion of the Director, recruitment will also include solicitation from qualified applicants outside the civil service.

b. Vacancy announcements will be published in OPM's biweekly Senior Executive Service Vacancy Announcements list and will be open for a minimum of 14 calendar days. The closing date of an announcement will be a workday, and is the date by which the application must be received.

2-3. General Procedures.

a. All applications will be screened in the Personnel Office to determine basic eligibility for the vacancy as specified in the qualification standards. The initial screening process will normally be completed within two weeks after the closing date of the vacancy announcement.

b. Qualified candidates will be sorted into three groups:

(1) Group I - Non-SES applicants; i.e., candidates who are not currently career Senior Executives or who do not have reinstatement eligibility into the SES.

(2) Group II - SES applicants; i.e., candidates who are currently career Senior Executives or applicants eligible for reinstatement into the career SES and who are applying for reassignment, transfer, or reinstatement into the career SES.

(3) Group III - SES Development Program applicants; i.e., candidates who were competitively selected for and who have successfully completed an approved SES Candidate Development Program and whose executive qualifications have been approved by the OPM Qualifications Review Board.

2-4. ERB Rating Panel.

a. The ERB Rating Panel will be convened within two weeks after completion of the screening process. The Personnel Officer will brief the ERB on procedures to follow and function as the Executive Secretary and personnel advisor to the Board. The following will be provided by the Personnel Office:

- (1) SF-171's of qualified candidates;
- (2) Rating plans and rating sheets;
- (3) Vacancy announcement;
- (4) List of qualified candidates sorted in groups I, II or III;
- (5) Position description;
- (6) Summary of any prescreening;
- (7) List of, and applications for, applicants found to be ineligible because of insufficient qualifications; and
- (8) Certification that the appropriate merit staffing procedures were followed, to be completed by the Chair, ERB.

b. The selecting official will not be a member of the ERB panel nor will any SES equivalent level employee whose latest performance appraisal is less than "fully successful".

c. The selecting official will be given the opportunity to brief the rating panel on the position and the position requirements.

d. Using the rating plan developed specifically for the position, the panel will evaluate candidates on the basis of the knowledges, skills, abilities, executive competencies and other job related factors so as to enable the appointing authority (Director) to adequately determine those most qualified. Applications in each group will be placed into three categories, Best Qualified, Qualified, or Not Qualified.

e. The panel will:

- (1) Evaluate all non-SES qualified applicants (Group I) using the rating plan for the specific position to determine the best qualified. Normally, only the best qualified applicants will be referred to the selecting official.

- (2) Review all qualified SES applicants (Group II). If there are more than five such applicants, the panel will evaluate these applicants using the rating plan for the specific position to determine the best qualified. All qualified SES applicants (Group II) will be referred to the selecting official. Any applicants rated best qualified by the panel will be so identified.

- (3) Review all applications of SES Candidate Development Program applicants (Group III) to confirm basic eligibility. All Group III qualified applicants will be referred to the selecting official.

- (4) Normally, complete the rating and ranking process within two weeks.

f. If the rating and ranking process is completed by a panel so delegated by the ERB, a panel of ERB members will be convened to review the process and certify the recommendations made to the Director.

g. After completion of the rating process, the ERB Executive Secretary will prepare a certificate of the best qualified non-SES candidates from Group I. A non-competitive certificate will be prepared, if applicable, listing all qualified SES candidates and those with reinstatement eligibility from Group II. If the applicants are rated, the best qualified will be identified on the list. A separate non-competitive certificate will also be prepared, if applicable, to include all qualified SES candidate Development Program applicants, Group III. The Chair, ERB will sign each certificate and a statement certifying that appropriate merit staffing procedures were followed.

2-5. Referral of Candidates to the Selecting Official. The selection package will be forwarded to the selecting official containing:

- (1) An explanatory cover memo to the selecting official;
- (2) Competitive selection roster;
- (3) Non-competitive selection roster, if applicable;
- (4) SF-171's and rating sheets of candidates referred on rosters; and
- (5) A statement (to be signed by the Director) certifying that the selected candidate fully meets the qualification requirements of the position.

2-6. Selection Procedures.

a. Upon receipt of the selection package, the selecting official will:

- (1) Review all SF-171's (and attached rating sheets) referred;
 - (2) Normally interview all candidates whether they are referred on the competitive roster or the non-competitive roster;
 - (3) Obtain at least three references on the selectee, one of which must be in writing from someone familiar with the candidate's managerial qualifications;
 - (4) Complete the evaluation statement on the appointee, providing a brief evaluation of the candidate's background as it relates to the six competency areas and certifying that the appointee fully meets the qualification requirements of the position;
 - (5) Make a written recommendation on the selection which includes the proposed pay rate. In the case of an initial appointment to the Senior Executive Service, this recommendation will be attached to the letter sent to the Office of Personnel Management (OPM) requesting approval of the Qualification Review Board (QRB) for entry into the SES; and
 - (6) After a tentative selection is made, the selecting official will forward the selection package along with the completed evaluation statement and written recommendation to the Personnel Officer for further action.
- b. Normally, the Director will complete the selection process within four weeks of receipt of the selection package.

2-7. The QRB.

a. When approval of a candidate for appointment to an SES position requires approval of the QRB, the Personnel Officer will compile and forward the proper documentation to OPM for approval.

b. The initial SES career appointment of an individual requires certification of the individual's executive/managerial qualifications by a QRB convened by OPM.

c. The QRB determines whether a candidate possess sufficient breadth and depth of executive/managerial qualification to be able to assume a variety of SES assignments within appropriate occupational or functional areas. QRB's certify the nominee's qualifications based on one of the following criteria:

(1) Demonstrated executive experience;

(2) Successful participation in an OPM approved SES candidate development program; or

(3) Possession of special or unique qualities which indicate a likelihood of executive success.

d. In recommending approval under criterion 2-7c(1) above, the QRB does not have to find "demonstrated" competence in all six activity areas. Normally, however, the candidate needs to show demonstrated competence in at least a majority, i.e., four, of the areas.

e. The QRB will credit experience only to the closing date of the vacancy announcement.

f. If the QRB finds that it cannot approve a case under criterion 2-7c(1) above, it may approve the case under criterion 2-7c(3) if an Individual Development Plan was submitted with the case and the QRB determines that the individual meets the criterion (3) requirements.

g. If the QRB case is disapproved, OGE may choose to resubmit the case to the next regularly scheduled meeting of the QRB or have the case returned to review and determine whether additional supporting material can be provided on the candidate's managerial qualifications.

2-8. Notification to Selectee's and Candidates for Selection.

a. Upon approval of the managerial qualifications of the proposed appointee by the OPM, the Personnel Officer shall notify the selecting official and arrange for an entrance on duty date with the appointee. When prior approval of the QRB is not required, the Personnel Officer shall arrange for an entry on duty date with the appointee without delay.

b. OGE will respond to unsuccessful candidates and maintain complete copies of the case file for two years in accordance with existing regulation.

2-9. Records. The Personnel Officer will maintain records sufficient to allow reconstruction of the merit staffing process for two years after an initial career appointment or, if no appointment results from the vacancy announcement, for two years from the closing date of the announcement.

2-10. Applicant Inquiries. Applicants should direct any requests for information about the SES recruitment and selection process to the Personnel Officer.

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TELECOMMUTING
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CHAPTER 1020

TELECOMMUTING

SUBCHAPTER 1. Provisions and Locations

Telecommuting is an arrangement in which the employee works at a place other than the Agency's current District of Columbia (D.C.) location. Typically, the employee covered under a telecommuting agreement works one to three days in the work week at home or at a telecenter and the remainder of the work week in the Agency's D.C. offices.

- a. Home-based telecommuting: Employees spend part of their time performing tasks from home, with their home being the alternative work site.
- b. General Services Administration (GSA) sponsored telecenters: Alternate work sites in Federal facilities that are, generally, shared by agencies to provide space for employees to work nearer to their homes, instead of at their traditional offices. Renting telecenter space will be subject to availability of OGE funds. Telecenters are equipped with printers, copiers, fax machines, telephones, video conferencing, and other office essentials. Telecenters also have technical support staff, if needed. See Appendix A for a list of Federal Interagency Telecommuting Centers in the Washington Metropolitan area.
- c. Official duty station: In the typical commuting arrangement, the telecommuter's D.C. work site is designated as the official duty station for purposes of special salary rates, locality pay, and travel.

SUBCHAPTER 2. Background

Telecommuting in the Federal Government started as a pilot program in 1990. The President's Council on Management Improvement (PCMI), in cooperation with the Office of Personnel Management (OPM) and the General Services Administration (GSA), established the Federal Flexible Workplace Pilot Project (Flexiplace). The nationwide program was established to improve the Federal Government's ability to recruit and retain capable employees by increasing their flexibility to balance work and family priorities and to decrease commuting time, traffic congestion, and energy consumption. The flexiplace or telecommuting movement is facilitated by innovations in human resources management, changes in the nature of work, and advances in new technology.

SUBCHAPTER 3. Authority

- a. An OPM memorandum dated October 21, 1993 stated that unless a specific statute provided otherwise, agencies have the authority to permit employees to work at locations other than the official duty station.
- b. Presidential memoranda to agency heads on July 11, 1994, and June 21, 1996, directed them to establish, encourage, support, and expand opportunities to telecommute consistent with their responsibilities.
- c. The National Telecommuting Action Plan was adopted by the President's Management Council on January 5, 1996.
- d. Section 359 of Public Law No. 106-346, October 23, 2000.

SUBCHAPTER 4. Agency Policy

- a. The Agency will allow off-site work arrangements for employees when such arrangements are beneficial to the Agency in terms of effective or enhanced quality of work, productivity, timeliness of performance, and/or customer service. While certain benefits accrue to the telecommuting employee (e.g., savings in time and financial costs associated with commuting to and from the office), the mission of the Agency is the primary consideration in approving such an arrangement. The Agency will encourage telecommuting arrangements and approve them whenever feasible consistent with this consideration.
- b. The Administration Division will survey supervisors annually on their use of the program. The results of that survey will be discussed with the Agency's Senior Staff.
- c. Telecommuting arrangements will, generally, be limited to one, two or three days per week. OGE will use a phased-in-approach in which all telecommuters will be limited initially to telecommuting one day a week. The initial arrangement will be for a trial three-month (90 day) period. If the arrangement is deemed successful at the end of the trial period, the number of telecommuting days per week may only be increased (a) as the employee demonstrates his/her ability to meet productivity standards and (b) if the increase is considered beneficial to the Agency. The one-to-three day range of possible telecommuting days stated in this policy is not intended to foster an expectation that all telecommuters will achieve the maximum number of possible telecommuting days.

Absences from the official duty station due to compressed work schedules and telecommuting are not to exceed three days per week. This will ensure that the employee is available in the office on a regular basis during the week to reduce isolation and sustain communication among co-workers.

Each telecommuting agreement will be formally reviewed every six months. These reviews will coincide with the mid-year and end-of-year performance appraisal process. Such reviews are to be documented in Section III of the appraisal form (OGE Form 317) at the conclusion of the mid-year review and in the Narrative Summary of the appraisal when the annual review is made. The statement used to document the review may simply state that the employee's performance does or does not warrant continuation in the OGE telecommuting program. Should either the mid or end-of-year review indicate a problem with an existing telecommuting arrangement, the agreement will be terminated.

- d. Participation is voluntary.
- e. Telecommuting proposals must be based on the adaptability of the person and position for telecommuting.
- f. Although telecommuting will give some employees more time for their family responsibilities, it is not an alternative for child or elder care. Employees may not use duty time for dependent or elder care and must make arrangements for such situations.
- g. Telecommuting is not an entitlement, nor does it create any right or benefit, substantive or procedural, that is enforceable by an employee against the Agency.
- h. The employee must have a safe and adequate place to work off-site. Appendix B is a safety checklist for home-based telecommuters. Telecommuters are expected to provide sufficient security to protect any U.S. Government-owned equipment, such as computers and fax machines, which may be loaned to them.
- i. The employee or supervisor may cancel the work arrangement at any time. While extenuating circumstances may not permit prior notification in all cases of cancellation, prior notification of at least five workdays, generally, should be given.
- j. A supervisor may require the presence of an employee at the official duty (D.C.) station on any day that is normally scheduled for telecommuting. Telecommuters are subject to workplace requirements and must come to the official duty station when requested. Obviously, an employee would

want as much advance notice as possible and, wherever possible, employees will be notified prior to the close of business on the day before the change. However, telecommuters must realize that advance notice is not always feasible. In these instances, the supervisor will determine the length of time required for the employee to report to the official duty station after considering the distance to be traveled, the mode of transportation, and special needs of the employee. In those instances when the telecommuter has begun his/her workday at the alternate work site and is requested to report to the official duty station later that same day, the time spent by the telecommuter in transit is considered official duty and, as such, the employee may be reimbursed for appropriate transit costs.

- k. Particular care and judgment must be exercised with regard to records and information that are sensitive and/or subject to the Privacy Act. Offices allowing employees' access to these records offsite must ensure that appropriate administrative, technical, and physical safeguards are identified to protect the confidentiality and integrity of records (while in transport and at the off-site location). Telecommuting employees must ensure adherence to Federal and OGE policy and procedures to protect the confidentiality and integrity of such records. (See Appendix D)
- l. All work-related files, records, or papers produced while telecommuting are the property of the U.S. Government and are subject to all applicable laws and regulations governing the use, maintenance, access, and destruction of such files, records, and papers.
- m. Employees telecommuting under agreements approved prior to the date of this manual chapter have 90 days to comply with the provisions of this chapter and to submit a new agreement for approval.

SUBCHAPTER 5. Factors to Consider in Approving Telecommuting Arrangements

The following is a list of factors that will be considered when approving telecommuting arrangements:

- a) The workload requirements of the employee's office/division as determined by the supervisor must be a major factor in the approval of telecommuting arrangements. Therefore, the absence of the telecommuter from the official duty (D.C.) station can not impact negatively on the ability of the organization to accomplish its mission (e.g., the employee's absence from the official work station places a burden on his or her co-workers or creates a morale problem within the office because portions of the telecommuter's work have to be done by others).

- b) The nature of the work to be performed must be portable and the employee's job responsibilities must allow for effective or enhanced performance away from the official duty station. The responsibilities of supervisory positions are not considered portable and, similarly, those employees whose job requires regular, face-to-face contact with his/her supervisor, other employees, clients, or the general public would be precluded from telecommuting.
- c) In order to telecommute, the requesting employee must have demonstrated the ability to accomplish work assignments on a timely basis without continuous, direct supervision. An employee will be precluded from telecommuting if he/she has demonstrated performance that requires close supervision; the employee requires on-the-job training; or the employee has been the subject of a disciplinary action, performance-based action, or a leave restriction within the past two years.
- d) Further, an employee will not be permitted to telecommute if she/he has not demonstrated appropriate skills in areas such as planning and organizing work and managing time or has not demonstrated an appropriate level of self discipline, self motivation, or the ability to communicate effectively with managers, supervisors, co-workers, and customers.
- e) Work that cannot be evaluated and quantified is difficult for telecommuting situations and, thus, would not be suitable for an alternate work location.
- f) The need for an employee to have access to classified information is not conducive to telecommuting. In addition, approval must be gained from the employee's supervisor to work with Privacy Act-covered records or other sensitive information at the alternate work site.
- g) The equipment needed for telecommuting has to be furnished by either the Agency or the employee. Given its limited resources, the cost to the Agency for equipment may preclude a telecommuting arrangement.
- h) Employees having less than one year of service with the Agency will not be permitted to telecommute.

SUBCHAPTER 6. Examples of Suitable Work

Whether a job is suitable for telecommuting depends on the nature of the work performed rather than job title. Suitable work generally is work that can be done independently; requires little face-to-face interaction; contact with employees and clientele is predictable; results in specific, quantifiable measurable work products; and can be monitored by output, not time spent doing the job. Examples of some types of work which may be suitable for telecommuting are:

- a) extensive research not requiring access to materials in the Agency's DC offices, such as resources available on the Internet;
- b) computer-oriented tasks such as data entry and programming;
- c) writing training materials;
- d) legal reviews (of statutes, regulations, etc.);
- e) writing audit reports; and
- g) evaluating survey data or conducting statistical analyses.

SUBCHAPTER 7. Security

Employees who telecommute may not work with classified information at the telecommuting work site. Employees must obtain the approval of their supervisor to work with Privacy Act-covered records or other similar sensitive information at the alternate work site. The copying of sensitive files for use at the alternate work location must have the approval of the employee's supervisor. Appropriate protection of Privacy Act covered records at the off-site location is the responsibility of both the supervisor and the employee. (See Appendix D)

SUBCHAPTER 8. The Role of Employees and Supervisors

a. Employee

Before requesting to be considered for telecommuting, employees must evaluate their job responsibilities to determine if they believe their responsibilities are well suited for telecommuting. In addition, employees must realize that an employee's work history and personal characteristics are critical to approval to telecommute. In this regard, a documented record (e.g., performance appraisals, awards, etc.) of reliable and responsible discharge of work duties, an ability to establish priorities and manage time, and a proven track record of personal motivation are measures of successful telecommuters.

Assigned work must be accomplished by the employee, whether working at a telecenter, at home, or at the official (D.C.) duty station. Accordingly, telecommuters have to meet project deadlines established by the supervisor and they have to be accessible via telephone and email.

Employees who require on-the-job training, close supervision, or who have a record of leave abuse and/or performance and conduct issues will not be eligible to participate in telecommuting.

At the discretion of the supervisor, an employee may be required to attend training on workplace issues such as time management, progress reporting, and communicating with one's supervisor before the off-site work begins.

b. Supervisor

Just as with the work habits of the requesting employee, the managerial skills of the supervisor are crucial to successful telecommuting. For example, supervisors will have to account for absences from the official duty station when planning assignments, meetings, etc. Supervisors must gauge the telecommuter's productivity in the same way as in measuring a traditional worker. However, the supervisor will be faced with a work situation in which the supervisor's ability to directly observe the employee is diminished, while still being expected to review assigned work and, thus, meet the goals/objectives of the work unit. Supervisors will use status reports and the completion of specific tasks to monitor the employee's productivity and to determine telecommuting's impact on general office morale and productivity. Further, supervisors must:

- have completed training before off-site work begins that includes tracking assignments and managing for results;
- identify specific assignments, including deadlines, to be accomplished while telecommuting;
- identify specific time frames for certain communication tasks during the telecommuting day (e.g. telephone and email messages will be checked within a specified time frame; the supervisor is sent an email at the beginning and the end of the telecommuter's work day; the supervisor is sent an email when the telecommuter departs for lunch and when he/she returns).

SUBCHAPTER 9. Procedures to Request Telecommuting Arrangements

- a. An employee interested in telecommuting should prepare a written request to his/her supervisor outlining an individual telecommuting plan tailored to the employee's job and the needs of the office. It should include:

- 1) Duties of the position that would be performed at home or at a telecenter;
- 2) Duties of the position that cannot be performed at home or at a

- telecenter.
 - 3) Materials and equipment that would be required to perform those duties;
 - 4) Equipment that would be provided by the employee;
 - 5) The equipment the employee would like the Agency to provide;
 - 6) The days which the employee would prefer to telecommute; and
 - 7) Any other information that would be useful to or needed by the supervisor in making a decision.
- b. If the supervisor concurs in the employee's request, approval is then requested of the appropriate Deputy Director or the General Counsel, in the case of GCLP employees. Upon approval of the supervisor and appropriate Deputy Director/General Counsel, the request is forwarded to the Deputy Director for Administration and Information Management (OAIM) for final approval regarding fiscal, equipment, and/or support implications.
 - c. Accompanying the employee's request should be a completed Safety Checklist for Home-based Telecommuters (Appendix B) and a completed Telecommuting Agreement (Appendix C).

SUBCHAPTER 10. Telecommuting Agreement

- a. The employee, supervisor, the appropriate Deputy Director or the General Counsel in the case of GCLP employees, and OAIM Deputy Director will sign the Telecommuting Agreement. OAIM is available to assist in formalizing the arrangement, if requested by the supervisor or employee.
- b. OAIM's Human Resources Officer will maintain the original Telecommuting Agreement, signed by the employee, the supervisor, the appropriate Deputy Director/General Counsel, and OAIM Deputy Director. Copies of the signed Agreement should be maintained by the employee and the supervisor.

SUBCHAPTER 11. TIME AND ATTENDANCE CERTIFICATION

- a. The supervisor must approve the employee's scheduled hours of duty.
- b. The supervisor certifies time and attendance to ensure that telecommuting employees are paid for work performed and to account for absences from scheduled hours of duty. The Government Accountability Office (GAO) requires agencies with employees working at alternate sites to provide reasonable assurance that the employees are working when scheduled, for example, by determining the reasonableness of work output for the

time reported or spent and/or clocking in and out each day via telephone or e-mail.

- c. The existing rules on overtime under Title 5 U.S.C. and the Fair Labor Standards Act (FLSA) apply to telecommuting employees. Telecommuting employees may not work overtime or earn compensatory time without advance written approval from their supervisors.

- d. Leave

Annual and sick leave must be requested by a telecommuter in the same manner as it would for employees not telecommuting.

- e. Work Schedules

Telecommuters will maintain hours of duty consistent with the Agency's - policies on flexible and compressed work schedules. Generally, those hours should be same as the employee's schedule in his/her DC office.

- f. Group Dismissal

Telecommuting employee may sometimes be affected by an emergency requiring the regular office/official duty station to close while on a scheduled telecommuting day. For example, on a "snow closing day" the telecommuter shall not be excused unless he or she cannot perform any work because the regular office is closed. When both the regular office and the alternative workplace are affected by a widespread emergency, (e.g. power failure) the Agency shall grant the telecommuting employee excused absence identical to that given to employees at the regular work site. When an emergency affects only the alternate work site for a major portion of the workday, the employee is required to consult with his or her supervisor as to whether the employee is to report to the official duty station or request annual leave or leave without pay (LWOP).

SUBCHAPTER 12. COSTS AND EQUIPMENT

- a. Telecenter as the Alternate Work Site

Use of a telecenter and the costs associated with that use (e.g. space, equipment, utilities, etc.) will be borne by the Agency, provided funds are available and the use of a telecenter is determined to be an effective and efficient use of Agency funds. Equipment provided to a telecommuter by a telecenter will be the subject of the financial agreement between the telecenter and OGE.

b. Equipment for Home Use

The Agency is not obligated to provide any electronic or communication equipment to the telecommuter. However, if funds are available and it is determined to be an effective and efficient use of Agency funds, the Agency may loan equipment (e.g., computer, software, etc.) to employees for use at home. To simulate the office environment at the alternate work location, all employees telecommuting from home must have internet access that will permit access to email while the home telephone is in use, e.g. a high speed/DSL line, separate lines for home phone and internet connections, or equivalent technology. In addition, all telecommuters must have either a voice mail feature on their home telephone or an answering machine. Regardless of voice mail or an answering machine, an appropriate business greeting must be used

- c. The employee agrees to protect any Government-owned equipment (e.g. computer equipment, storage containers for the protection of files, etc). Its use is governed by the same rules and regulations applicable to equipment at the official duty station. OAIM should be notified in the event Government-owned equipment is stolen from the home work site. The employee agrees to transport and install, after receiving appropriate instruction, any Government-owned equipment issued to him/her. Should that equipment require servicing, the employee is responsible for returning the equipment to the Agency. In the event that the equipment cannot be repaired quickly and replacement equipment is not available, the employee and supervisor must discuss and determine the need for the employee to report to the official duty station until such time that the equipment can be repaired or replacement equipment is made available. Ownership and control of the equipment, including hardware, software, and data, remain with the U.S. Government. The U.S. Government will not be responsible for any other incidental costs (e.g. utilities, telephone lines, etc.) associated with the use of the employee's residence.

- d. The employee is responsible for the purchase, installation, repair and maintenance of any personal equipment used.

- e. As appropriate and reasonable, the Agency will provide the employee with necessary office supplies.

- f. Telephone Calls

Telecommuters are required to have a Government telephone card, (obtainable from OAIM) in order to be reimbursed for work-related telephone toll charges.

- g. Injury

Telecommuting employees are covered by the Federal Tort Claims Act of the Federal Employees Compensation Act (FECA) and can qualify for continuation of pay or workers' compensation for on-the-job injury or occupational illness. A Telecommuting Agreement and Safety Checklist for home-based telecommuters must be on file. An employee should follow the same procedures adhered to in the traditional office setting when injured while working at an alternate work site. The injured employee must notify their supervisor immediately and complete standard Department of Labor injury forms.

SUBCHAPTER 13. Telecommuting Arrangements for Reasons of Health, Disability, Special Projects, etc.

Telecommuting arrangements for reasons of disability, health, maternity/paternity, etc. may involve circumstances different from those of the typical telecommuter and, therefore, are not covered by the requirements of this manual chapter. However, employees working offsite for such reasons must still enter into an agreement identifying assignments, deadlines, and other pertinent job expectations for the telecommuting period. Disability, health, and maternity/paternity-related arrangements require medical documentation identifying the condition being addressed by the telecommuting, including a description of the necessity to work off site.

Similarly, special projects or unexpected situations for which telecommuting is advantageous to the Agency may also involve unique circumstances and, therefore, are not covered by the requirements of this manual chapter. An agreement should be formalized identifying assignments, deadlines, and other pertinent job expectations for the telecommuting period.

Arrangements for employees on part-time, intermittent (WAE), or student appointments may differ from the typical telecommuting arrangement and will be handled on a case-by-case basis.

SUBCHAPTER 14. Termination of Telecommuting Agreement

The employee will be terminated from the program if:

- performance is below the satisfactory/pass level,
- the employee is placed on a Performance Improvement Plan (PIP),
- progress reviews (e.g. mid-year) document deficiencies,
- a leave restriction is put in place,
- the employee is the subject of a disciplinary or performance-based action, or
- the continuation of the arrangement interferes with the work of others and/or the accomplishment of work unit goals and objectives

APPENDIX B
SAFETY CHECKLIST FOR HOME-
BASED TELECOMMUTERS

The following checklist is designed to help employees assess the overall safety of home-based telecommuting. The Department of Labor's Occupational Safety and Health Administration (OSHA) will not conduct inspections of employees' home offices nor does OSHA hold employers liable for employee's home offices. Similarly, OSHA does not expect employers to inspect the home offices of its employees. As such, there is no requisite number of Yes (Y) versus No (N) answers on the checklist. Rather, the checklist represents a set of concerns that are applicable to an employee's residence and telecommuting situation and that may be helpful in preventing injury while working at home. The checklist is to be completed by the employee and, upon completion, the employee should sign and date the checklist in the spaces provided, attach it to their request to telecommute, and retain a copy for their records.

Name: _____

Street/Alternate Duty Station Address: _____

City/State/Zip: _____

Official Duty Station Telephone: _____

Home Telephone: _____

Supervisor's Name: _____

Briefly describe the designated work area in the alternate duty station:

(Appendix B, page 2)

A. WORKPLACE ENVIRONMENT

1. Are temperature, noise, ventilation and lighting level adequate for maintaining your normal level of job performance? Y / N
2. Are all stairs with four or more steps equipped with handrails? Y / N
3. Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service? Y / N
4. Do circuit breakers clearly indicate if they are in the open or closed position?
Y / N
5. Is electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires to the ceiling)? Y / N
6. Will the building's electrical system permit the grounding of electrical equipment?
Y / N
7. Are aisles, doorways, and corners free of obstructions to permit visibility and movement? Y / N
8. Are file cabinets and storage closets arranged so drawers and doors do not open into walkways? Y / N
9. Do chairs in the office space have loose casters and/or are the legs of the chairs sturdy? Y / N
10. Are computer and phone lines, electrical cords, and extension wires secured, taped under a desk, alongside a baseboard, or under carpet? Y / N
11. Is the office space neat, clean, and free of excessive amounts of combustibles?
Y / N
12. Are floor surfaces clean, dry, level and free of worn or frayed seams? Y / N
13. Are carpets well secured to the floor and free of frayed or worn seams? Y / N
14. Is there enough light for reading? Y / N

(Appendix B, page 3)

B. COMPUTER WORKSTATION

15. Is your chair adjustable? Y / N
16. Do you know how to adjust your chair? Y / N
17. Is your back adequately supported by a backrest? Y / N
18. Are your feet on the floor or fully supported by a footrest? Y / N
19. Are you satisfied with the placement of your monitor and keyboard? Y / N
20. Is it easy to read the text on your monitor screen and is it free from glare?
Y / N
21. Do you need a document holder? Y / N
22. Do you have enough leg room at your desk? Y / N
23. Is the top of the screen level? Y / N
24. Is there space to rest the arms while not keying? Y / N
25. While keying, are your forearms close to parallel with the floor? Y / N
26. Are your wrists fairly straight when keying? Y / N

Employee's Signature

Date

APPENDIX C

TELECOMMUTING AGREEMENT FORMAT

The following is the standard format used by the Office of Government Ethics in establishing the necessary assignments, requirements, procedures, and signatures for telecommuting.

The employee, the supervisor, and the Agency's Personnel Officer should each keep a copy of the agreement for reference.

1. Voluntary Participation

The employee recognizes that the telecommuting arrangement is not an employee benefit, but an additional method the Agency may approve to accomplish work. The employee voluntarily agrees to work at the agency-approved alternate work site indicated below and to follow all applicable policies and procedures.

2. Salary and Benefits

The Agency agrees that a telecommuting arrangement is not a basis for changing the employee's salary or benefits. All pay, leave, and travel entitlements are based on the official duty station.

3. Duty Station and Alternate Work Site

The Agency and the employee agree that the employee's official duty station is the 1201-1225 New York Avenue, NW location in Washington, D.C. and that the employee's approved alternate work site is:

(House/Apt #, street, city, and state)

4. Official Duties

Employee agrees not to misuse official time nor conduct personal business during normal working hours at the alternate work site, such as caring for dependents, making home repairs, or otherwise.

5. Work Schedule and Hours of Duty

Consistent with the Agency's policies on flexible and compressed work schedules, the Agency and employee agree upon the following telecommuting schedule:

Number & Specific Days per week at the duty station: _____

Hours per week at the duty station: From: _____ To: _____

Number & Specific Days per week at the alternate site: _____

Hours per week at the alternate site: From: _____ To: _____

6. Time and Attendance

The Agency agrees to make sure the telecommuting employee's timekeeper has a copy of the employee's work schedule. The supervisor agrees to certify biweekly the time and attendance for hours worked at the regular office and at the alternate work site and that those hours are consistent with the Agency's time and attendance policy. It is acknowledged that the telecommuting employee may be required to work when the regular office is closed due to an emergency. The employee agrees to follow established office procedures for requesting and obtaining approval of leave.

7. Overtime

A supervisor may approve overtime if needed. The existing rules governing overtime in Title 5 U.S.C. and the Fair Labor Standards Act apply to telecommuting arrangements. Because the supervisor is responsible for regulating and controlling the use of overtime, the supervisor must approve all overtime in advance and be satisfied that more than eight hours in a day were worked.

8. Equipment/supplies

Reference Subchapter 2, Chapter 7 of the Administrative Manual, telecommuters entrusted with Government property are responsible for its use, care and safekeeping. If U.S. Government-owned equipment is issued to the telecommuting employee, the employee agrees to transport the equipment and install it after receiving appropriate instruction. If, subsequently, the equipment requires servicing, the employee is responsible for returning the equipment to the Agency. Frequent repairs may be an indicator of abuse of the equipment and may be a reason for discontinuing the telecommuting agreement. The Agency is not responsible for servicing equipment belonging to the employee.

9. Security

Employees who telecommute may not work with classified information at the telecommuting work site. Employees must obtain the approval of their supervisor to work with Privacy Act-covered records or other sensitive information at the alternate work site.

10. Liability

The employee understands that the U.S. Government will not be liable for damages to an employee's personal or real property while the employee is working at the approved alternate work site, except to the extent the U.S. Government is held liable by the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act.

11. Work Area

The employee agrees to complete the Safety Checklist for Home-Based Telecommuters (Attachment 2), used to help assess the overall safety of the telecommuting arrangement and identify possible safety concerns. The completed checklist should accompany this agreement.

12. Alternate Work Site Costs

The employee understands that the U.S. Government will not be responsible for any operating costs that are associated with the employee using his or her home as an alternate work site; for example, home maintenance, insurance, additional phone lines, or utilities. Work-related long-distance (domestic and international) phone calls will be reimbursed by the Agency in accordance with applicable law, regulations, and policies.

13. Injury Compensation

The employee understands he or she is covered under the Federal Employee's Compensation Act if injured in the course of actually performing official duties at the regular office or the alternate work site. The employee agrees to notify the supervisor immediately of any accident or injury that occurs at the alternate work site and to complete any required forms. The supervisor agrees to investigate such a report immediately.

14. Work Assignments/Performance

The employee agrees to complete all assigned work as directed by the supervisor and according to guidelines and standards in the employee's performance plan, including any communication requirements (such as those identified in Subchapter 10).

The employee agrees to provide regular status reports, if required by the supervisor. The employee understands that a decline in performance will be grounds for canceling the alternate work site arrangement.

15. Records Management

The employee agrees to protect U.S. Government or Agency records from unauthorized disclosure, disposal, or damage and will comply with requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

16. Standards of Conduct/Discipline

The employee agrees he or she is bound by the Standards of Ethical Conduct for Employees of the Executive Branch while working at the alternate work site. Nothing in this agreement precludes the agency from taking any appropriate disciplinary action against an employee who fails to comply with the provisions of this agreement or other federal regulations.

17. Cancellation

Supervisors and employees have the right to cancel the telecommuting arrangement. The decision to cancel the agreement is not subject to the Agency's grievance procedure. With exception to situations such as disciplinary actions, etc., the Agency agrees to allow the employee to resume his/her work schedule at the official duty station if the agreement is canceled.

18. AGREEMENT BETWEEN THE U.S. OFFICE OF GOVERNMENT ETHICS

AND _____ (Employee)

Employee's Signature/Date: _____

Supervisor's Signature/Date: _____

Deputy Director's/General Counsel
Signature/Date: _____

Deputy Director OIAM Signature/Date: _____

APPENDIX D

TELECOMMUTING PROTECTIONS FOR OGE RECORDS

Transporting official records between OGE offices, homes and other telecommuting sites is allowed solely for purposes of transacting official Government business within the scope of OGE's telecommuting policy. While telecommuting, it is important to secure and protect from unauthorized loss, damage or access, OGE records and the information they contain.

Much OGE record information is subject to Privacy Act protection under one of OGE's two executive branch-wide records systems (or those of OPM or another agency with Government-wide authority) or OGE's five internal records systems. Those systems generally provide for security measures for protecting paper records by means of lockable file cabinets or areas limiting access to authorized personnel and for protecting electronic records by password identification, limited access, firewalls and other system-based methods.

Telecommuting sites and transportation require the equivalent type of protections. Appropriate protective measures include the following:

- Do not carry official OGE records open to view, or converse about them in public, while traveling to and from OGE offices, homes and other telecommuting sites by Metro, bus or other public conveyance.
- Likewise, properly secure such records while in your own automobile and do not leave them unattended in the vehicle.
- Records must be protected while at the alternative work location.
- Do not allow members of your family, neighbors or other visitors to your house the opportunity to access to OGE records; further, do not discuss the content of the records with any of them.
- Any computer use from homes or other telecommuting sites related to official Government business/information should be on secure equipment with proper passwords, firewalls, as well as antivirus and antispyware protection, etc.
- Return official files to the OGE office on the next non-telecommuting work day.
- Promptly report to your supervisor any loss of or damage or unauthorized access to OGE official records.

Telework: A Management Priority

A Guide for Managers, Supervisors, and Telework Coordinators

I. What is Telework?

Telework: Definitions

Telework-also referred to as telecommuting, flexiwork, and flexiplace-is an alternative work arrangement for employees to conduct all or some of their work away from the primary workplace. This concept can be applied to a variety of work experiences. The work location might be a residence, a telecenter (described later in this document), an office closer to the employee's residence, or another acceptable location. The telework schedule may be fixed or episodic.

Managers and supervisors are key players in the telework process. They set the parameters of the telework arrangement and define telework for their organizations. Studies show that clear guidance and direction increase the chances of success for telework programs.

Public Law 106-346 (FY 2001 Department of Transportation and Related Agencies Appropriations Act), Section 359 states that, "Each executive agency shall establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance." The law defines *telecommuting* as "any arrangement in which an employee regularly performs officially assigned duties at home or other work sites geographically convenient to the residence of the employee," and eligible employee as "any satisfactorily performing employee of the agency whose job may typically be performed at least one day per week at an alternative workplace."

As Congressman Wolf, a leading champion of telework, has said in a 2001 press release:

"... teleworking offers additional benefits for both employees and employers. According to the International Telework Association and Council (ITAC) telework results in increased productivity and worker retention. AT&T, which has more than 25% of its workforce teleworking on a regular basis, has found fewer people taking sick leave, better worker retention and higher productivity since making teleworking an option to employees."

Alternative Worksites

An employee who teleworks may perform work duties at home or at another worksite away from the primary office. These locations constitute alternative worksites. They can be in the employee's home, a telecenter, or another location where there is connectivity to the primary office site and there is an office setting conducive to accomplishing work requirements. The focus should be on providing worksites at locations that reduce employee commuting time and inconvenience while allowing employees to accomplish their work effectively.

Opportunity to Telework

The OPM annual telework survey asks agencies to identify the numbers of employees "offered the opportunity to telework." Agencies ask what OPM means when it asks how many employees are offered the opportunity. Congressman Frank Wolf has stated in a July 2001 letter to the Director of OPM, "Simply put, agencies must specifically identify positions which would be appropriate for teleworking one day each week and offer those employees the option of participating in such an arrangement." This means that supervisors should extend the option of teleworking to all employees they determine are eligible, using their established criteria.

Telecenters

A telecenter is one type of alternative worksite. Typically, a telecenter is a facility that houses workstations that are rented or leased by the employer. One advantage of a telecenter is that employees can work closer to home, reducing commuting time and allowing more time for family and community life. Another advantage is that telecenters often have workstations with state-of-the-art technology, docking stations, conference space, and other amenities. They provide a business-like work setting for the employee who needs to invite clients to the office. Some employees prefer to work in a telecenter rather than at home because they find the professional atmosphere conducive to effective job performance, or because their homes are not suitable for setting up a home office. There are several telecenters around the country. Some are operated by the General Services Administration (GSA), others by military reserve components, and still others by private-sector businesses. The following website has a current listing:
<http://www.telework.gov>.

Types of Telework

Full Time Telework: The employee completes all or almost all duties outside of a traditional office setting. This may include some work done at home, in clients' offices, or at a telecenter and occasionally coming to the office for a meeting or planning session; however, the duties lend themselves to work away from the office. This kind of work provides for the potential savings based on shared use of current space or cost avoidance for office rent that otherwise would have to be expended. This type of telework can help agencies retain valued employees such as Foreign Service or military spouses who can't remain in the geographical area of the office. This is also referred to as occupational or home-based work.

Part Time Telework: The employee teleworks on a regularly scheduled basis. This may be one or more days a week, every two weeks or several days in a month. This also may lend itself to savings in office space as part-time teleworkers can rotate and share office space.

Episodic or Situational Telework: The employee teleworks on an irregular basis. The telework opportunity may be a result of a medical problem, reasonable accommodation, or the need to be focused on a special project. Other situations may develop that makes it beneficial for the employee and supervisor to agree on an episodic telework opportunity. This type of telework also is essential for potentially volatile situations e.g., during World Bank/IMF mass demonstrations. Telework should be an integral part of any agency's plans for Continuity of Operations (COOP). Telework allows the Federal Government to remain responsive to the Nation at all times.

The History of Telework

The International Telework Association and Council (ITAC) cites 1972 as the first significant date in the history of telework. In that year, Jack Nilles became a researcher at the University of Southern California, focusing on the telecommunications-transportation tradeoff after teleworking as a consulting rocket scientist in the U.S. Air Force Space Program in the early 1960s. As a result of his highly influential research, publications and other professional activities, he is known as the "Father of Telecommuting/Telework."

Promotion of telework in the Federal Government began in January 1990 when the President's Council on Management Improvement approved guidelines for a one-year Federal Flexible Workplace Pilot Project. The Office of Personnel Management (OPM)

implemented the pilot on October 1, 1990, to determine whether flexible workplace arrangements could assist OPM in recruiting, motivating and retaining workers while reducing costs associated with sick leave, space usage, and transportation. The pilot project was successful. Telework arrangements worked well and provided significant benefits when implemented with employees who were proven performers.

On July 11, 1994, a Presidential directive called on each Executive department and agency to "establish a program to encourage and support the expansion of flexible family-friendly work arrangements including...telecommuting and satellite work locations." In 1996, the President's Management Council endorsed a National Telecommuting Initiative led by the U.S. Department of Transportation and GSA. Their mission was to increase the use of telework by all American employers, both private and public. Between 1995 and 1997, the number of people teleworking grew by 3 million.

In a June 21, 1996, Presidential Memorandum, Executive departments and agencies were directed to "review their personnel practices and develop a plan of action to utilize the flexible policies already in place and, to the extent feasible, expand their ability to provide their employees...opportunities to telecommute." Finally, in October 2000, Public Law 106-346, Section 359 and the accompanying Conference Report established the mandate for Federal agencies to establish policies for implementing telework opportunities and dramatically increase their numbers of teleworkers.

The Business Case for Telework

Telework has a long history as a proven program providing benefits for both employer and employee. Research shows that telework improves the quality of work/life and job performance, i.e., reduces office overcrowding and provides a distraction-free environment for reading, thinking, and writing. Studies have also found an improvement in retention, leave usage, and productivity. ITAC conducted a study and found that telework reduced turnover by an average of 20 percent, boosted productivity by up to 22 percent, and trimmed absenteeism by 60 percent. Additionally, it allowed companies to adhere more closely to the Clean Air Act, the Family and Medical Leave Act, and the Americans with Disabilities Act. Other studies produced similar findings.

An October 1999 study by Telework America showed that employees who telework can save their agencies up to \$10,000 per year in reduced absenteeism and retention costs. A study by the American Management Association found that the absenteeism costs were reduced by 63 percent, an average of \$2,000 saved for every employee. The State of Arizona evaluated their telework program and found senior managers identified increased efficiency, greater productivity, and enhanced employee morale as the biggest program

benefits. Many Federal agencies with long-standing telework programs have found a decrease in the need for office space. These factors all impact the cost of doing business. AT&T estimates its telework program saves them \$25 million annually in real estate expenses. For employees, cost savings from reduced commuting as well as improved morale and work productivity were identified as benefits.

As more and more Federal employees reach retirement age, agencies need to expand their efforts to identify, recruit, and retain well qualified personnel. Telework can open the door to Federal employment for all talented individuals who have the needed skills. For some, because of disabilities, geographical location, or family responsibilities, a daily commute may be too challenging to be practical. Teleworking also enhances agencies' abilities to recruit and retain employees who simply prefer to reduce commuting time because they would prefer to spend the time in family and community activities. Younger workers, who seem to value work/life balance even more than older generations of workers, are especially likely to find this flexibility appealing. Well qualified individuals who live in distant suburbs might find Federal employment attractive if they were not required to commute to the city on a daily basis.

Telework for People with Disabilities

President George W. Bush, introducing his New Freedom Initiative on February 1, 2001, stated, "I am committed to tearing down the remaining barriers to equality that face Americans with disabilities." People with disabilities are a valuable employment pool for Federal jobs. With new assistive technologies available, an increasing number of people with disabilities are now well qualified to perform Federal work, but they may have great difficulty commuting to a Federal office building. The person may lack the physical strength or mobility necessary for a commute via public transportation, or may not, because of vision requirements, be eligible for a driver's license.

A U.S. Department of Labor study published in 2000 also identified employment of persons with disabilities as a societal benefit resulting from telework arrangements. Further, it noted that, despite the strong economy, millions of residents in urban and isolated rural and Native American communities remained unemployed. The study suggested that telework could improve the employability of all of these groups. It also reported that telework is extremely useful in decreasing traffic congestion and air pollution.

In addition to providing job opportunities for those who already have disabilities, telework allows people who have partially recovered from injuries and/or illnesses to return to work more quickly because they can perform their duties at off-site locations.

Additionally, it is a work arrangement that supports employees who have temporary or continuing health problems or who might otherwise have to retire on disability.

Benefits to Society

An increase in telework arrangements can decrease costs for road construction and public transportation if a requisite number of personnel telework. Cyclical energy shortage problems could be ameliorated. Decreased costs for fuel and transportation, as well as heating and air conditioning office space, would provide significant savings.

Nationwide, concerns about traffic congestion and its impact on limited energy sources and limited transportation resources are escalating. Traffic congestion and long commutes detract from efforts to improve recruitment and retention of Federal employees.

In order to effectively address some of the above challenges and to enhance the Federal telework program, Congress mandated that Federal agencies step up their efforts to expand telework (Public Law 106-346, Section 359). In summary, the timing is right for the growth and development of telework as an option beneficial to all.

Telework and Agency Contingency Plans

The ability to telework has been, and will continue to be, very important in times of emergency situations. Therefore, agencies should make telework part of their continuity of operations planning.

In the aftermath of the events of September 11, 2001, it has become increasingly evident that Federal agencies need to consider a full range of possibilities related to how and where their work is accomplished. Telework has proven to be an important option for efficiently accomplishing the work with the least amount of disruption. Through the use of alternative worksites such as telecenters and employees' homes, employees who were displaced because of the terrorist attacks and subsequent anthrax problems were able to continue working. Employees were able to use laptop computers, cell phones, and other technologies.

Agencies should consider telework in the event of emergencies and plan ahead for such events. They should inventory their equipment, discuss contingency plans with staff, and periodically assess their emergency procedures. Routine emergency exercises should also be held to assess the potential effectiveness of their emergency plans.

Message from the EEO Officer

It is the policy of the Office of Government Ethics to maintain an affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. It is the responsibility of the Director of the agency and me to ensure effective and efficient implementation of our Equal Employment Opportunity (EEO) program and policies.

As the EEO Officer, it is my duty to make myself available to you and to provide written materials informing you of the variety of equal employment opportunity programs and administrative and judicial procedures available to you. Also, from time to time I will evaluate the quality of our internal program and will report to the agency head any recommendations or improvements needed to ensure that we have a model EEO program. Furthermore, it is my responsibility to provide overall guidance to both managers and employees regarding the EEO rules, regulations, and policies.

In order to better serve our agency and its employees and to preserve confidentiality, the agency has contracted the EEO intake and counseling to the Office of Resolution Management (ORM), Department of Veterans Affairs. The ORM has highly skilled, full-time counselors to service our needs. Our contact person at the Office of Resolution Management is:

Ms. Pamela Johnson
National Team Leader
Office of Resolution Management
Department of Veterans Affairs
2200 Fort Roots Drive, Bldg. 101
N. Little Rock, AR 72114
501-257-1585
501-257-1607 (Fax)
Pamela.Johnson@va.gov

If you have any questions or concerns regarding OGE's EEO process and procedures, ORM's role, or if you seek information regarding EEO, please do not hesitate to contact me.

Thank you,
Grace A. Clark
EEO Officer

