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Description of document: Securities and Exchange Commission (SEC) Personnel
Operating Policies and Procedures (POPPS) Manual, 2015

Requested date: 04-January-2017

Released date: 04-April-2017

Posted date: 07-August-2017

Source of document: FOIA Request
Securities and Exchange Commission
100 F Street NE
Mail Stop 2465
Washington D.C. 20549
Fax: 202-772-9337
[Online Request for Copies of Documents](#)

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services
(Corrected Letter)

April 4, 2017

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 17-01191-FOIA

This letter is our final response to the portion of your FOIA request, dated and received in this office on January 4, 2017¹, for "a digital/electronic copy of the SEC POPPS Manual (Personnel Operating Policies and Procedures)" for the years 2010 through 2016.

In a subsequent telephone conversation with you on January 12, 2017, which was also confirmed by email dated January 12, 2017, you stated and confirmed that you are actually seeking the most recent manual/directive, etc. that is available and/or whatever date is available. You would just like to have one. Additionally, you further stated that the document dates that are stated within your FOIA request are not relevant to your FOIA request; rather, you only input those document dates in an effort to satisfy the requirement(s) of the request form that is

¹ By letter dated January 4, 2017, you requested: (1) "a digital/electronic copy of the SEC POPPS Manual (Personnel Operating Policies and Procedures)"; and (2) "a digital/electronic copy of the SEC Human Capital Directive." Please be advised, because your request includes two (2) separate subjects, we have assigned a separate FOIA control number to each of the requested subjects.

This response (FOIA No. 17-01191-FOIA), pertains only to the portion of your request for records concerning "a digital/electronic copy of the SEC POPPS Manual (Personnel Operating Policies and Procedures)," (requested subject number 1 of the 2 requested subjects) listed within your FOIA request, dated and received in this office on January 4, 2017 (assigned FOIA No. 17-01191-FOIA).

The remaining one (1) requested subject of your FOIA request, dated and received in this office on January 4, 2017, will be responded to separately under a separate SEC FOIA control number, FOIA No. 17-01190-FOIA (requested subject number 2 of the 2 requested subjects). Please refer to the assigned FOIA control number, FOIA No. 17-01190-FOIA, for information regarding the one (1) remaining requested subject.

April 4, 2017

17-01191-FOIA

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(Corrected Letter)

in the automated system. You also stated that the date(s) that you have listed at the end of/along with the requested record(s) listed within your FOIA request, also are not to be considered as the specific date(s) that you are seeking.

Access is granted, entirely, to the enclosed digital/electronic copy of the (Cancelled) SEC POPPS Manual (Personnel Operating Policies and Procedures). Please be advised that the SEC POPPS Manual was cancelled on November 17, 2015. We have been advised that the SEC has not issued a new/replacement POPPS Manual (Personnel Operating Policies and Procedures). Therefore, the SEC does not have and we did not locate and/or identify a current SEC POPPS Manual (Personnel Operating Policies and Procedures) and/or any other records and/or information responsive to your request.

If you still have reason to believe that the SEC maintains additional records and/or information regarding the type of records you seek in response to this portion of your request, please provide us with additional information, which could prompt another search. Otherwise, we conclude that no additional responsive records and/or information exist and we consider this portion of your request to be closed.

If you consider this response to be a denial of your request or an adverse determination for any other reason, you have the right to appeal the adequacy of our search or finding of no additional responsive records and/or information to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5)(iv). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at [https://www.sec.gov/forms/request appeal](https://www.sec.gov/forms/request%20appeal), or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

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(Corrected Letter)

17-01191-FOIA

If you have any questions, please contact me at johnsonee@sec.gov or (202) 551-8350. You may also contact me at foiapa@sec.gov or (202) 551-7900. You also have the right to seek assistance from Aaron Taylor at (202) 551-7900 as a FOIA Public Liaison for this office, or contact the Office of Government Information Services (OGIS) for dispute resolution services. OGIS can be reached at 1-877-684-6448 or <https://ogis.archives.gov/?p=/ogis/index.html>.

Sincerely,

A handwritten signature in black ink, appearing to read 'Everene Johnson', with a long horizontal flourish extending to the right.

Everene Johnson
FOIA Research Specialist

Enclosure (Please Note: Due to the size of the enclosure, the enclosure is being sent directly to you on a CD [along with a copy of this SEC FOIA final response letter dated, today, April 4, 2017], by regular mail on today, April 4, 2017.)

Personnel Operating Policies and Procedures (POPPS)

SEC Manual 6-1, initiated September, 1991

**U.S. Securities and Exchange Commission
Office of Human Resources Management**

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 001.A
August 27, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 001.A

NUMERICAL INDEX

<u>Chapter</u>	<u>Date</u>	<u>Title</u>	<u>OPR</u>
CONTENTS			
001.A	Aug 27, 96	Numerical Index	OAPM, OAED
001.B	Aug 19, 96	Subject Index	OAPM, OAED
002		Change Transmittal Sheets (file as received)	
INTRODUCTORY MATERIALS			
GENERAL PERSONNEL PROVISIONS			
200.A	Aug 27, 96	Exceptions to Internal SEC Personnel Policies	OED & OAPM
293.C	Sep 9, 91	Employee Performance File (reissuance of SECR 6-9, dated June 6, 84 as amended)	OAPM, P&B
EMPLOYMENT			
304.A	Apr 12, 93	Employment of Experts and Consultants	OAPM, C&S
307.A	Feb 19, 93	Special Employment Programs: Veterans and Disabled Veterans	OAPM, C&S
307.B	Feb 19, 93	Special Employment Programs: Disabled Individuals	OAPM, C&S

<u>Chapter</u>	<u>Date</u>	<u>Title</u>	<u>OPR</u>
312.A	Jan 8, 92	Position Management Program	OAPM, C&S
312.B	Jul 14, 92	Proposing and Processing Reorganizations	OAPM, C&S
330.A	Feb 29, 96	SEC Career Transition Assistance Plan	OAPM, C&S
335.A	Aug 16, 96	SEC Merit Promotion Plan	OAPM, C&S
338.A	Aug 5, 96	Appointments Above the Minimum of the Grade Based on Superior Qualifications	OAPM, C&S
		<i>Replaced by Section E, Chapter 2</i>	
351.A	Jun 14, 95	Reduction In Force	OAPM, C&S
EMPLOYEE PERFORMANCE AND UTILIZATION			
410.A	Sep 30, 93	Training (reissuance of SECR 6-3, dated Sep 10, 90)	OAPM, T&ER
		<i>Replaced by Section 6, Chapter 1</i>	
412.0 memo	Feb 17, 94	Executive and Management Development Program (interim policy)	OAPM, T&ER
430.A	Apr 30, 96	SEC Performance Appraisal System	OAPM, T&ER
430.B	Feb 10, 93	Performance Standards on EEO and HRM for Managers and Supervisors	OAPM & OEEO
451.A	Feb 10, 93	Employee Recognition Program (amended May 4, 93, Jul 7, 93, and Jun 16, 95)	OAPM, T&ER

POSITION CLASSIFICATION, PAY, AND ALLOWANCES

511.A	Apr 29, 93	Position Classification	OAPM, C&S
511.B	Apr 29, 93	Position Classification Appeals	OAPM, C&S

POPPS INDEX 001.A August 27, 1996

3

<u>Chapter</u>	<u>Date</u>	<u>Title</u>	<u>OPR</u>
511.C	Sep 18, 92	Position Description Accuracy Program	OAPM, C&S
531.A	Aug 26, 96	Within-Grade and Quality Step Increases	OAPM, C&S
550.A		(RESERVED)	
550.B	Mar 24, 92	Advances in Pay for New Hires	OAPM, C&S
551.A	Sep 9, 91	Pay Administration under the Fair Labor Standards Act (reissuance of SECR 6-19, dated Aug 16, 89)	OAPM, C&S
572.A	Apr 28, 93	Payment of Pre-Appointment Interview Expenses	OAPM, C&S
575.A	Jul 20, 93	Recruitment Bonuses	OAPM, C&S
575.B	Jul 20, 92	Relocation Bonuses	OAPM, C&S
575.C	Aug 27, 96	Retention Allowances	OAPM, C&S
599.A	Mar 31, 95	Law Enforcement Availability Pay	OAPM, C&S
ATTENDANCE AND LEAVE			
610.A	Jan 20, 95	Alternate Work Schedules	OAPM, T&ER
610.B	Jan 20, 95	Alternate or Flexible Work Locations	OAPM, OAED
610.C	Jan 20, 95	Compressed Work Schedules	OAPM, T&ER
630.A		(RESERVED)	
630.B	Jan 17, 92	Compensatory Time (Attachment 1 amended Feb 10, 96)	OAPM, T&ER

<u>Chapter</u>	<u>Date</u>	<u>Title</u>	<u>OPR</u>
630.C	Jun 28, 95	Voluntary Leave Transfer Program	OAPM, T&ER
EMPLOYEE RELATIONS AND SERVICES			
720.A	Sep 9, 91	Affirmative Action for Individuals with Disabilities (reissuance of SECR 6-15, dated May 17, 91) (Attachment amended Feb 10, 95)	OAPM & OEEO
735.B	Mar 23, 92	Representation Before the Commission By Former Members and Employees	OAPM, T&ER
735.C	Dec 29, 93	Confidential Financial Disclosure Report (Pages 1-2 amended Sep 5, 95)	OAPM
735.D	Dec 29, 93	Public Financial Disclosure Report	OAPM
751.A	Sep 9, 91	Disciplinary Actions and Adverse Actions (reissuance of SECR 6-10, dated Nov 12, 90)	OAPM, T&ER
751.B	Sep 9, 91	Disciplinary Actions and Adverse Actions Involving Attorneys and Other Excepted Service Personnel (reissuance of SECR 6-18, dated Feb 28, 85)	OAPM, T&ER
771.A	Jul 8, 92	SEC Grievance Procedures	OAPM, T&ER
	<i>Replaced by Section I, Ch. 1 (1-25-99)</i>		
792.A	Jan 7, 92	Smoking Policy	OAPM, T&ER
792.B	Sep 9, 91	Employee Assistance Program (reissuance of SECR 6-5, dated Jun 28, 82, as amended)	OAPM, T&ER

INSURANCE AND ANNUITIES

(RESERVED)

POPPS INDEX 001.A August 27, 1996

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<u>Chapter</u>	<u>Date</u>	<u>Title</u>	<u>OPR</u>
GENERAL AND MISCELLANEOUS			
920.A		(RESERVED)	
920.B	Sep 7, 93	Senior Executive Service (SES) Performance Appraisal System	OAPM
920.C	Sep 9, 91	SES Recertification Plan (reissuance of SECR 6-22, dated Aug 30, 91)	OED & OAPM

KEY to Abbreviations for Office(s) of Primary Responsibility (OPR)

<i>OAPM</i>	<i>Office of Administrative and Personnel Management</i>
<i>OAPM, OAED</i>	<i>OAPM's Office of the Associate Executive Director</i>
<i>OAPM, C&S</i>	<i>OAPM's Classification and Staffing Branch</i>
<i>OAPM, P&B</i>	<i>OAPM's Processing and Benefits Branch</i>
<i>OAPM, T&ER</i>	<i>OAPM's Training and Employee Relations Branch</i>
<i>OED</i>	<i>Office of the Executive Director</i>
<i>OEEEO</i>	<i>Office of Equal Employment Opportunity</i>

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 001.B
August 19, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 001.B

SUBJECT INDEX

<u>Topics</u>	<u>See POPPS Chapter(s):</u>
Above Entrance Step of Grade, Hiring At	338.A
Action Based on Unacceptable Performance	430.A, 751.A, 751.B
Advances in Pay	550.B
Adverse Action	751.A, 751.B
Affirmative Action	720.A
Alcohol Abuse Counseling	792.B
Alternate Work Schedules	610.A
Appeals, Grade Determination	511.B
Appeals, MSPB	751.A
Awards	451.A
Career Development	410.A
Career Ladders	335.A
Compensatory Time	630.B
Compressed Work Schedules	610.C
Conduct Rules	735.B (See also SECRs and Ethics Manual)
Consultants, Hiring of	304.A
Counseling Services	792.B

Topics

See POPPS Chapter(s):

Credit Hours	610.A
Disabilities, Hiring of Employees with	307.A
Disabilities, Reasonable Accommodation of	720.A
Disciplinary Action	751.A, 751.B
Donated Leave	630.C
Drug Abuse Counseling	792.B
Employee Assistance	792.B
Employee Development	410.A
Employee Performance File (EPF)	293.C
Equal Employment Opportunity	430.B, 720.A (See also SECRs)
Excepted Service Personnel	751.B
Experts, Hiring of	304.A
Exempt Employees	551.A, 630.B
Fair Labor Standards Act	551.A, 630.B
FEPCA Provisions	338.A, 451.B, 550.B, 575.A, 575.B, 575.C
Financial Disclosure Reporting	735.C, 735.D
Five-Four-Nine (5-4-9) Schedules	610.C
Flexiplace	610.B
Flexitour Schedules	610.A
Grievances, Employee	771.A
Handicapped Employees	307.A, 720.A (See also 17 CFR, Part 200, Subpart L)

Topics

See POPPS Chapter(s):

Hiring of Disabled Veterans	307.A
Job Elements	430.A, 430.B
Leave Transfer Program	630.C
Merit Promotion	335.A
Non-Exempt Employees	551.A
Organizational Structures	312.A, 312.B
Overtime	551.A, 630.B
Pay Advances	550.B
Pay Determinations	338.A, 531.A, 551.A, 575.C
Performance Improvement Plan	430.A
Performance Appraisal	430.A, 430.B, 920.B
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Performance Records	293.C
Performance Standards	430.A, 430.B
Personal/Financial Problems, Counseling	792.B
Position Classification	511.A, 511.C
Position Classification Appeals	511.B
Position Descriptions, Accuracy of	511.C
Position Management Program	312.A
Promotions	335.A
Quality Step Increase	531.A, 451.A, 430.A
Reasonable Accommodation (Disability)	720.A

Topics

See POPPS Chapter(s):

Recruitment Bonuses	575.A
Religious Compensatory Time	630.B
Relocation Bonuses	575.B
Reorganizations	312.B
Representation Before the Commission	735.B
Retention Allowances	575.C
Senior Executive Services (SES)	920.B, 920.C
SES Recertification	920.C
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Special Employment Programs	307.A, 307.B
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Suggestions	451.A
Superior Qualifications	338.A
Supervisor-Subordinate Ratio	312.B
Telecommuting	610.B
Time Off Awards	451.A
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Veterans	307.A
Wage Grade Employees	511.B
Within-Grade Increases	531.A, 430.A
Work-At-Home Agreement	610.B

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002-001
January 17, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 1

1. Insert the following new chapters in your POPPS Manual, SECM 6-1:

<u>Chapter</u>	<u>Date</u>	<u>Title</u>
6-312.B	Jan 8, 92	Proposing and Processing Reorganizations
6-575.B	Jan 17, 92	Relocation Bonuses (Interim Policy)
6-630.B	Jan 17, 92	Compensatory Time

2. Remove the following old chapters and replace with these new chapters:

<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
6-001	Sep 9, 91	Jan 17, 92	Index
6-312.A	Sep 9, 91	Jan 8, 92	Position Management Program
6-792.A	Sep 9, 91	Jan 7, 92	Smoking Policy

3. File this change transmittal sheet for the Supplement in the designated section of the POPPS manual. Transmittal sheets should be filed immediately behind the index, in numerical order, and retained to ensure you receive all changes.


John Innocenti, Director
Office of Human Resources Management

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002-001
March 27, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 2

1. Insert the following new chapters in your POPPS Manual,
SECM 6-1:

<u>Chapter</u>	<u>Date</u>	<u>Title</u>
6-550.B	Mar 24, 92	Advances in Pay for New Hires
6-575.C	Mar 20, 92	Retention Allowances
6-735.B	Mar 23, 92	Representation Before the Commission by former Members and Employees

2. Remove the following old chapters and replace with these new chapters:

<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
6-575.A	Sep 9, 91	Mar 23, 92	Recruitment Bonuses (Interim Policy)
6-575.B	Jan 17, 92	Mar 23, 92	Relocation Bonuses (Interim Policy)

3. File this change transmittal sheet for the Supplement in the designated section of the POPPS manual. Transmittal sheets should be filed immediately behind the index, in numerical order, and retained to ensure you receive all changes.


John Innocenti, Director
Office of Human Resources Management

Distribution: B,E (All POPPS Holders, one copy)

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS Ch. 002-003
June 4, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

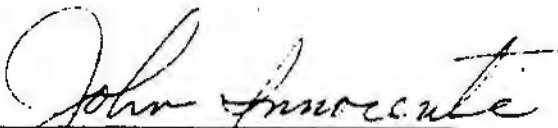
Chapter 002

POPPS Change Transmittal - # 3

1. Remove the following old chapter from your POPPS Manual, SECM 6-1, and replace with this new chapter:

<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
540.A	Sep 9, 91	Jun 4, 92	SEC Performance Management and Recognition System

2. File this change transmittal sheet in the designated section of the POPPS Manual. Transmittal sheets should be filed immediately behind the index, in numerical order, and retained to ensure you receive all changes.


John Innocenti, Director
Office of Human Resources Management

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SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
July 16, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 4

1. Insert the following new chapters in your POPPS Manual, SECM 6-1:

<u>Chapter</u>	<u>Date</u>	<u>Title</u>
001.B	Jul 14, 92	Subject Matter Index
451.B	Jul 13, 92	Time Off Awards (Interim Policy)

2. Remove the following old chapters from your POPPS Manual, and replace with these new chapters:

<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
001.A	Jan 17, 92	Jul 16, 92	Numerical Index
312.B	Jan 8, 92	Jul 14, 92	Proposing and Processing Reorganizations
630.C	Sep 9, 91	Jul 16, 92	Leave Transfer Program
771.A	Sep 9, 91	Jul 8, 92	SEC Grievance Procedures

3. File this change transmittal sheet in the designated section of the POPPS Manual. Transmittal sheets should be filed immediately behind the indexes, in numerical order, and retained to ensure you receive all changes.


John Innocenti, Director
Office of Human Resources Management

Distribution: B,E (All POPPS Holders, one copy)

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
September 18, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

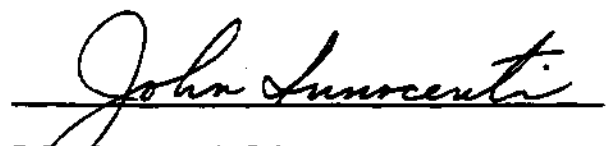
Chapter 002

POPPS Change Transmittal - # 5

1. Insert the following new Chapters in your POPPS Manual, SECM 6-1:

<u>Chapter</u>	<u>Date</u>	<u>Title</u>
275.A	Sep 18, 92	Personnel Management Evaluation Program
511.C	Sep 18, 92	Position Description Accuracy Program

2. File this change transmittal sheet in the designated section of the POPPS Manual. Transmittal sheets should be filed immediately behind the indexes, in numerical order, and retained to ensure you receive all changes.



John Innocenti, Director
Office of Human Resources Management

Distribution: B,E (All POPPS Holders, one copy)

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
February 10, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 6

1. Please remove the following Chapters, as applicable, from your POPPS Manual, and insert these new Chapters:

REMOVE INSERT

<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
<i>cancel</i> ✓ Attachment to Ch. 102	Sep 9, 91	Jan 22, 93	OHRM Functional Statements & Org. Chart
<i>Superseded</i> 430.A	Sep 9, 91	Feb 10, 93	SEC Performance Appraisal System
430.B	Sep 9, 91	Feb 10, 93	Performance Standards on EEO and HRM for Managers and Supervisors
✓ 451.A	Sep 9, 91	Feb 10, 93	Employee Recognition Program
✓ 451.B	Jul 13, 92	--	(interim Time Off Awards policy superseded by inclusion in new 451.A)

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.


John Innocenti, Associate Executive Director
Office of Human Resources Management

Distribution: B,E (All POPPS Holders, one copy)

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
February 22, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 7

1. Please remove the following Chapters, as applicable, from your POPPS Manual, and insert these new Chapters:

	REMOVE	INSERT	
<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
001.A	Jul 16, 92	Feb 22, 93	Numerical Index
307.A	Sep 9, 91	Feb 19, 93	Special Employment Programs: Veterans and Disabled Veterans
307.B	—	Feb 19, 93	Special Employment Program: Disabled Individuals
Attachment 1 to Ch. 630.B	Sep 9, 91	Feb 17, 93	Compensatory Time Earned Maximum Credit in a Bi-weekly Pay Period

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.


John Innocenti, Associate Executive Director
Office of Human Resources Management

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SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
May 4, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)


Chapter 002

POPPS Change Transmittal - # 8

1. Please remove the following Chapters, as applicable, from your POPPS Manual, and insert these new Chapters:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
Attachment to 102	Jan 22, 93	May 4, 93	OHRM Functional Statements & Org. Chart
304.A		Apr 12, 93	Employment of Experts and Consultants
Attachments to 451.A	Feb 10, 93	Feb 10, 93	Sample Annotated T & A Form for Time Off Awards; Suggestion Award Form
511.A	Sep 9, 91	Apr 29, 93	Position Classification
511.B	Sep 9, 91	Apr 29, 93	Position Classification Appeals
572.A		Apr 28, 93	Payment of Pre-Appointment Interview Expenses

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.


Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management

Distribution: B,E (All POPPS Holders, one copy)

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-002
June 7, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

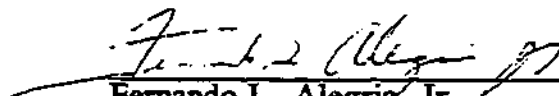
Chapter 002

POPPS Change Transmittal - # 9

1. Please remove the following pages from your POPPS Manual, and insert these new pages:

<u>Chapter</u>	<u>REMOVE</u> <u>Old Date</u>	<u>INSERT</u> <u>New Date</u>	<u>Title</u>
451.A, pages 11-12	Feb 10, 93	Jun 7, 93	Sections 3 and 4.1

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.


Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management

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Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-002
July 21, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

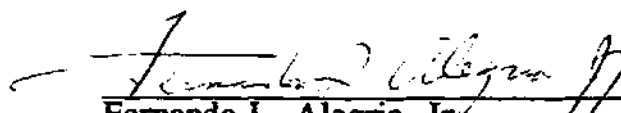
Chapter 002

POPPS Change Transmittal - # 10

1. Please remove the following pages from your POPPS Manual, and insert these new pages:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 532.B	Sep 9, 91	--	(Replaced by Ch. 511.B, sect. 4, dated Apr 29, 93)
✓ 575.A	Mar 23, 92	Jul 20, 93	Recruitment Bonuses
✓ 575.B	Mar 23, 92	Jul 20, 93	Relocation Bonuses

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Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Administrative and Personnel Management

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POPPS 6-002
September 7, 1993

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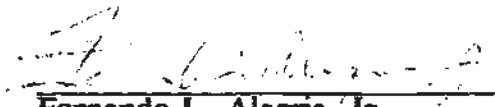
Chapter 002

POPPS Change Transmittal - # 11

1. Please remove the following pages from your POPPS Manual, and insert these new pages:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
001.A	Feb 22, 93	Sep 07, 93	Numerical Index
920.B	Sep 09, 91	Sep 07, 93	Senior Executive Service Performance Appraisal System

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Office of Administrative and Personnel Management

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POPPS 6-002
December 29, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 12

1. Please remove the following pages from your POPPS Manual, and insert these new pages:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
410.A	Sep 09, 91	Sep 30, 93	Training and Career Development (cover pages 1-2)
735.C	—	Dec 29, 93	Confidential Financial Disclosure Report
735.D	—	Dec 29, 93	Public Financial Disclosure Report

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.
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Associate Executive Director
Office of Administrative and Personnel Management

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POPPS 6-002
February 10, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002

POPPS Change Transmittal - # 13

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 001.A	Sep 7, 93	Feb 10, 95	Numerical Index
✓ 610.A		Jan 20, 95	Alternate Work Schedules
✓ 610.B		Jan 20, 95	Alternate or Flexible Work Locations
✓ 610.C		Jan 20, 95	Compressed Work Schedules
<i>Summit</i> ✓ 630.B Attach. 1	Feb 17, 93	Feb 10, 95	Compensatory Time Earned Maximum Credit in a Biweekly Pay Period
✓ 720.A Attach. 1	Sep 9, 91 <i>no old gnd</i>	Feb 9, 95	SEC 2233, Request for Accommodation for Persons with Disabilities (8/94)

2. Please remove the following pages from your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 101	Sep 9, 91		Establishment of SECM 6-1; Description of Manual (reprint of SECR 6-1, "SEC Human Resources Management Manual," dated Sep 9, 91 which authorized POPPS)

2

POPPS Change Transmittal #13

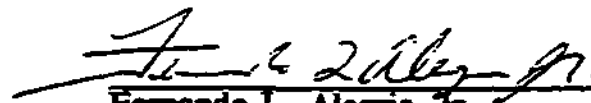
February 10, 1995

- | | | | |
|---------|-----------|----------------------------------|--|
| ✓ 102 | Sep 9, 91 | | OHRM's Human Resources Management Philosophy, Functional Statements and Organizational Chart |
| | Aug 6, 93 | | |
| ✓ 540.A | Jun 4, 92 | | Performance Management and Recognition System (PMRS) |
| ✓ 540.B | Sep 9, 91 | | Designation of GM Positions under PMRS |
| ✓ 720.B | Sep 9, 91 | (See 17 CFR Part 200, Subpart L) | Enforcement of Nondiscrimination on the Basis of Handicap or Disability in SEC Programs and Activities |

3. Please make the following pen and ink changes to the following pages of your POPPS Manual:

Done
Chapter 430.A Strike through Section 6 (pages 17 & 18), which no longer are applicable.

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POPPS 6-002
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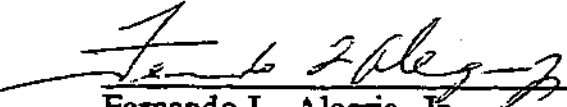
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Chapter 002
POPPS Change Transmittal - # 14

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
338.A	Sep 9, 91	Mar 31, 95	Appointments Above the Minimum of the Grade Based on Superior Qualifications
✓ 599.A	—	Mar 31, 95	Law Enforcement Availability Pay

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POPPS 6-002
June 28, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002
POPPS Change Transmittal - # 15

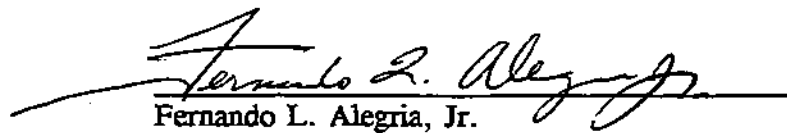
1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 351.A --		Jun 14, 95	Reduction In Force
451.A			
✓ Attach. 2	Feb 10, 93	Jun 16, 95	SEC 48, Award Recommendation and Approval
✓ 630.C	Jul 16, 92	Jun 28, 95	Voluntary Leave Transfer Program

2. Please remove the following pages from your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 275.A	Sep 18, 92		Personnel Management Evaluation Program

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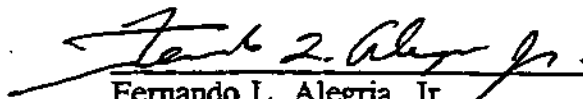
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Chapter 002
POPPS Change Transmittal - # 16

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
330.A —		Feb 29, 96	SEC Career Transition Assistance Plan
✓ 430.A	Feb 10, 93 <i>Old date 1991</i>	Apr 30, 96	SEC Performance Appraisal System
✓ 630.B Attach. 1	Feb 10, 95	Feb 10, 96	Compensatory Time Earned Maximum Credit in a Biweekly Pay Period
735.C Pages 1-2	Dec 29, 93	Dec 29, 93* *amended Sep 5, 95	Confidential Financial Disclosure Report

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POPPS 002
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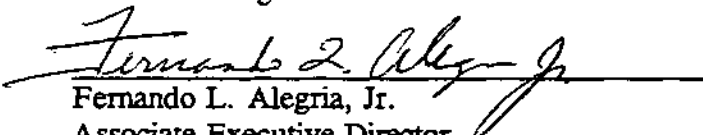
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Chapter 002
POPPS Change Transmittal - # 17

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ 001.A	Feb 10, 95	Aug 27, 96	Numerical Index
✓ 001.B	Feb 10, 95	Aug 19, 96	Subject Index
✓ 200.A	—	Aug 27, 96	Exceptions to Internal SEC Personnel Policies
✓ 335.A	Sep 9, 91	Aug 16, 96	SEC Merit Promotion Plan
✓ 338.A	Mar 31, 95	Aug 5, 96	Appointments Above the Minimum of the Grade Based on Superior Qualifications
✓ 531.A	Sep 9, 91	Aug 26, 96	Within-Grade and Quality Step Increases
✓ 575.C	Mar 20, 92	Aug 27, 96	Retention Allowances

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March 13, 1997


SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002
POPPS Change Transmittal - # 18

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
630.B Attach. 1	Feb 10, 96	Mar 13, 97	Compensatory Time Earned Maximum Credit in a Biweekly Pay Period

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POPPS 6-002
September 15, 1997

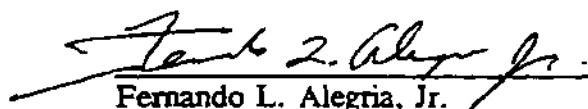
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Chapter 002
POPPS Change Transmittal - # 19

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
330.A	Feb 29, 96	Sep 9, 97	SEC Career Transition Assistance Plan

2. File this change transmittal sheet in the designated section of the POPPS Manual immediately behind the indexes, in numerical order. Please retain them to ensure you receive all changes.
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Fernando L. Alegria, Jr.
Associate Executive Director
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June 1, 1998


SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002
POPPS Change Transmittal - # 20

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
335.A Pages 9-10	Aug 16, 96	Jun 1, 98	SEC Merit Promotion Plan
✓ 630.B Attach. 1	Mar 13, 97	Jun 1, 98	Compensatory Time Earned Maximum Credit in a Biweekly Pay Period

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Jayne L. Seidman
Associate Executive Director
Office of Administrative and Personnel Management

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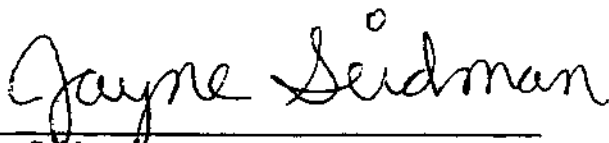
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POPPS Change Transmittal - # 21

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
330.A Pages 3-4	Sep 9, 97	Sep 11, 98	SEC Career Transition Assistance Plan
✓ E-2 (old 338.A)	Aug 5, 96	Sep 16, 98	Appointments Above the Minimum of the Grade Based on Superior Qualifications
✓ F-4 (old 630 series - D)	--	Aug 18, 98	Administrative Leave and Official Time

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Jayne L. Seidman
Associate Executive Director
Office of Administrative and Personnel Management

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Office of Administrative and Personnel Management
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POPPS 6-002
February 2, 1999

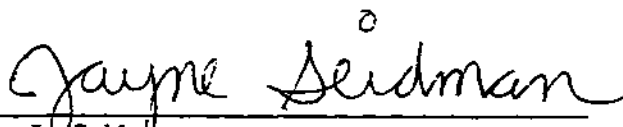
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Chapter 002
POPPS Change Transmittal - # 22

1. Please insert the following pages into your POPPS Manual:

<u>Chapter</u>	<u>REMOVE Old Date</u>	<u>INSERT New Date</u>	<u>Title</u>
✓ I-1 (old 771.A)	Jul 8, 92	Jan 25, 99	SEC Grievance Procedures

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Jayne L. Seidman
Associate Executive Director
Office of Administrative and Personnel Management

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POPPS 6-002
April 15, 1999


SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 002
POPPS Change Transmittal - # 23

1. Please insert the following pages into your POPPS Manual:

	REMOVE	INSERT	
<u>Chapter</u>	<u>Old Date</u>	<u>New Date</u>	<u>Title</u>
✓ H-1 (old 410.A)	Sep 30, 93	Apr 2, 99	Training and Career Development
✓ 630.B Attachment 1	Jun 1, 98	Apr 15, 99	Compensatory Time Earned Maximum Credit in a Bi-Weekly Pay Period

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Jayne L. Seidman
Associate Executive Director
Office of Administrative and Personnel Management

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was cancelled on November 17, 2015.

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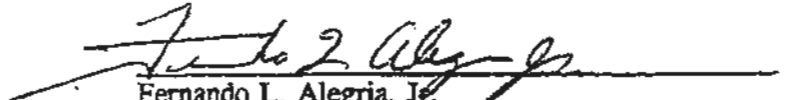
POPPS 200.A
August 27, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 200.A
EXCEPTIONS TO INTERNAL SEC PERSONNEL POLICIES

1. **PURPOSE.** This chapter establishes a process whereby exceptions to internally-imposed provisions of personnel policies can be requested and granted based on unusual circumstances.
2. **POLICY.** In order to promote good management practices and establish sound personnel policies that apply to the vast majority of situations while retaining some flexibility, the Executive Director may approve an exception to any provision of SEC personnel policy that is internally imposed and discretionary with the agency. The Executive Director may not grant any exceptions to relevant provisions of law and/or Office of Personnel Management (OPM) regulations.
3. **PROCEDURAL REQUIREMENTS.**
 - A. Management may submit a written request for an exception to an existing policy or procedural requirement where such an exception will promote fairness, assist the agency in meeting its mission through its human resources, or otherwise achieve a worthwhile purpose in the interests of good management, consistent with merit systems principles (5 U.S.C. Chapter 23).
 - B. The written request must specify the specific relief from a policy provision being requested with respect to the employee(s) or applicant(s), the reasons justifying an exception, and the unusual circumstances of the matter.
 - C. The request must be directed to the attention of the Associate Executive Director, Office of Administrative and Personnel Management (OAPM), who will advise the Executive Director of the applicable legal and regulatory provisions and provide a recommendation. The Executive Director shall issue a written decision, except that he may delegate responsibility for responding to requests where legal and/or regulatory requirements preclude granting the exception as requested to the Associate Executive Director, OAPM.
 - D. Copies of all requests for exceptions and their outcomes will be retained by OAPM. Trends in the types of situations encountered will be monitored by the Associate Executive Director, OAPM to see whether changes to SEC personnel provisions appear to be warranted and to propose appropriate policy/procedural changes for the Executive Director's and top management's consideration.

4. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of the Executive Director and Office of Administrative and Personnel Management.


Fernando L. Alegria, Jr.
Office of Administrative and Personnel Management

8/27/96
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-293.C
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 293.C

EMPLOYEE PERFORMANCE FILE

- 1. PURPOSE.** This chapter describes the Commission's policies and procedures for establishing, maintaining, and using information in the Employee Performance File system of records. Attached is a copy of the SECR 6-9, dated June 6, 1984 and amended on January 16, 1985, which remains in effect until superseded by a revision to this chapter. The policy on Employee Performance Files will undergo review and likely revision within the next year.
- 2. EFFECTS ON OTHER DOCUMENTS.** The attachment to this chapter is incorporated by reference into this policy. The records described in this policy are subject to the provisions of the Privacy Act, which limit access and establish accountability procedures for authorized disclosure.
- 3. OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Processing and Benefits Branch.


John Innocenti, Director
Office of Human Resources Management

9/9/91
Date

Attachment:
SECR 6-9, original June 6, 1984 as amended

SECURITIES AND EXCHANGE COMMISSION
Office of the Personnel
Washington, D.C. 20549

SECR 6-9
June 6, 1984
Effective July 1, 1984

Personnel

EMPLOYEE PERFORMANCE FILE

This regulation establishes the Securities and Exchange Commission's Employee Performance File (EPF) System. It assigns responsibilities and procedures for its maintenance, use, and disposition. It applies to all personnel except members of the Senior Executive Service (SES). This regulation implements Pub. L. 95-454 as codified in 5 U.S.C., and 5 CFR 292, 293, 297, OPM Privacy Act Systems of Records OPM GOVT. 2, and 5 U.S.C. 552b. In case of conflict, this regulation takes precedence over any existing documentation that deals with the personal privacy and rights of individuals regarding their personnel records except for disclosures of personal information required by 5 U.S.C. 552, as amended.

1. Terms Explained:

- a. Custodian. An individual delegated authority and responsibility for maintaining EPFs.
- b. Documentation. That collection or group of material which supports the employee's performance file (see attachment 1).
- c. Maintain. Includes collect, use, establish or disseminate.
- d. File. Means any item, collection, or grouping of performance related documentation about an individual that is kept by the Commission.

2. Responsibilities:

- a. The Director of Personnel is responsible for the EPF system for all non-SES employees (e.g., GS, GM, and wage grade).
- b. The Secretary of the Performance Review Board is responsible for the EPF system for SES members according to the Commission's SES Performance Appraisal and Compensation System.

3. Delegations of Authority. The Director of Personnel is delegated authority:

- a. To establish EPFs for all employees; and

Supersedes SECR 6-9, April 25, 1983
OPR: PD/Bill Ford
Approved by: James C. Foster
Editor: Rogell W. Burkett
DISTRIBUTION: B

b. To issue instructions and guidelines governing their maintenance and use.

c. To monitor and evaluate this regulation for adequacy and compliance.

d. To take corrective action, as necessary.

e. To redelegate authorities and responsibilities, as appropriate.

f. To conduct periodic audits.

4. Redlegation of Authority:

a. In the HQ, Administrative Officers are responsible for maintaining EPFs on employees assigned to their respective Divisions and Offices.

b. In the Regional and Branch Offices, Administrative Officers are responsible for establishing and maintaining EPFs for employees assigned to their respective offices.

c. The Division Director, Office Head or comparable level official is responsible for establishing and maintaining EPFs in his or her activity where there is no Administrative Officer. However, this individual may redelegate his or her authority provided the delegation is in writing, and a copy is placed in the EPF Procedures File.

d. When employees are redelegated authority and responsibility for maintaining EPFs they are responsible to the Director of Personnel for maintenance of the documentation according to this regulation.

5. Policy:

a. The original or record copy of the EPF for each employee is maintained by the Administrative Officer because:

(1) The record of performance must be readily accessible to the supervisor/manager to support or complete request for personnel administrative actions; and

(2) Privacy Act considerations as well as maintenance requirements of this and other regulations pertaining to EPFs dictate that control and accountability for the EPF system be maintained by a designated employee other than the individual's supervisor; and

(3) Within the Commission, Administrative Officers are the central focal point for all administrative actions to and from the Office of Personnel, and thus are ideally situated to maintain the files.

b. Duplicate copies of EPF documentation may be maintained by Branch Offices according to this regulation. However, Regional Administrators must:

(1) Provide, in writing, that duplicate copies of EPF documentation are authorized; and

(2) Ensure that a copy of the authorization is maintained in the EPF Procedures File.

6. **Automated Files.** The overall performance appraisal rating for each employee, as covered by this regulation, will be entered into the Random Access Personnel Information and Dissemination (RAPID) System, and will be retained for five years, at which time the data will be placed in archival storage for an indefinite period. The data will be used:

a. To calculate and make merit pay determinations.

b. To conduct audits and periodically monitor each EPF.

c. To conduct, analytical studies of Commission-wide activities.

d. Historical data will be used solely for statistical purposes and not for making decisions on the rights, benefits, or entitlements of individuals.

7. **EPF Procedures File.** Custodians will establish and maintain an EPF Procedures File. The file will contain only those documents necessary to properly maintain EPFs, including:

a. A copy of this regulation and all pertinent instructions issued by those employees identified in paragraphs 3 and 4.

b. The Employee Performance Appraisal Folder, for this purpose, will be provided by the Office of Personnel.

c. Once an EPF is established, it remains valid for the duration of the employee's tenure with the Commission.

d. If an employee is transferred from one organization to another within the Commission, the custodian of the gaining organization must secure the transferring employee's EPF from the custodian in the losing organization.

e. EPF's may be transferred in sealed envelopes with the notation, "To be Opened by Addressee Only." In addition, the transfer may be accomplished in person, or placed in regular mail channels, via special messenger.

8. **Flow of Documents.** The custodian will attach the EPF material appropriate to a particular personnel action and forward the same

for consideration. Those items which can be retained only in the EPF (Performance Standards and ratings for candidates for published vacancies, merit pay ratings, adverse action materials, etc.) will be retained by the Office of Personnel and kept and/or discarded as required by the program for which the EPF material was submitted. Further guidance on the flow of a personnel action involving EPF material, is contained in attachment 2, table 1.

9. EPF Contents and Routine Uses. Documentation described in attachment 1 may be placed in the EPF. This documentation is maintained to ensure that all appropriate documentation relating to an employee's performance is retained and is available;

a. To any supervisor or manager to which the employee is assigned.

b. To those employees assigned to the Office of Personnel who have a need for the documentation in the performance of their official duties.

c. To those employees on whom the EPFs are maintained.

d. To investigative or law enforcement activities in response to a written request.

e. To equal Employment Opportunity (EEO) personnel when a written request is made in connection with investigations into alleged or possible discrimination practices.

f. To anyone, if the subject of the EPF provides specific written consent by signing a release or some other instrument; general consent is not enough.

***NOTES:** 1) Access to EPFs under the routine uses in subparagraph's 9d, e, and f must be recorded on SEC Form 1494, Accounting of Disclosure.

2) If in doubt about release of or access to documentation in the EPF, consult the Office of Personnel, Privacy Act Officer, or Freedom of Information Act Officer, as appropriate.

10. Filing and Safeguarding EPFs. An OF 86, Personal Data Warning Label, must be affixed to each EPF folder. In addition, the EPFs must be:

a. Filed in alphabetical order; and

b. Stored in lockable metal file cabinets or a secured room with access limited to those whose official duties require access.

11. Retention and Disposal Criteria.

a. Employee Performance Appraisals are retained for three years except as indicated in paragraph 11b, and are disposed of by tearing into pieces, shredding or burning. (See SECR 6-4, Perfor-

SECR 6-9, June 6, 1984

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mance Appraisal System). Each year, in conjunction with the preparation of annual performance appraisals, the custodian will remove and destroy all documentation that is in excess of three years old. Extraneous documentation may be given to the individual concerned, upon request.

b. Performance Appraisals and related documentation must be destroyed immediately after the employee completes one year of satisfactory performance from the date of a proposed adverse action, if any.

c. Folders of employees separated from the Commission will be retained for future use; however, the contents of each folder will be destroyed as prescribed in paragraph 11a, no later than 30 days after the employee has been separated.

12. Forms Implemented. This regulation implements the use of:

- a. OF 86, Personnel Data Warning Label
- b. SF 52, Request for Personnel Action
- c. SF 182, Request, Authorization Agreement and Certification of Training
- d. SEC Form 1494, Accounting of Disclosures
- e. SEC Form 48, Recommendation for Award or Quality Increase
- f. SEC Form 2045, Performance Appraisal System Worksheet
Signature Page
- g. SEC Form 2046, Job Elements and Performance Standards Worksheet
- h. SEC Form 2047, Recorded and Rating of Performance Accomplishments
- i. SEC Form 2048, Summary Ratings for Supervisors and Managers
Summary Ratings for Non-Supervisors
(This is one form with supervisors covered
one side of the page and non-supervisors
on the opposite side of the page.)

Richard J. Kanyan

RICHARD J. KANYAN, Director
Office of Administrative Services

- 2 Attachments
- 1. Contents of Employee Performance Files
 - 2. Flow of Documents, Table 1

***CONTENTS OF EMPLOYEE PERFORMANCE FILES**

1. SEC Form 1494, Accounting of Disclosures
2. SEC Form 2045, Performance Appraisal System Worksheet Signature Page
3. SEC Form 2046, Job Elements and Performance Standards Worksheet
4. SEC Form 2047, Recorded and Rating of Performance Accomplishments
5. SEC Form 2048, Summary Ratings for Supervisors and Managers
Summary Rating for Non-Supervisors
(This is one form with supervisors covered on one side of the page and non-supervisors on the opposite side of the page.)
6. Copy of SF 52, Request for Personnel Action, and supporting documentation (for a personnel action that is not effected).
7. SF 182, Request, Authorization Agreement and Certification of training (that is performance related and that is for eight hours or less).
8. Evaluations of performance or effectiveness related to other personnel programs such as 90 day, 9 month and supervisory probation reports, WGI certificates, etc.
9. Promotion/Award Justifications (i.e., SEC Form 48, Recommendation for Award or Quality Increase)
10. Individual Development Plans
11. Any document regarding decisions or recommendations of Executive Resources Board related to the performance of non-SES staff.
12. Letters of Commendation/Appreciation.

NOTE: Work or production records, supervisory notes, records of discussion, etc., which are not required by SEC policy to be maintained on an on-going basis, should not be placed in the EPF. Only items listed above should be retained in the EPF.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

TABLE 1

Flow of Documents

R U L E	A	B
	WHEN THE PERSONNEL ACTION INVOLVES	THEN
1	Performance appraisal worksheets, rating sheets, etc.,	The custodian will file the documents in the EPF and make xerox copies, as required.
2	Wage grade increases, promotion incentive awards, etc.,	The custodian will attach proper certification/justification, including the summary performance sheet, to the personnel action request and forward the documentation to the Office of Personnel. After the documentation has been processed, the Office of Personnel will return the documents to the custodian.
3	Merit pay ratings, rating for candidates for published vacancies, adverse actions, etc.	The custodian will submit the documentation to the Office of Personnel for retention.
4	Letters of commendations	The custodian will file a copy of the commendation in the EPF.
5	Requests for training	The custodian will submit the request to the Office of Personnel for processing. Upon completion, the request will be returned to the custodian.
6	90 day reports, 9 month reports, supervisory reports, etc.,	The custodian will file the documentation in the EPF.
7	Individual development plans	

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-304.A
April 12, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 304.A

EMPLOYMENT OF EXPERTS AND CONSULTANTS

1. PURPOSE AND INTRODUCTION.

A. **Purpose.** This Chapter prescribes SEC policy and procedures for appointing experts and consultants, with or without pay, consistent with the requirements of the Federal Personnel Manual (FPM) Chapter 304. This personnel appointment authority is intended to provide flexibility in obtaining specialized opinions and advice, not normally available from within the agency or in other federal agencies, from persons who have expertise in a particular field without the requirements to adhere to normal civil service procedures regarding competitive examination, job classification, and pay. The Chapter also discusses the initial review process to be followed in determining the appropriate means to obtain expert and consultant services (i.e., through a personnel appointment under 5 U.S.C. 3109 or through a non-personal services contract).

B. **Ethics Considerations.** Prior to obtaining the services of a particular expert or consultant, consideration should be given to the applicability of the ethics statutes and conduct regulations to that individual.¹ Generally, experts and consultants whose services are obtained through a personnel appointment would be either subject to the same restrictions as a regular employee or to certain of these technical and legal requirements based on their status as a "special government employee" (SGE), in view of their brief service. These restrictions, as well as the professional codes of conduct, could present particular problems for attorneys and accountants who perform work for the government while engaged in other employment.²

C. **Consultation.** Managers are advised to consult with their ethics liaison officer or deputy (within their division, office, or region) and with their servicing personnel specialists in the Office of Human Resources Management (OHRM) during the initial planning stages of considering expert or consultant service needs.

¹ These include the criminal conflict-of-interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch, and the SEC conduct rules and regulations which cover, among other things, requirements relating to financial disclosure reporting and certain restrictions on securities holdings and transactions.

² See, e.g., 18 U.S.C. 203 and 205.

Managers also should consult with the contracting specialists in the Office of Administrative and Management Support (OAMS) if it is expected that these services should be obtained through a non-personal services contract. This consultation should be done prior to initiating the written request, so as to determine the proper documentation needed for the request. Attachment 1 contains a chart comparing and contrasting the primary authorities available for obtaining different types of advisory services.

D. Funding. Funding for expert or consultant appointments usually is covered under the temporary employment budget administered by OHRM.³ Contract funds availability, if not already covered by existing organizational spending allowances, must be approved in advance by the Office of the Comptroller.

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³ In specific cases depending on anticipated costs and funds availability, there may need to be some adjustment worked out among the requesting office, OHRM, and the Office of the Comptroller to hold open a vacancy within the authorized hiring ceiling.

3. SCOPE.⁴

A. This Chapter applies to the employment of experts and consultants under excepted appointments, whether paid or unpaid, under the authority provided by 5 U.S.C. 3109 (or other alternate legal authorities, as available).

B. The Chapter also applies to individual expert or consultant services obtained through a procurement contract if the work relationship which will be created is that of employer - employee (i.e., if it is a personal services contract). An award of a personal services contract is expressly authorized under 5 U.S.C. 3109 and is subject to all the provisions of this Chapter, as well as Part 37 of the Federal Acquisition Regulations (FAR).

C. This Chapter does not apply to non-personal services contracts for experts and/or consultants. Nevertheless, these non-personal services contracts shall be subject to the initial review procedures contained in Sections 8 and 9 of this Chapter. Non-personal services contracts for expert witnesses⁵ are not subject to these initial review procedures or to this Chapter. This Chapter also does not apply to foreign counsel retained by the SEC to assist in investigations and court proceedings implicating foreign laws, memoranda of understanding, or mutual assistance treaties.⁶ Non-personal services contracts are subject to the FAR.

D. This Chapter applies to certain members of advisory committees set up in accordance with 41 CFR Part 101-6 (which contains policy and procedures governing advisory committees and their membership). Before advisory groups are set up or members appointed, consideration needs to be given to the status of advisory group members with respect to coverage under this Chapter.⁷

⁴ See definitions in Section 6 of this Chapter.

⁵ Expert witnesses may be paid under a contract or agreement any compensation mutually agreed upon and administratively determined to be reasonable. Appointment of an expert witness under 5 U.S.C. 3109 generally would be inappropriate because the employee-employer relationship created is contradictory to the provision of independent judgment and expertise the individual is supposed to bring in testimony (in person, by affidavit, or by deposition) on the case. Also, such an appointment to a position would create insurmountable problems in locating persons with the securities industry or legal affiliations and expertise who would not be disqualified from serving because of coverage by the ethics and criminal conflict-of-interest provisions applicable to SGEs or regular employees. Although expert witnesses often are involved in certain pre-trial preparation which in some cases might be considered expert or consultant services, these services should not be obtained through an appointment. Therefore, these contracts do not require OHRM review under the provisions of this Chapter.

⁶ Foreign counsel may be paid under a contract or agreement any compensation mutually agreed upon and administratively determined to be reasonable. The 5 U.S.C. 3109 authority is not appropriate because the contractual relationship is with the law firm rather than a specific individual and no employee-employer is created. Furthermore, appointment to a position would create insurmountable problems in locating qualified foreign counsel who would not be precluded from serving because of coverage by the ethics and criminal conflict-of-interest provisions applicable to SGEs or regular employees.

⁷ Federal Personnel Manual Chapter 735, Appendix C, provides the authoritative guidelines for determining whether members of an advisory committee are employees (usually SGEs) and, therefore, subject to the conflict-of-interest statutes, 18 U.S.C. 202-209.

1. Covered advisory group members. Members of advisory groups whose advice is obtained because of the individuals' personal qualifications, knowledge, and expertise and who are asked to serve to represent their independent views (i.e., who serve in an independent capacity) are covered by this Chapter, because they are considered to be employed as an SGE or regular employee. Similarly, members who receive pay for their services (other than just travel expenses and per diem allowance), act as spokespersons for the federal government or this agency, perform federal functions, or are supervised by SEC staff also are covered. In most cases, these advisory group members would be considered SGEs because their periods of service would be brief or occasional.

2. Members not covered. Advisory group members who serve in a representational capacity (i.e., to represent the views of a nongovernmental organization or group) do not serve as employees of the government and therefore are not covered by this Chapter.

4. POLICY.

A. Review and approval. In order to ensure that the use of experts and consultants contributes to agency operations and mission accomplishment in an effective and economical way and meets the legal requirements, each employment of an expert or consultant under the scope of this Chapter shall be approved by the Executive Director. Further, all requests for expert or consultant services (except those for expert witnesses), whether under the scope of this Chapter or not, are to be forwarded through the Associate Executive Director, OHRM for review to ensure the method of obtaining services does not violate personnel regulations.

B. Proper use. Experts and consultants may be properly used on a temporary or intermittent basis to obtain:

1. Specialized skills or opinions unavailable within the agency or within other agencies;
2. Outside points of view on administrative and technical issues, where the internal judgments may be too limited;
3. Advice on developments in industry, academic, and foundation research;
4. The opinions of recognized experts whose prestige can contribute to the success of an important project; or
5. The advice of citizens to develop or implement government programs that by their nature or statute require citizen participation.

C. **Prohibited or improper use.⁸** Under the following circumstances, the use of consultants and experts is improper:

1. To perform full-time, continuous work or work that can be done by regular government employees (this includes filling in during staff shortages);
2. To do work of a policy, decision-making, or managerial nature, which is the direct responsibility of government officials; and/or
3. To bypass or undermine competitive employment procedures, personnel ceilings, or pay limitations.

5. **AUTHORITIES.** There are multiple sources of law and regulation that govern obtaining expert, consultant, or advisory and assistance services within the federal government, which can make this area rather confusing. The primary authorities, requirements, and interpretations on experts and consultants are contained in: 5 U.S.C. 3109 (as amended by Public Law 102-378, October 2, 1992); FPM Chapter 304; FAR Part 37.2; OMB Circular A-120; OMB Office of Federal Procurement Policy, Policy Letter 92-1; Civilian Personnel Law Manual Chapter 10; and Comptroller General decisions.

6. **DEFINITIONS.**

A. Advisory group member means a person who is designated to serve on an advisory committee or group. These committees are established pursuant to the Federal Advisory Committee Act (5 U.S.C. App.) and implementing regulations in 41 CFR Part 101-6. Advisory members may be either employed in: an independent capacity, in which case they are considered federal employees (usually SGEs); or a representational capacity for outside groups or constituencies, in which case they are not considered employees as long as the work being done is not subject to routine, on-going review and guidance from federal employees. Section 3, "Scope," explains that only those considered employees are covered by this Chapter.

B. Consultant means a person who serves as an adviser to an officer or agency of the government, as distinguished from a person who carries out the agency's duties and responsibilities. A consultant provides views or opinions on problems or questions presented by the agency, but **neither performs nor supervises performance of operating functions.** Generally, a consultant has a high degree of broad administrative, professional, or technical knowledge or experience which should make the advice distinctively valuable to the agency.

⁸ Other hiring authorities may be appropriate to fill short-term or emergency needs where experts or consultants are not appropriate. Managers should seek OHRM guidance on the appropriateness of alternate appointment authorities, such as: special need, temporary limited, term, Schedule A or C, SES limited term, or SES limited emergency.

C. Consultant position is a position which primarily requires performance of advisory or consultant services, rather than performance of operating functions.

D. Expert means a person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field. An expert's knowledge and mastery of the principles, practices, problems, methods, and techniques of a field of activity, or of a specialized area in a field, are clearly superior to those usually possessed by ordinarily competent persons in that activity. An expert generally is regarded as an authority or as a practitioner of unusual competence and skill by other persons in the profession, occupation, or activity. Therefore, an expert may be employed to perform or supervise operating functions, but only with respect to difficult or challenging tasks that are beyond the usual range of achievement for regular employees and for a limited period of time to meet a specific need.

E. Expert position is a position which requires the services of an expert in a particular field, as defined in paragraph C above, such that the duties cannot be performed satisfactorily by someone who does not possess that expertise.

F. Expert witness generally means an individual whose services are obtained under a non-personal services contract to provide testimony (in person, by affidavit, or by deposition) in which he or she provides expert opinion (e.g., to provide: analysis of whether specific acts constitute securities violations; advice on the applicability of certain securities laws or accounting treatments; appraisals of worth; medical opinions) in connection with the litigation of cases. As a practical matter, contracts often include pre-trial preparation.

G. Intermittent employment means occasional or irregular employment on programs, projects, problems or phases thereof, where the nature of the duties require intermittent service. To be considered intermittent employment, the expert or consultant may not be paid for all or any part of a day for more than 130 days in a service year. When an intermittently employed expert or consultant has worked more than the 130 days, the employment automatically ceases to be intermittent and becomes temporary. Similarly, if the intermittent employee is converted to a regularly scheduled tour of duty (full-time or part-time) through an official personnel action, he or she also becomes temporary (see Section 14 regarding renewal).

H. Non-personal services contract is a contract in which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration during performance, to the supervision and control usually prevalent between the government and its employees.

I. Personal services contract is a contract in which the contractor, either by the terms of the contract or contract administration during performance, receives ongoing direction, supervision, and control of work products, such that the relationship with the government is essentially one of employer - employee.

J. Service year means any period of 365 consecutive calendar days during which a person serves, beginning with the date of appointment or designation to serve.

K. Special Government Employee (SGE), as defined in 18 U.S.C. 202, means a person who is retained, designated, appointed, or employed to perform, with or without compensation, temporary duties on a full-time, part-time, or intermittent basis for not to exceed 130 days during any service year. When a temporary or intermittent employed individual works more than 130 days or parts thereof, he or she automatically ceases to be an SGE and becomes a regular employee, one who is subject to the full scope of the ethics and conduct statutes and regulations applicable to government employees, as well as the performance appraisal requirements.

L. Temporary employment means employment for one service year or less on programs, projects, problems, or phases thereof, requiring continuous or regularly scheduled temporary service that is not needed for a longer time period. (The work schedule may be full-time or part-time.)

7. RESPONSIBILITIES.

A. The Executive Director is responsible for final approval/disapproval of requests to hire an expert or consultant under the scope of this Chapter. He or she must certify for the record that all legal and regulatory requirements for appointing or extending the appointment of an expert or consultant under authorities in Section 5 of this Chapter have been reviewed and that documentation of the proposed action is in order.

B. The Associate Executive Director, OHRM is responsible for:

1. Reviewing managers' requests to bring in an expert or consultant for sufficiency and appropriateness for agency needs so as to recommend approval or disapproval to the Executive Director;

2. Reviewing proposed contracts involving expert or consultant services to ensure that personnel regulations are not violated;

3. Advising managers of the existence of alternate hiring authorities in appropriate situations;

4. Determining appropriate salaries for experts and consultants in accordance with applicable regulations; and

* This includes making the initial determination as to whether the situation requires an employee-employer relationship and, in consultation with OAMS, if a contractual relationship is indicated rather than a personnel appointment to an expert or consultant position.

5. Monitoring and evaluating the use of this authority to ensure it is applied fairly within the SEC.

C. Servicing Personnel Specialists, Staffing and Employee Relations Branch of OHRM, are responsible for:

1. Preparing the necessary certification for appointing experts and consultants covered under the provisions of this Chapter; and
2. Issuing reminders of quarterly reviews to managers and ensuring completed quarterly reviews are received within OHRM.

D. The Processing and Benefits Branch of OHRM is responsible for ensuring the required documentation is maintained in the employee's Official Personnel Folder (OPF).

E. The Assistant Executive Director, OAMS, is responsible for:

1. Advising managers about provisions for advisory and assistance contracts (including those for expert witnesses) that are for non-personal services under the provisions of the FAR; and
2. Ensuring contracts for such services are appropriately processed and documented.

F. The Associate Executive Director (Finance), Office of the Comptroller, (i.e., the Comptroller) is responsible for review and approval/disapproval of organizational requests for contract funds if not already included in organizational spending allowances (depending on funds availability and other budgetary factors), and for compiling costs of expert and consultant services for inclusion in OMB and Congressional budget submissions.

G. Division Directors, Office Heads, and Regional Administrators are responsible for, with respect to actions within the scope of this policy:

1. Providing justification and documentation with the request for an expert or consultant in full compliance with this policy;
2. Ensuring that appropriate funds for specific contractual requests have been approved in advance by the Office of the Comptroller before submission to OHRM, and that future budgetary needs for obtaining experts and consultants through any means are identified to the Office of the Comptroller for inclusion in appropriate budget materials;
3. Ensuring that consultants or experts perform only the duties for which they were appointed;

4. Ensuring that consultants do not perform, or supervise the performance of, operating functions normally performed by members of the SEC's regular staff;

5. Conducting quarterly reviews and certifying to OHRM that the need still exists and the use of the expert or consultant remains appropriate; and

6. Monitoring Not-To-Exceed dates for appointments as well as obligated funds versus actual expenditures so as to submit appropriate supplemental request packages if the need for services extends beyond the approved date or cost (or to notify the Comptroller if approved funds are no longer required).

8. PROCEDURES FOR SUBMITTING REQUESTS.

A. Managers considering the use of experts and consultants in particular situations should consult, early in their deliberations, with OHRM on the legality of the use of this authority and the availability of alternate and possibly more appropriate authorities. They also are advised to consult with their ethics liaison officer or deputy to ensure compliance with technical and legal requirements arising out of the criminal conflict-of-interest and ethics statutes and regulations, and with OAMS if contracting appears to be the appropriate method for fulfilling the need.

B. The requesting Division Director, Office Head, or Regional Administrator must submit a written request which justifies the need for expert or consultant services, describes the qualifications of the proposed candidate to serve as an expert or consultant on the particular project(s), and identifies the method by which the official would like to obtain the services of the expert or consultant (i.e., through appointment or procurement contract or for service on an advisory committee).

C. The request package must contain the specific information required for the type of authority to be used; this information is identified in Attachment 2.

9. REVIEW AND APPROVAL.

A. The Associate Executive Director, OHRM will review the request package for completeness and compliance with regulatory requirements, and appropriateness of method for obtaining the services. The proposed usage of expert or consultant services will be discussed with the requesting official, OAMS Contracting Officer, and/or Office of the General Counsel (usually the Ethics Counsel or staff), as applicable to the situation. Any issues or difficulties will be worked out to the extent possible.

B. If the services are to be obtained through an appointment.¹⁰

1. OHRM will prepare SEC 2346, Review and Approval of Expert or Consultant (see Attachment 3), and forward it with the package to the Executive Director for review and signature.

2. The Executive Director's certification attests that the position is necessary, that it requires the services of an expert or consultant, and that all the regulatory criteria and documentation requirements have been met.

C. If the services required are most appropriately performed under a contract.¹¹ OHRM will forward the package to the Office of Administrative and Management Support, or to a Regional Administrator if the contract is within their \$25,000 contracting authority, for appropriate action. A cover memorandum will provide OHRM's recommendation as to whether or not the services represent personal services that are under the scope of this Chapter.

1. Except in unusual circumstances, if a contract would need to be a personal services contract, the SEC, as a matter of policy, will obtain those services through an appointment to an expert or consultant position. If circumstances require that the expert or consultant services be obtained through a personal services contract (which is within the scope of this Chapter), the Executive Director will sign the certification described in Section 9.B.1. above.

2. If the expert or consultant contract is determined to be a non-personal services contract (which is outside the scope of this Chapter), normal procurement procedures will apply, in accordance with the FAR, OMB Circular A-120, and any other relevant requirements. These contracts are not subject to the remaining provisions of this Chapter, unless expressly stated therein.

D. A copy of the final expert/consultant package, after approval by the Executive Director, shall be furnished to OHRM to meet any applicable documentation and reporting requirements, and to ensure the expert or consultant completes the appropriate ethics disclosure documents. Experts and consultants brought in under the scope of this Chapter must have a Standard Form 50 (SF-50) Personnel Action generated.

10. PAY PROVISIONS.

A. Expert and Consultants hired under 5 U.S.C. Section 3109 (by appointment or personal services contract) may be paid no more than the maximum daily rate payable under the General Schedule, i.e., the salary of GS-15/10, unless a

¹⁰ Those advisory group members covered under the scope of this Chapter are brought in through a personnel appointment.

¹¹ Note that procurement regulations prohibit the awarding of any contract for advisory and assistance services on a preferential basis to former government employees.

higher salary is otherwise authorized by law. Pay is to be determined commensurate with the level and difficulty of the work to be done, the individual's qualifications, and the availability of the services in the labor market.¹²

B. Depending on the circumstances and the conditions established upon appointment or entry, pay may be computed either on an hourly or daily basis. A Time and Attendance Record (SEC 699) is to be maintained.

1. If payment is to be made on an hourly basis, the hourly rate shall not be greater than one-eighth of the maximum daily rate of GS-15/10. In order not to exceed the maximum allowed daily rate, if the expert or consultant is paid at the maximum rate, no more than eight hours are to be worked on any given day (unless he or she is working normally scheduled hours under an approved 5-4-9 alternate work schedule).

2. If payment is made on a daily basis, the daily rate is paid irrespective of the number of hours actually worked (the number of hours worked can be either less than or greater than eight).

3. An expert or consultant required to work for more than the scheduled tour of duty (which may include more than 10 work days per pay period) may be paid at the straight daily or hourly rate for all days worked as long as the total compensation within any biweekly pay period does not exceed the rate of basic pay for level V of the Executive Schedule.

4. Except in those rare situations where the individual is not exempt from the Fair Labor Standards Act, no overtime may be paid.

5. Unless alternate procedures are set up, payment will be made through regular payroll procedures with income tax deductions made in the usual manner.

C. Experts and consultants hired under the authority of 5 U.S.C. Section 3109, section 213.3102(k) of Schedule A, or 41 CFR Part 101-6 also may be employed without pay.

D. Reemployed annuitants (either civil service or military) who are employed as experts and consultants generally are required to have the amount of their compensation reduced by the amount of their retirement annuity. This setoff does not apply if OPM grants an exception under provisions of the Federal Employees Pay Comparability Act of 1990 (FEPCA).

¹² Experts and consultants may not be used to perform work that is classified at the Senior Executive Service level (i.e., policy-making and managerial work).

E. An expert or consultant is not entitled to a pay increase as a result of an increase in the General Schedule rate of pay, unless specifically provided for in the appointing documents or contract.

F. An expert or consultant is not entitled to pay for a holiday on which no work was performed, unless specifically provided for in the appointing documents.

G. A temporarily employed expert or consultant, like a regular federal employee, is entitled to normal travel expenses when performing on official duty away from the individual's "permanent" duty station. However, an expert or consultant employed intermittently, including those serving without pay, may be allowed travel or transportation expenses including per diem allowances while away from home or the regular place of business and at the place of employment or service, as long as these expenses are identified and authorized in advance.¹³

H. An expert or consultant who is working on an intermittent basis in more than one such position is excepted from the dual pay restriction, provided that the pay is not received for the same hours of the same day. The dual pay restriction generally prohibits earning basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week.

I. An expert's or consultant's first regular appointment as a federal employee, regardless of tenure, must be made at the minimum step of the established grade, unless a "superior qualifications" appointment is made. The rate of pay received as a consultant or expert may not be used to determine the employee's rate of basic pay for the regular appointment.

11. BENEFITS.¹⁴

A. An expert or consultant who serves on an intermittent basis or without a prearranged regular tour of duty is not entitled to earn annual and sick leave. However, if he or she has a regularly prescribed tour of duty, either part-time or full-time, annual and sick leave are accrued.

B. An expert or consultant, either intermittent or temporary for one year or less, is not covered by retirement, life insurance, or health benefits. However, if an employee with current retirement, health and life insurance coverage is appointed as an intermittent or temporary (part-time or full-time) expert or consultant, with a break in service of three calendar days or less, coverage generally is continued.¹⁵

¹³ As soon as an expert or consultant has worked more than 130 days in a service year, the appointment automatically ceases to be intermittent and becomes temporary. When that occurs, the individual can no longer be reimbursed for local travel between the assigned duty station and home or regular place of business.

¹⁴ This section applies to appointed experts and consultants only.

¹⁵ To continue life insurance coverage for an intermittent employee, there must be an expectation that the employee will return to the previous position on a full-time basis.

12. APPLICABILITY OF ETHICS AND CONDUCT RULES.

A. A determination must be made prior to the appointment as to whether the expert or consultant is expected to work or serve less than 130 days in a service year. If so, the person is considered an SGE, subject to certain technical and legal requirements arising out of the criminal conflict-of-interest statutes and conduct regulations. If an SGE actually works more than the 130 days, his or her status automatically changes and he or she becomes subject to the same ethics and conduct requirements and restrictions as regular employees. These include the criminal conflict-of-interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch, and the SEC conduct rules and regulations which cover, among other things, requirements relating to financial disclosure reporting and certain restrictions on securities holdings and transactions.

B. Prior to appointment, each candidate must complete the appropriate forms as determined by OHRM to report employment and financial interests, as well as his or her securities holdings, brokerage accounts, and other related information. These should either be transmitted in a sealed envelope from the candidate through the requesting official or submitted directly by the candidate to the Associate Executive Director, OHRM in a sealed envelope marked "Confidential Ethics Statements." The candidate will be notified if there are any issues that need to be addressed before the appointment can be made.

C. The expert or consultant will be given written information about ethics and conduct requirements that apply to both SGEs and regular employees, and will be advised by OHRM to consult with the ethics liaison officer or deputy within the organizational component with respect to questions that arise during employment.

13. QUARTERLY REVIEW REQUIREMENTS. Under FPM Chapter 304, quarterly reviews are required to ensure that the duties performed are still appropriate for the expert or consultant and are those of record, time limits are being observed, and documentation is current. SEC 2347, Quarterly Review of Expert or Consultant (Attachment 4), must be completed by the Division Director, Office Head, or Regional Administrator where the expert or consultant is located, to certify the continuing appropriate use of this authority and compliance with applicable regulations.

A. At the end of each quarter of the fiscal year, OHRM will complete the identifying information on the top of the form and send it, with a memorandum and a copy of the original or revised description of work, to the appropriate official for completion by a specified date.

B. The form must be completed and returned, along with a copy of the SEC 699 that shows the number of days worked within the previous quarter, to the servicing personnel specialist for review.

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POPPS 6-304.A April 12, 1993

C. Based on a review of that form and any supplemental interviews or conversations that may be required, the Associate Executive Director, OHRM will countersign the quarterly evaluation.

14. REAPPOINTMENT LIMITATIONS. Intermittent appointments can be renewed from one year to the next; temporary appointments cannot. Exceptions to this rule are:

A. An expert or consultant can be reappointed to the same position for the next service year if the new appointment is purely on an intermittent basis; or

B. The expert or consultant can be reappointed on a temporary appointment if the position offered for the next service year is a different position from the one filled in the previous service year.

15. DOCUMENTATION OF EMPLOYMENT OR SERVICE.

A. For each expert or consultant covered under the scope of this Chapter, an OPF will be established. Attachment 5 identifies the requirements for inclusion.

B. The use of experts and consultants, including advisory group members, is reported to OPM through the Central Personnel Data File; therefore, a record of each must be maintained in the automated personnel system even when the individual is unpaid. In addition, under the Technical and Miscellaneous Civil Service Amendments Act of 1992 (Public Law 102-378), the number of days each expert or consultant is employed and the total amount paid to him or her must be reported to OPM annually, in accordance with implementing regulations to be issued by OPM.

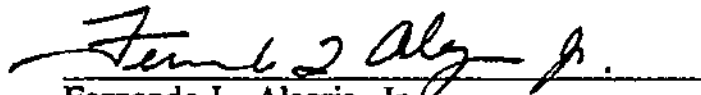
C. The use of experts and consultants under this policy, as well as when obtained through independent contracts, is subject to the controls described in OMB Circular A-120. In addition, under 31 U.S.C. 1114 (b), the Inspector General is required to evaluate and report annually to Congress on the controls over consulting services within the agency.

16. EFFECTS ON OTHER DOCUMENTS. Reference should be made to SECR 10-8, Contracting for Expert Witnesses, Experts, and Consultants (as well as to SECRs 10-1, 10-2, and 10-3 for related aspects of procurement and contracting).

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17. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources
Management, Staffing and Employee Relations Branch.



Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management

April 12, 1993

Date

Attachments:

1. Comparison and Contrast of Authorities for Using Experts and Consultants
2. Requirements for Submission: Requests for Expert and Consultant Services
3. SEC 2346 - Request and Certification for Appointment of Expert or
Consultant
4. SEC 2347 - Quarterly Review of Expert or Consultant
5. Requirements for Official Personnel Folders for Experts and Consultants

POPPS Chapter 304.A, Attachment 1

Page 1

METHODS FOR OBTAINING ADVISORY AND ASSISTANCE SERVICES

Applicable Provisions	Expert Appointment (temporary)	Expert Appointment (intermittent)	Consultant Appointment (temporary)
Length of Service	Not to Exceed (NTE) 1 service year	NTE 130 work days per service year, with irregular schedule	NTE 1 service year
Renewal	Limited - see section 14	Yes, to same position	Limited - see section 14
Supervision of Gov't Empl.	Yes, in expert matters	Yes, in expert matters	No
Pay Basis	Up to GS 15 step 10	Up to GS 15 step 10	Up to GS 15 step 10
Travel Reimbursement	Same as regular employees	Same as employee plus local travel between duty station and home or regular place of business	Same as regular employees
Benefits Coverage	AL and SL earned	None	AL and SL earned
Ethics Coverage *	Same as regular employee or special government employee (SGE), depending on length of appointment	Same as SGE	Same as regular employee or SGE, depending on length of appointment
Primary Regulatory Authorities	FPM Chapter 304; OMB Circ. A-120	FPM Chapter 304; OMB Circ. A-120	FPM Chapter 304; OMB Circ. A-120
Coverage Under POPPS Ch. 304.A	Yes	Yes	Yes

* For specifics in a given situation, consult with the ethics liaison officer or deputy for the office, division, or region.

POPPS Chapter 304.A, Attachment 1

Page 2

METHODS FOR OBTAINING ADVISORY AND ASSISTANCE SERVICES

Applicable Provisions	Consultant Appointment (intermittent)	Personal Services Contract	Non-personal Services Contract (excluding expert witnesses)
Length of Service	NTE 130 work days per service year, with irregular schedule	Within Fiscal Year, except as contract option	Within Fiscal Year, except as contract option
Renewal	Yes, to same position	FPM 304 limits on renewal	Yes
Supervision of Gov't Empl.	No	No	No
Pay Basis	Up to GS 15 step 10	Up to GS 15 step 10	Negotiable, with administrative determination that it is reasonable
Travel Reimbursement	Same as employee plus local travel between duty station and home or regular place of business	According to contract and GSA travel regs	According to contract and GSA travel regs
Benefits Coverage	None	None	None
Ethics Coverage *	Same as SGE	Same as regular employee or SGE, depending on length of contract	Per terms of contract, basic non-disclosure agreement, and conflict-of-interest provisions of FAR
Primary Regulatory Authorities	FPM Chapter 304; OMB Circ. A-120	FPM Chapter 304; OMB Circ. A-120; FAR	FAR; OMB Circular A-120
Coverage Under POPPS Ch. 304.A	Yes	Yes	No, except for procedures in sections 8 & 9

* For specifics in a given situation, consult with the ethics liaison officer or deputy for the office, division, or region.

POPPS Chapter 304.A, Attachment 1

Page 3

METHODS FOR OBTAINING ADVISORY AND ASSISTANCE SERVICES

Applicable Provisions	Expert Witness/ Foreign Counsel (non-personal serv. contract)	Advisory Group Member (independent)	Advisory Group Member (representative)
Length of Service	Within Fiscal Year	As needed, NTE 130 days per service year	As needed, without limit
Renewal	Yes	Yes	Yes
Supervision of Gov't Empl.	No	No	No
Pay Basis	Negotiable, with administrative determination that it is reasonable	Usually unpaid, but may be paid up to GS 15 step 10	Must be unpaid
Travel Reimbursement	According to contract and GSA travel regs	Same as employee plus local travel between duty station and home or regular place of business	Same as employee plus local travel between duty station and home or regular place of business
Benefits Coverage	None	None	None
Ethics Coverage *	Per terms of contract, basic non- disclosure agreement, and conflict-of- interest provisions of FAR	Same as SGE	N/A (advisory group proceedings are public)
Primary Regulatory Authorities	FAR	41 CFR Part 101- 106; FPM Chapter 304; OMB Circular A-120	41 CFR Part 101- 106; OMB Circular A-120
Coverage Under POPPS Ch. 304.A	No	Yes	No

* For specifics in a given situation, consult with the ethics liaison officer or deputy for the office, division, or region

POPPS Chapter 304.A, Attachment 2

**REQUIREMENTS FOR SUBMISSION:
REQUESTS FOR EXPERT AND CONSULTANT SERVICES**

A written request for an expert or consultant must justify the need and the qualifications of the individual proposed, and be forwarded to OHRM in accordance with POPPS Chapter 304.A, section 8. Depending on how the services of an expert or consultant are to be obtained, the request package must contain the following:

A. If the services are to be obtained through an APPOINTMENT.

1. The written request also should identify specifically:

- a. The proposed salary, if any, and a brief statement identifying the basis for proposing the amount;**
- b. The length of time and work schedule desired for the expert or consultant (appointments must be either temporary or intermittent);**
- c. Whether there is a vacant "slot" within their hiring ceiling which is to be held open temporarily to meet this need; and**
- d. Whether or not there are any known potential ethics or conflict of interest questions, and, if so, a description of any discussions or agreements reached with the ethics liaison officer or deputy concerning their resolution.**

2. In addition to the written request, the package must also contain:

- a. A copy of the proposed candidate's SF-171;**
- b. Completed SF-52, cleared through the Office of the Comptroller; and**
- c. Position Description identifying proposed duties in sufficient detail to support the need for the services of an expert or consultant.**

B. If the services are to be obtained as a function of an ADVISORY COMMITTEE. The package forwarded to OHRM should include:

1. A copy of the advisory committee charter which identifies the functions of the committee members and the description of the SEC's plan to attain fairly balanced membership which were, or are to be, sent to the General Services Administration in connection with authorization of the Advisory Committee;

2. Information on each of the proposed advisory group members. The information should clearly distinguish whether each member is to serve in a

representational capacity for a nongovernment group or if the person is to function based on his or her independent views and expertise; and

3. A description of any discussions or agreements reached with the ethics liaison officer or deputy concerning the coverage of any members as special government employees or concerning any potential ethics or conflict-of-interest questions.

C. If the services are to be obtained through a **CONTRACT**. The package forwarded to OHRM should include all materials that normally would be developed to execute a contract, as specified in SECR 10-8, Contracting for Expert Witnesses, Experts, and Consultants.

POPPS Chapter 304.A. Attachment 3:

REVIEW AND APPROVAL OF EXPERT OR CONSULTANT

INITIAL OHRM REVIEW

1. Date Request Rec'd: _____
2. Name of Candidate: _____
3. Circle: Expert Consultant
4. Division/Office: _____
5. Proposed Method: ___ appointment ___ personal services contract
 ___ advisory group member
6. Proposed dates: _____ to _____
7. Type of Schedule: ___ temporary ___ intermittent ___ full-time ___ part-time
8. Compensation: ___ Unpaid ___ Paid Amount: \$ _____ per _____
9. Legal authority: _____
10. Funding: ___ Temp. budget ___ Special Request ___ Contract funds
 Notes:
11. Special Provisions:

Signatures/Dates Servicing Personnel Specialist Chief, Staffing and Employee Relations Branch

RECOMMENDATION

___ Approve request ___ Approve with modifications shown above ___ Disapprove

Comments:

Signature - Associate Executive Director, OHRM

Date

(continued on reverse)

APPROVAL AND CERTIFICATION

Name of proposed expert/consultant: _____

Proposed Pay: _____

In approving the filling of this expert or consultant position without regard to the laws and regulations governing appointments in the competitive civil service, and in approving the rate of pay set for this position without regard to the classification and pay laws, I have considered the requirements of law (5 U.S.C. 3109 or others), relevant Comptroller General decisions, OMB Circular A-120, and FPM Chapter 304. More specifically, I have satisfied myself that:

- a. The position is necessary and meets the appropriate OPM definition of expert or consultant in FPM Chapter 304;
- b. The work is temporary in nature, that is, will not exceed one year, and requires a high level of expertness not available in the regular work force;
- c. If a consultant position, it is of a purely advisory nature, and does not include the performance or supervision of operating functions;
- d. This authority is the most appropriate appointment authority for meeting the agency's needs;
- e. The proposed candidate meets the appropriate OPM definition in FPM Chapter 304 and does in fact possess the kind and level of expertness that will permit him or her to render the services the agency seeks;
- f. The daily rate intended to be paid the proposed appointee is commensurate with the level of work to be performed and his or her qualifications for the work; and
- g. Required documentation is in order.

Signature - Executive Director

Date

POPPS Chapter 304.A, Attachment 4:

QUARTERLY REVIEW OF EXPERT OR CONSULTANT

DUE DATE IN OHRM: _____

1. Name of Individual: _____ 2. Circle: Expert Consultant
3. Division/Office: _____
4. Dates covered by review: _____ to _____
5. Type of Schedule Worked: ☐ temporary ☐ intermittent ☐ full-time ☐ part-time
6. Compensation: ☐ Unpaid ☐ Paid Amount: \$ _____ per _____

CERTIFICATION BY MANAGER

I certify that (check as appropriate):

_____ The above-named individual is performing duties appropriate to an expert or consultant as defined in POPPS Chapter 304.A and is performing the duties of record as shown on the attached description (Minor pen and ink changes may be made to the description of duties, if necessary);

_____ Time limits are being observed (maximum of one year for a temporary appointment, with an intermittent appointment becoming temporary if the person works more than 130 days in a service year); [Attach a copy of his or her SEC 699, Time and Attendance Record]

_____ The work requires a high level of expertness not available in the regular work force; and

_____ If the person is a consultant, the work assigned is of a purely advisory nature and does not include the performance or supervision of operating functions.

Brief Summary of Accomplishments this period (bullet statements or narrative comments)

Signature - Division Director, Office Head, or Regional Administrator

Date

REVIEW OF CERTIFICATION

Required documentation is in order.

Signature - Associate Executive Director, OHRM

Date

POPPS Chapter 304.A. Attachment 5

**REQUIREMENTS FOR OFFICIAL PERSONNEL FOLDERS
FOR EXPERTS AND CONSULTANTS**

An OPF will be established for each expert or consultant brought in under the scope of this Chapter. The OPF shall include:

1. The materials supporting the request identified in section 8 (e.g., description of the position or work, SF-171);
2. A copy of the SF-50 showing the employment and specifying the type of work schedule (intermittent or temporary), any regularly scheduled tour of duty, and any pay and benefit entitlements;
3. A copy of the SF-50 for any reappointment to a different position or extension of the appointment;
4. For all appointments, reappointments, and extensions, a copy of the certification identified in Section 9;
5. For all reappointments of intermittent experts, a record showing the number of days worked in the previous service year;
6. Copies of all quarterly reviews, maintained on the left, or temporary, side of the OPF (These quarterly reviews are required to be kept until OPM reviews them in an agency compliance review; therefore, at the time an OPF is forwarded to the Federal Records Center or another agency following termination, the quarterly reviews should be pulled out and refiled in OHRM's subject files); and
7. A copy of the SF-50 for termination of the appointment.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-307.A
February 19, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 307.A

SPECIAL EMPLOYMENT PROGRAMS: Veterans and Disabled Veterans

1. **PURPOSE.** This Chapter explains the Commission's policy and procedures for certain special employment programs for veterans. The special employment programs are designed to assist qualified veterans under the Veterans Readjustment Act and veterans with disabilities to obtain employment, to retrain, and to advance consistent with their level of skills and abilities and their capacity for safe and efficient job performance.
2. **POLICY.** The Securities and Exchange Commission (SEC), consistent with Public Law, affords equal opportunity to all applicants. To ensure this, the SEC takes affirmative actions in support of hiring veterans and veterans with disabilities, as well as in support of other affirmative employment programs. The special employment programs discussed in this Chapter have special hire authorities which permit the SEC to hire on a permanent basis, qualified individuals without regard to Office of Personnel Management (OPM) registers. The SEC also strives to provide employment opportunities to veterans and disabled veterans who are qualified for its excepted service attorney positions. Servicing personnel specialists will assist in locating and hiring candidates under these authorities.
3. **SCOPE.** This Chapter applies to applicants for, and employees in, positions that are normally in the competitive service.
4. **AUTHORITY.** The primary requirements for these programs stem from Public Law 102-16, dated March 22, 1991, regarding disabled veterans and Public Law 102-568, dated October 29, 1992, regarding veterans. The major implementing regulations are in: 5 CFR Part 307; 5 CFR 315.705 and 315.707; and FPM Chapters 307 and 720.
5. **RESPONSIBILITIES.**
 - A. Managers and supervisors are responsible for:
 1. Advising their servicing personnel specialist of vacancies;

2. Ensuring that persons appointed under these programs receive the orientation and job training they need to learn and successfully perform their assigned duties;

3. Promptly advising their servicing personnel specialist of any placement problems which may occur; and

4. Recommending employees appointed under these programs for promotions in the same manner and on the same basis as they would other employees under their supervision.

B. Servicing personnel specialists, Staffing and Employee Relations Branch, are responsible for:

1. Locating and referring suitable candidates for vacancies vacancies which supervisors have identified; and

2. Monitoring employees' performance to prevent or minimize placement problems.

6. VETERANS READJUSTMENT ACT (VRA) PROGRAM.

A. Hiring Authority. Public Law 102-568, dated October 29, 1992, provides special authority to hire any veteran who served for a period of more than 180 days active duty, all or part of which occurred after August 4, 1964, and have other than a dishonorable discharge. The requirement for more than 180 days active service does not apply to:

1. Veterans separated from active duty because of a service-connected disability; or

2. Reserve and guard members who served on active duty during a period of war, such as the Persian Gulf War, or in a military operation for which a campaign or expeditionary medal is authorized.

B. Length of Eligibility.

1. Veterans who served on active duty between August 5, 1964 and May 7, 1975, are eligible for a VRA appointment until December 31, 1995, or 10 years after the date of last separation from active duty, whichever is later.

2. Veterans who served on active duty after May 7, 1975, are eligible for a VRA appointment until December 31, 1999, or 10 years after the date of last separation from active duty, whichever is later.

C. **Eligibility for Positions.** This authority may be used for appointments to positions at GS-11 and below, for individuals meeting the criteria in sections 5. A & B above.

D. **Hiring Arrangements.** The Commission can hire VRA individuals without regard to OPM registers. Veterans with less than 15 years of education hired under this authority must agree, in writing, to pursue a training and educational program during employment. VRA employees are in the excepted service for two years, and then are converted to career-conditional appointments if their performance has been satisfactory. After three years of total service, VRA employees are converted to career tenure.

7. SPECIAL HIRING AUTHORITY FOR 30 PERCENT OR MORE DISABLED VETERANS.

A. **Hiring Authority.** Public Law 102-16, March 22, 1991, provides special authority to hire any disabled veteran who has a compensable service-connected disability of 30 percent or more.

B. **Eligibility for Positions.** This authority may be used for appointments to positions at any grade level and in any series for which an applicant can qualify in terms of background and experience. There is no time limit on eligibility.

C. **Hiring Arrangements.** The Commission can hire 30 percent or more disabled veterans into permanent competitive positions without regard to OPM's register. The veterans must be serving under a temporary appointment not limited to 60 days or less.

8. OTHER HIRING AUTHORITIES AVAILABLE FOR DISABLED VETERANS.

A. **Hiring Authorities under Schedule A and B of the Excepted Service.** Applicants may be hired under the following authorities:

1. 5 CFR Section 213.3102(t), for the mentally retarded;
2. 5 CFR Section 213.3102(u), for the physically disabled; or
3. 5 CFR Section 213.3202(k), for the mentally restored (i.e., a person who has experienced some mental or emotional difficulty, has received professional treatment, and has been judged by an appropriate medical authority as "job ready").


B. **Eligibility for Positions.** These authorities may be used for positions at any grade and in any series for which an applicant can qualify in terms of background and experience.

C. **Hiring Arrangements.** A non-VRA veteran with a 30 percent or more disability can be given a temporary appointment for a trial period and then be converted to permanent excepted service employment. After a two year period, an employee in a permanent position may be converted to a competitive service position (career or career-conditional) based on his or her supervisor's recommendation. However, persons hired under the "mentally restored" Schedule B authority can be given a temporary appointment for two years but must be reached on a register within the two year period in order to be converted to a competitive service position.

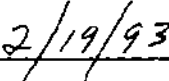
9. PERSONNEL SLOTS AND FUNDING. Employees hired under these authorities occupy regularly funded personnel slots within each organization's ceiling.

10. EFFECTS ON OTHER DOCUMENTS. This policy supersedes POPPS Chapter 307.A, dated September 9, 1991. The revision describes changes in eligibility for the Veterans Readjustment Authority and limits the Chapter to veterans.

11. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Staffing and Employee Relations Branch.



John Innocenti
Associate Executive Director
Office of Human Resources Management



Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-307.B
February 19, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 307.B

**SPECIAL EMPLOYMENT PROGRAM:
Disabled Individuals**

1. **PURPOSE.** This Chapter explains the Commission's policy and procedures for special employment program for persons with disabilities. The programs are designed to assist individuals with disabilities to obtain employment, retrain, and advance consistent with their level of skills and abilities and their capacity for safe and efficient job performance.
2. **POLICY.** The Securities and Exchange Commission (SEC), consistent with Public Law, affords equal opportunity to all applicants. To ensure this, the SEC takes affirmative actions in support of hiring individuals with disabilities, as well as supports other affirmative employment programs. The special employment program discussed in this Chapter has special hire authorities which permit the SEC to hire, on a permanent basis, qualified individuals without regard to Office of Personnel Management (OPM) registers and without the need for the individual to have qualified on an OPM examination. Servicing personnel specialists will assist in locating and hiring candidates under these authorities.
3. **SCOPE.** This Chapter applies to employees in the excepted service as well as applicants.
4. **AUTHORITY.** The primary requirements for the program stem from Public Law 93-112, dated September 27, 1973, regarding individuals with disabilities. The major implementing regulations are in FPM Chapter 306.
5. **RESPONSIBILITIES.**
 - A. Managers and supervisors are responsible for:
 1. Advising their servicing personnel specialist of vacancies;
 2. Ensuring that persons appointed under these programs receive the orientation and job training they need to learn and successfully perform their assigned duties;
 3. Promptly advising their servicing personnel specialist of any placement problems which may occur; and

4. Recommending employees appointed under these programs for promotions in the same manner and on the same basis as they would other employees under their supervision.

B. Servicing personnel specialists, Staffing and Employee Relations Branch, are responsible for:

1. Locating and referring suitable candidates for vacancies which supervisors have identified; and

2. Monitoring employees' performance to prevent or minimize placement problems.

6. EMPLOYMENT PROGRAM FOR DISABLED INDIVIDUALS.

A. Hiring Authorities under Schedule A and B of the Excepted Service. Applicants may be hired under the following authorities:

1. 5 CFR Section 213.3102(t), for the mentally retarded;

2. 5 CFR Section 213.3102(u), for the physically disabled; or

3. 5 CFR Section 213.3202(k), for the mentally restored (i.e., a person who has experienced some mental or emotional difficulty, has received professional treatment, and has been judged by an appropriate medical authority as "job ready").

B. Eligibility for Positions. These authorities may be used for positions at any grade and in any series for which an applicant can qualify in terms of background and experience.


C. Hiring Arrangements. An individual with a disability can be given a temporary appointment for a trial period and then be converted to permanent excepted service employment. After a two year period, an employee in a permanent position may be converted to a competitive service position based on his or her supervisor's recommendation. However, persons hired under the "mentally restored" Schedule B authority can be given a temporary appointment for two years but must be reached on a register within the two year period in order to be converted to a competitive service position.

7. **REASONABLE ACCOMMODATION.** Any requests for accommodation must be submitted on form SEC 2233 (see POPPS Chapter 720.A). The SEC is committed to making reasonable accommodations for qualified persons who are disabled.

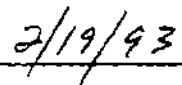
8. PERSONNEL SLOTS. Employees hired under these authorities occupy regularly funded personnel slots within each organization's ceiling.

9. EFFECTS ON OTHER DOCUMENTS. This policy supersedes POPPS Chapter 307.A, dated September 9, 1991; the revision sets up a separate Chapter for the special employment program for persons who are disabled.

10. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Staffing and Employee Relations Branch.



John Innocenti
Associate Executive Director
Office of Human Resources Management



Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-312.A
January 8, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 312.A

POSITION MANAGEMENT PROGRAM

1. PURPOSE. This chapter informs managers of the importance of developing and overseeing organizational structures. It also provides management with an understanding of the roles of the Office of the Executive Director, the Office of Human Resources Management (OHRM), and the Office of the Comptroller (Comptroller).

2. POLICY. The Securities and Exchange Commission (Commission) encourages:

A. Managers and supervisors to plan, structure, and staff positions to make the most effective use of human resources to accomplish assigned missions.

B. Managers, OHRM personnel, and Comptroller staff to coordinate their efforts to:

- 1.** Ensure efficient planning and use of resources;
- 2.** Maintain effective use of available employment ceilings; and
- 3.** Consider the effects of affirmative action and equal opportunity programs in the execution of the position management program.

3. SCOPE. This chapter applies to all Commission activities, organizational units, and positions.

4. AUTHORITIES. This regulation implements Federal Personnel Manual Chapter 312.

5. DEFINITIONS.

A. Position management is the creation of positions and organizational structures that reflect the charter and mission of the organization so as to achieve optimal efficiency, productivity, and organizational effectiveness.

B. Position Employee Reporting and Tracking System (PERTS) is an automated data system through which the Office of the Comptroller manages the number of appropriated positions and allocated hiring ceilings for each organizational entity. PERTS generates Position and staffing reports for management use and to support the preparation of formal budget exhibits to the Congress and Office of Management and Budget.

C. Position and Organization Listing (POL) is an automated report available from the Office of Information Technology. It is a management tool used to monitor personnel and position information including grade structure, vacancies, and organization alignment. The report identifies current on-board strength and includes the name of each employee, title, pay plan, series, grade, and a variety of other position and personnel information. The report is run every two weeks and is available for the manager's specific organization upon request.

D. Full-Time Equivalent Employment (FTE) is the number of employment hours (worked or to be worked) divided by the number of hours applicable to each fiscal year. An employment workyear can range from 260 to 262 days; the number of hours can range from 2,080 to 2,096 hours per full-time employee without overtime. Generally, this equates to full-time "slots". For example, an allocation of 20,800 hours is equivalent to 10 FTEs or normally 10 full-time positions. The number and allocation of FTEs (slots) is determined by appropriation and internal executive policy. The management of agency-wide FTEs is the responsibility of the Comptroller.

6. RESPONSIBILITIES.

A. The Executive Director, under delegated authority from the Chairman, is responsible for providing position management guidance and evaluating the overall effectiveness of the program, approving/disapproving requests for reorganizations and representing the Commission on position management and workforce issues to the Congress, Office of Management and Budget (OMB), Office of Personnel Management (OPM), etc. The Executive Director is assisted in these responsibilities by the OHRM and the Comptroller.

B. The Office of Human Resources Management has day-to-day oversight responsibility for the position management program. Specifically, OHRM:

POPPS 6-312.A January 8, 1992

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1. Provides expert advice and guidance to organization units concerning position and organization management and design.
2. Conducts comprehensive reviews and provides reports to the Executive Director on position management activities throughout the Commission; and determines the extent to which objectives are achieved, including position description accuracy, compliance with OPM classification standards, functional statement correctness, proper reporting relationships, and organization structure validity.
3. Prepares, in conjunction with the Comptroller, and provides to OPM and OMB monthly SF-113G reports which depict Commission staffing levels in terms of FTEs.
4. Offers managers and supervisors the organization and position data needed to monitor their organizations.
5. Makes formal classification of positions in new or restructured organizations after they meet all Commission requirements and the organization and functional statement is officially approved by the Executive Director (See POPPS Chapter 312.B).
6. Maintains the accuracy of the personnel data system based on management's instructions. The OHRM must identify and resolve all discrepancies between hard copy information and automated data.

C. The Office of the Comptroller is responsible for internal financial management and budget programming functions. Specifically, the Comptroller:

1. Is responsible for budgeting and monitoring agency position, FTE and related expenditures in compliance with appropriation law and regulations issued by the OMB, OPM, and General Accounting Office.
2. Is responsible to the Chairman, Commissioners, and Executive Director for the management of position allocations and FTEs for each organization entity and of the agency as a whole.
3. Provides expert advice to the Chairman, Commissioners, Executive Director and organization managers on issues affecting the agency's appropriated position, FTE and related financial resources.
4. Works in conjunction with OHRM and organization managers to allocate, maintain and monitor position and FTE allocations in PERTS to assure data integrity and compliance with appropriated levels and executive policy.


D. Division Directors, Office Heads, and Regional Administrators:

1. Review and assure that their organizational and position structures can effectively accomplish the assigned mission and functions.
2. Establish in their organizations the policies and procedures necessary to carry out an effective position management program (see Attachment 1 which provides position management suggestions).
3. Delegate to line managers and supervisors the authority and responsibility for position management to the lowest organizational level consistent with effective control.
4. Document this authority in managerial and supervisory position descriptions (see Attachment 2).

E. Line managers and/or supervisors who organize, assign, and direct the day-to-day operation of their subordinates have the basic responsibility for effectively implementing the position management program (see Attachment 1).

7. EFFECTS ON OTHER DOCUMENTS. This policy supersedes POPPS Chapter 312.A dated September 9, 1991 and its attachment.

8. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch, in consultation with the Office of the Comptroller.


John Innocenti, Director
Office of Human Resources Management
Date 1/8/92

Attachments:

1. Position Management Principles and Processes
2. Position Management Responsibility in the Position Description

POPPS 6-312.A, Attachment 1

POSITION MANAGEMENT PRINCIPLES AND PROCESSES

Good position management contributes to the federal objectives of improving organization and work quality, increasing employee productivity, and maximizing the use of human and fiscal resources. The following principles and processes provide line managers and supervisors with specific ideas for managing positions and organizations.

A. All managers and supervisors should:

1. Review the position and grade structure at least annually to assure accuracy.
2. Fill positions at the entrance or trainee level when possible. This provides employees with the opportunity for advancement which often develops into loyalty.
3. Redistribute, or abolish the duties of vacant positions when possible.
4. Keep the employees informed of organization changes, their rights to review the classification standards, and their right to appeal their position classification.
5. Not use the classification process as a primary means to reward employees. Classification is based on duties and responsibilities assigned. Guidance concerning rewarding employees can be found in POPPS Chapters 430.A and 451.A.
6. Be aware of the financial impact on the agency budget of their position management activities.

B. Senior managers also should consider:

1. Minimizing the number of organizational levels.
2. Avoiding the establishment of unnecessary organizational units for the purpose of supporting unwarranted supervisory positions.
3. Reviewing the POL, PERTS, or an equivalent report that shows current personnel and position data at least quarterly to assure that the number of filled and vacant positions and the organization coding accurately depict the subordinate unit(s).

POPPS 6-312.A, Attachment 2

POSITION MANAGEMENT RESPONSIBILITY IN THE POSITION DESCRIPTION

Section 6.D of this chapter requires that all delegated responsibilities for position management are listed and explained in the position description of each supervisor and manager. (For the purpose of this attachment, a supervisor or manager is someone whose position is classified by OHRM as supervisory or managerial.) This documentation can be generic or specific. It can be grouped with other personnel management responsibilities or singled out. It should clearly convey to the subordinate manager his/her position management responsibilities.

The following sample statement could be used in a position description for a first line supervisor:

The incumbent is delegated full responsibility for establishing, filling and reviewing positions, within assigned allocation limits. The incumbent develops and submits organizational changes to senior management for consideration.

The following sample statement could be used in the position description of a senior manager:

The incumbent is delegated full position and organizational responsibility for the Division/Office. The incumbent oversees the position management of subordinate supervisors to ensure that actions taken contribute to the accomplishment of missions and goals.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-312.B
July 14, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 312.B

PROPOSING AND PROCESSING REORGANIZATIONS

1. **PURPOSE.** This Chapter establishes guidelines for management to follow when requesting a reorganization and implementing procedures for the Office of Human Resources Management (OHRM), Office of Information Technology (OIT), and Office of the Comptroller (Comptroller).
2. **POLICY.** It is the policy of the Securities and Exchange Commission that all changes in organization structure receive the review and approval of the Executive Director.
3. **SCOPE.** This Chapter applies to all Commission activities, organizational units, and positions.
4. **AUTHORITIES.** This Chapter sets in place certain procedures related to the position management requirements of POPPS Chapter 312.A.
5. **DEFINITIONS.**

A. **Functional Statement** is a brief narrative prepared by management and maintained by OHRM that identifies an organization and its sub-units and describes the mission, purpose, and reporting relationships. Each sub-unit within a major line component (i.e. Division or Office) must be described. Multiple sub-units that perform the same functions do not require individual descriptions. (See POPPS Chapter 102 for an example.)

B. **Position and Organization Listing (POL)** is an automated report available from OIT. It is a management tool used to monitor personnel and position information, including grade structure, vacancies, and organization alignment. The report identifies current on-board strength and includes the name of each employee, title, pay plan, series, grade, and a variety of other position and personnel information. The report is run every two weeks and is available for the manager's specific organization upon request. (See also reference to PERTS in POPPS Chapter 312.A.)

C. **Reorganization** is the rearranging of functions and units within an established organization. A reorganization often includes creating new units and/or abolishing old units, based on new missions or the restructuring of work. As a result of reorganizations, new positions are often necessary and old positions are often revised or eliminated.

D. **Full-Time Equivalent Employment (FTE)** is the number of employment hours (worked or to be worked) divided by the number of hours applicable to each fiscal year. A employment workyear can range from 260 to 262 days; the number of hours can range from 2,080 to 2,096 hours per full-time employee without overtime. Generally, this equates to full-time "slots." For example, an allocation of 20,800 hours is equivalent to 10 FTEs or normally 10 full-time positions. The number and allocation of FTEs (or slots) is determined by appropriation and internal executive policy. The management of FTEs is the responsibility of the Comptroller.

6. PROCEDURES.

A. Management should discuss plans to reorganize with their servicing Classification Specialist before undertaking a reorganization. The specialist can assist management by identifying possible problems and providing alternatives. (See Attachment 1.) Management must submit a formal written proposal of reorganization to the Office of the Executive Director, with copies to the Director, OHRM and the Comptroller, which includes:

1. A brief narrative of the proposed changes and why they are important or required (new legislation, new or revised program requirements, or a desire by the head of the program to improve work processes or organizational relationships);
2. A functional statement describing the purpose, responsibilities and reporting relationships of the proposed organization; and
3. Organization charts that show the current structure and the proposed structure and also the proposed movement of positions and employees.

B. OHRM reviews and assesses the proposed reorganization and submits a recommendation to the Executive Director based on:

1. Impact on the positions and employees of the current structure;
- and
2. Effective use of position and human resources.

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C. Concurrently, the Comptroller reviews the request for overall compliance with the agency's appropriated resources and impact on the agency's budget. The Comptroller's recommendations are forwarded to the Executive Director.

D. If the reorganization is approved by the Executive Director, OHRM works with management to revise or eliminate existing positions and establish new positions to accommodate the new structure. Management provides the Comptroller with information necessary to assure that the positions are properly established and maintained in the agency's PERTS system.

E. OHRM determines and submits the appropriate organization structure coding (below the major organization level) to OIT for implementation. OHRM then processes a mass change to move the positions and employees to the new organization.

7. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes Chapter 312.B dated January 8, 1992 and incorporates the supervisory/subordinate ratios attachment into the policy.

8. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch.


John Innocenti, Director
Office of Human Resources Management
Date 7/14/92

Attachment:

1. Supervisory/Subordinate Ratio Policy

POPPS 6-312.B Attachment 1

July 14, 1992

SUPERVISORY/SUBORDINATE RATIOS

In order to support the existence of a Branch Chief or Section Chief, there must be at least four subordinate program positions which are filled on a full-time basis.

A. Subordinate Program Positions are those positions that are directly related to the immediate mission of the organization supervised by the supervisor, and which are typically in the same occupation or at least the same type of position (two-grade career progression or one-grade career progression) as the supervisor. For example, subordinate attorneys will generally prescribe the supervisor's title of Supervisory General Attorney (Securities Industry), or subordinate Voucher Examiners will in most instances call for the supervisor to be titled as Supervisory Voucher Examiner.

B. When submitting reorganization requests (as described in item 6 of this Chapter), a Division or Office will ensure that all Branches, Sections or other first-line organizational segments contain at least four subordinate program positions.

C. The documentation supporting a reorganization proposal must, at a minimum, show the actual titles of established (or proposed) positions that are directly subordinate to any supervisory job that is affected by the proposed action.

D. Management is strongly encouraged to discuss any proposed reorganization informally with a position classification specialist in OHRM, prior to submitting any formal documentation. Preliminary discussions can be helpful in ensuring that the minimum supervisory-subordinate ratio is met as well as determining that the reorganization will not have a negative impact on already-established supervisory positions.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 330.A
September 9, 1997

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 330.A
SEC CAREER TRANSITION ASSISTANCE PLAN

1. **PURPOSE.** This chapter describes the SEC's policies and procedures concerning the operation of the agency's Career Transition Assistance Plan (CTAP), as well as its implementation of the Interagency Career Transition Assistance Plan (ICTAP). The plan is effective until September 30, 1999, unless modified or extended by regulation because of continued severe government downsizing. This chapter supersedes the policy dated February 26, 1996 to incorporate final OPM regulations which became effective July 9, 1997.
2. **POLICY.** The Securities and Exchange Commission's policy is to provide career transition services to help surplus and displaced employees take charge of their own careers and find other employment, either within the SEC, in other Federal agencies, or in the private sector. To assist employees in their efforts, the SEC will make career transition services available to all surplus and displaced employees;¹ provide special selection priority for eligible SEC and other Federal employees; and maintain operation of the Reemployment Priority List (RPL) in accordance with POPPS Chapter 351.A and 5 CFR 330, subpart B. These provisions shall be uniformly and consistently applied to all eligible employees.
3. **AUTHORITIES.** This CTAP complies with the Presidential memorandum dated September 12, 1995, entitled "Career Transition Assistance for Federal Employees" and with 5 CFR Part 330 published on June 9, 1997. These underlying documents are based on an employee empowerment approach to career transition and outplacement.
4. **BACKGROUND.** The SEC does not presently anticipate any major downsizing of its workforce during fiscal years 1998 and 1999. However, reorganizations and/or reallocations of position slots to accomplish agency mission priorities may become necessary and could result in a reduction in force (RIF) if the required changes cannot be accomplished through attrition, reassignments, and other actions. Should displacement of employees become necessary, thus triggering the provisions of this policy, the SEC intends to enter into inter-agency agreements or to contract for career transition services within budget limitations.
5. **DEFINITIONS.** For purposes of this plan, the definitions in 5 CFR Subpart F apply.

¹ "Surplus employee" refers to an employee who has received a Certificate of Expected Separation (notice stating that he or she MAY be separated under reduction in force (RIF) procedures) or other official notice of position abolishment or eligibility for discontinued service retirement based on position abolishment. "Displaced employee" refers to an employee who has received a specific RIF notice (the official 60-day notice of displacement) or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area.

A. **The Associate Executive Director, OAPM**, administers and oversees the SEC's CTAP. OAPM ensures that: (1) the plan operates in accordance with regulatory requirements; (2) appropriate career transition services are provided within budget constraints; (3) reasonable accommodation is provided to eligible employees with disabilities, upon their request, to assist them in using career transition services and facilities and receiving special selection priority in accordance with this policy; and (4) adequate records are maintained.

B. **Managers and supervisors** are responsible for arranging work schedules to facilitate employees' use of transition services and for hiring well-qualified employees eligible for special selection priority.

C. **Employees** are responsible for managing their own career transitions by using available career transition services to identify appropriate job opportunities in which they have an interest and, when appropriate, submitting the supporting documentation required to receive special selection priority.

D. **The Employee Assistance Program (EAP)** will provide counseling and assistance to employees and their families to cope with stress and the personal, family, and financial issues associated with the displacement and transition processes.

7. **CAREER TRANSITION SERVICES.**

A. **Eligibility.** All surplus or displaced SEC employees, including those in the excepted service and Senior Executive Service,² are eligible to participate in the SEC's career transition services. In addition, former employees separated through RIF will remain eligible for career transition services for six months from the date of separation, until they accept permanent employment, or until they decline an SEC reemployment offer, whichever occurs first.

B. **Types of Career Transition Services.** The SEC will provide information to eligible employees about career transition services that are being made available. Depending on the number and geographic locations of the employees to be displaced, the agency will either contract for services to be provided on-site or arrange for access to locally available sources. The following will be made available:

1. A specific orientation session for identified surplus and displaced employees on the use of career transition services, which provides information on: eligibility requirements and application procedures for selection priority under CTAP and ICTAP; the availability of Federal, state, and local assistance in the areas of job placement listings, counseling services, unemployment benefits, and training/retraining programs; and SEC-specific services available, including reasonable accommodation assistance for employees with disabilities to participate in these services, if applicable;

2. Counseling on Federal benefits for employees retiring or separating from Government service;

² SES and excepted service employees are not, however, eligible for the Special Selection Priority discussed in Section 8.

3. Individual or family counseling through the EAP;
 4. Career transition training based on the assessment of affected employees' needs (e.g., skills assessment, career counseling, resume preparation, job search skills, interviewing skills, private sector salary and benefits negotiation, and/or retirement planning);³ and
 5. Information on and access to computerized databases of job listings.
- C. Retraining.

1. Based on projections of SEC short or long-range staffing needs, the SEC will assess the feasibility of providing any surplus and displaced employees who possess basic skills and qualifications with a **limited amount** of retraining that would enable them to be able to perform satisfactorily in the projected positions. Short-term retraining may be provided where appropriate, subject to budget restrictions and the regulatory prohibition on training to obtain a degree.

2. If the target positions for employees to be retrained offer greater promotion potential to employees, employees **must** compete for either the positions or entry into the retraining programs. The competitive processes must be in accordance with merit principles and other agency policies (e.g., EEO, training, merit promotion).

3. As soon as possible after identifying the specific employees who will become surplus, affected employees will be issued Certificates of Expected Separation so that they may qualify for programs under the Job Training Partnership Act administered by the Department of Labor. These programs include provisions for retraining for positions outside of the Federal Government, which employing agencies are precluded from funding.

D. Access to Services.

1. **Official Duty Status.** Employees may attend SEC sponsored or approved career transition training (such as resume writing, job search techniques and sources, and retirement planning) or retraining while in an official duty status in accordance with normal agency training procedures. Time for job interviews within the SEC also is considered official duty time.

2. **Administrative Leave.** Eligible surplus or displaced employees may submit SF-71 leave requests for administrative leave to their supervisors to request permission to participate in off-site career transition center services, job fairs, job interviews, or other appropriate outplacement activities. Such requests are to be approved or disapproved on a case-by-case basis, considering workload demands and office needs. Approved administrative leave will not exceed 8 hours in any pay period for surplus employees who have received a Certificate of Expected Separation or 16 hours per pay period for displaced employees who have received a specific RIF notice. In extenuating circumstances, the supervisor may request an exception in writing, through the chain of command, for approval or disapproval by the Division or Office Director. Supervisors also are encouraged to approve use of annual leave and/or credit hours where feasible to accommodate career transition needs.

³ The training may be provided through any feasible means, including group sessions, computer-based instruction, distance learning programs, and/or relevant publications.

3. Use of SEC Resources. Eligible surplus or displaced employees are permitted to use SEC resources for authorized job search and career transition activities, including computers, printers, supplies, copiers, telephones, and Internet and Bulletin Board access during non-duty hours or approved administrative leave. However, they may NOT use any SEC mail services or government envelopes.

8. **SPECIAL SELECTION PRIORITY.** The SEC will provide special selection priority to well-qualified surplus or displaced SEC employees (eligible employees) in the local commuting area who apply for qualifying vacancies for positions lasting more than 120 days.

A. Notification of Employees. OAPM will provide each surplus or displaced SEC employee detailed information in a specific orientation session about the special selection priority entitlement, application and evaluation procedures, required documentation of eligibility for selection priority, and procedures for learning about vacant positions at or near the time the RIF separation notice, Certificate of Expected Separation, or official notice of position abolishment/eligibility for discontinued service retirement is issued. Vacancy announcements for competitive service positions will contain information about application procedures under CTAP and ICTAP.

B. Eligibility. To be eligible for special selection priority, an employee must meet ALL criteria. An employee MUST:

1. Be a current surplus or displaced employee in the competitive service (GS 1-15 and wage grade) serving under a permanent career or career-conditional appointment at the SEC;

2. Have a current performance rating of record of at least fully successful;

3. Occupy a position in the same local commuting area of the vacancy (headquarters or field office);

4. Apply for a vacancy that is at or below the grade level of the position from which the employee is or may be separated and that does not have any higher promotion potential;

5. Submit an application for a specific vacancy within the open announcement period indicated on the vacancy announcement, attaching proof of eligibility for special selection priority (i.e., applicable notice); and

6. Be determined *well-qualified* for the specific vacancy. As required by OPM, each vacancy announcement will contain a statement that clearly defines the criteria for determining whether surplus or displaced applicants are well-qualified for the position. To be determined well-qualified for special selection priority, applicants must meet all basic qualification and eligibility requirements for the position, as well as all mandatory selective factors, and: (a) be rated at the above average level (3 points) or higher in each quality ranking factor; or (b) receive a superior rating (5 points) to offset each quality ranking factor rated minimally qualified (1 point).

C. Effective Dates of Eligibility.

1. Eligibility begins on the date of receipt of a RIF separation notice, Certification of Expected Separation, notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, or other official notice identifying the specific employee as being in a surplus organization or occupation, whichever is earliest.

2. Eligibility expires on the earliest of: (a) a RIF separation date; (b) date of separation for declining a directed reassignment or transfer of function outside of the local commuting area; (c) cancellation of a notice described in 8.C.1. above; (d) receipt of a full-time or part-time career, career-conditional, or excepted appointment without time limit in ANY agency; or (e) date employee declines an official offer of a permanent SEC position for which the employee applied and was found to be well-qualified.

D. Personnel Actions Subject to Selection Priority. Competitive service vacancies or other personnel actions subject to selection priority include reassignments, voluntary changes to lower grade, promotions requiring competition, and other permanent placements under the SEC's Merit Promotion Plan, except those in 8.E. below. In addition, a surplus or displaced candidate may file an application and receive consideration for any temporary vacancies lasting more than 120 days.

E. Personnel Actions Excluded from Selection Priority. 5 CFR 330.606 (d) excepts 28 kinds of personnel actions from coverage. The following are the most common actions not subject to selection priority in this agency:

1. Conversion of an SEC excepted service employee with non-competitive eligibility for conversion into the competitive service (e.g., Cooperative Education or Veterans Readjustment Act appointments);

2. Exchange of positions (job swaps) among agency employees that do not involve any increase in grade or promotion potential;

3. Actions taken under RIF procedures;

4. Non-competitive movement of surplus and displaced employees within the same commuting area;

5. Actions taken as a result of disciplinary action;

6. Career ladder promotions or position changes due to classification actions;

7. Details;

8. Temporary appointments and time-limited promotions of 120 days or less (including all extensions);

9. Filling of a position through excepted appointment;

10. Movement of excepted service employees;

11. Intergovernmental Personnel Act assignments;

12. Selection of an employee from within a component of the SEC (i.e., Division or Office within headquarters, regional office, or district office, which are the first major subdivisions within the SEC) after all eligible displaced or surplus applicants of that same component have been given selection priority.

F. Qualification Reviews. Whenever a surplus or displaced SEC employee applies in accordance with 8.B. above is determined NOT to be well-qualified, a review of this determination will be made by an OAPM staffing and classification team leader or higher level OAPM management official who was not initially involved in the rating process. This review shall be documented.

G. Selection. Unless any of the exceptions in 5 CFR 330.606(d) apply or such selection would cause another employee to be separated through RIF, a selecting official MUST select a well-qualified eligible CTAP employee before selecting any other candidate from within the SEC or outside of the agency (see also ICTAP procedures at 10.B). In accordance with government-wide policy, eligible employees do not have to be the "best qualified" in order to have selection priority. If the selecting official believes that the candidate should not have been found to be well-qualified and seeks not to select that candidate, he or she MUST submit a written request for reconsideration of the determination, with a compelling justification, to the Associate Executive Director, OAPM.

H. Order of Selection for Filling Competitive Vacancies within the SEC. If two or more eligible surplus or displaced employees apply for a vacancy and are determined to be well-qualified, any of these candidates may be selected for the position by the selecting official.

I. Notification to Surplus and Displaced Applicants. Applicants who apply for positions for which they have selection priority will be notified in writing of the outcome of their application: whether they were found to be well-qualified and, if not, the results of the independent review; and whether another surplus or displaced employee was selected if they were found to be well-qualified. Declinations of job offers also must be documented.

9. REEMPLOYMENT PRIORITY LIST (RPL).

A. In accordance with 5 CFR Part 330, the SEC will establish and administer a RPL for each commuting area for separated competitive service employees through RIF procedures or who otherwise qualify for the RPL. An employee must apply for the RPL within 30 calendar days of separation/eligibility in order to be considered under that placement program. However, displaced or surplus current employees have selection priority over separated employees on the RPL.

B. Under the RPL, eligible separated employees who have applied for coverage must not have refused a RIF employment offer of assignment to a position at the same grade and must be in either tenure group I or II in the competitive service. Names of registered employees will be maintained on the RPL for 2 years (if in tenure group I - generally non-probationary career employees), or 1 year (if in tenure group II - generally career-conditional and probationary employees), except for employees who receive an appointment without time limit in any agency or who request to have their name removed from the RPL prior to the appropriate timeframe.

C. Excepted service employees are not normally eligible for RPL listing. However, those excepted service employees who have veterans' preference eligibility and who are separated by a RIF are permitted to have their names placed on a RPL which gives them future consideration for excepted positions filled within the SEC.

10. IMPLEMENTATION OF INTERAGENCY CAREER TRANSITION ASSISTANCE PLAN (ICTAP).

A. Overview. Effective February 29, 1996, the U.S. Office of Personnel Management (OPM) suspended its Interagency Placement Program (IPP), replacing it with the ICTAP. This program is described in 5 CFR 330 Subpart G (revised June 9, 1997). It relies on an "empowerment" model that places responsibility for finding and applying for positions on the displaced employees themselves. The ICTAP requires agencies to file notices of all competitive service vacancies of 121 days or longer with OPM where the area of consideration is broader than agency-wide, and to select eligible displaced former Federal employees prior to any other candidates from outside of the agency if they are found to be well-qualified under applicable agency procedures. Surplus employees are not eligible for selection priority under ICTAP.

B. Order of Selection. When filling a position outside of the SEC, the selecting official must select eligible well-qualified ICTAP candidates, using the same criteria for well-qualified as under CTAP (see 8.B.6.). CTAP candidates first must have been given consideration. Selections must be made in the following order:

1. Former SEC employees eligible under the RPL;
2. Current or former Federal employees displaced from other agencies who are eligible under the ICTAP (OAPM is responsible for determining eligibility); and
3. Any other candidate under appropriate selection procedures.

C. Notification to Surplus and Displaced Applicants. ICTAP Applicants who apply for positions for which they have selection priority will be notified in writing of the outcome of their application: whether they were found to be well-qualified and, if not, the results of the independent review; and whether another surplus or displaced employee was selected if they were found to be well-qualified. Declinations of job offers also must be documented.

11. RECORDS AND REPORTING. OAPM will maintain records sufficient to reconstruct decisions on selection and eligibility and to meet OPM reporting requirements. Reports required under 5 CFR 330.610 and 330.710 will be submitted to OPM by December 31 of each year.

12. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel
Management.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

Sep. 9, 1997
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-335.A
August 16, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 335.A
SEC MERIT PROMOTION PLAN

1. **PURPOSE.** This chapter describes the Commission's policies and procedures for filling vacant positions in the Competitive Service and promoting employees consistent with the Merit Principles (Title 5 United States Code, Chapter 23). It supersedes POPPS Chapter 335.A dated September 9, 1991 and its attachments.

2. **INDEX.**

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3. **POLICY.** The Securities and Exchange Commission's policy is to provide a fair and systematic approach for the identification, evaluation, and competitive selection of employees on the basis of merit principles. Actions taken under this plan shall be made without regard to political, religious, labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying disability, or age and shall be based solely on job-related criteria. Positive action will be taken by management to identify and eliminate any barriers to equal employment opportunity.

4. **AUTHORITIES.** Title 5 United States Code, Chapter 33 and 5 Code of Federal Regulations Part 335.

5. **SCOPE.**

A. This Merit Promotion Plan applies to:

1. SEC employees who are serving in a career or career-conditional appointment;
2. Federal employees who are serving in a career or career-conditional appointment at another federal agency; and
3. Former federal employees who served in a career or career-conditional appointment and meet the requirements for reinstatement.

B. This Merit Promotion Plan does not apply to:

1. Employees in positions covered by special authorities (*e.g.*, Schedules A, B, and C) in the excepted service (*i.e.*, attorney, intern, stay-in-school, summer positions, etc.). When developed, POPPS Chapter 335.B will cover merit promotion procedures for excepted service attorneys;
2. Employees new to the federal government who have not completed at least 90 days of continuous service under a permanent competitive appointment; and
3. Persons with disabilities and veterans who are eligible for appointment under certain Schedule A authorities.

6. **DEFINITIONS.**

A. **Career Ladder** is the range of grade levels from entry-trainee level to full performance level established for one type of position in accordance with Office of Personnel Management (OPM) Classification Standards.

B. **Competitive Service** positions are permanent positions in the executive, legislative, and judicial branches of the federal government for which appointments must be made through civil service competitive examination processes.

C. **Demotion** is the movement of an employee to a lower grade within a pay system or to a position in a different pay system with a lower pay rate.

D. **Detail** is the temporary assignment of an employee to a different position with the understanding that the employee will return to his or her permanent position and duties at the end of the assignment. Certain details of more than 120 days are covered by competitive procedures.

E. **Full Performance Level** is the highest grade level an employee can attain without further competition.

F. **Highly Qualified Candidates** are qualified candidates whose experience and training exceed the minimum qualification requirements and who are evaluated at the top when compared with other eligible candidates.

G. **Knowledge, Skills, and Abilities (KSAs)** are the characteristics, determined through job analysis prior to posting, that an individual must bring to the job to perform the duties. Knowledge refers to a body of information which, if applied, makes adequate performance of the job possible. Skill refers to the manual, verbal, or mental manipulation of data or things that are observable, quantifiable, and measurable (e.g., typing or word processing). Ability refers to the power to perform (e.g., supervision).

H. **Merit Promotion Certificate** is an alphabetical list of the names of candidates referred to the selecting official.

I. **Priority Placement**, under this chapter, is a noncompetitive corrective action that is taken to promote or place a candidate not given proper consideration in a competitive merit promotion action. The Associate Executive Director of the Office of Administrative and Personnel Management (OAPM) determines if priority consideration for another position is warranted and whether to effect the priority placement, after considering the views of the selecting official.

J. **Promotion** is the movement of an employee to a position at a higher grade level within the same pay system and pay schedule or to a position with a higher rate of basic pay in a different job classification system and pay schedule.

K. **Qualification Standards Handbook** is a manual issued by OPM that provides minimum qualification requirements for most occupations and grades covered in the federal service.

L. **Qualified Candidates** are individuals who meet the minimum qualification requirements for positions, including appropriate mandatory selective factors and other eligibility requirements as described on the vacancy announcement of the position being filled.

M. **Reassignment** is the movement of an employee from one position to another at the same grade level.

N. **Reinstatement** is the reemployment of a former federal employee who previously served in a career appointment or who served in a career-conditional appointment and has less than

three years break in service from the last career-conditional appointment, plus situations covered by OPM regulations.

O. **Selectee** is the applicant selected from a merit promotion certificate to fill a position.

P. **Selecting Official** is a person within the management chain of command who is delegated the authority to make selections for a designated position (normally the immediate supervisor).

Q. **Time-In-Grade** is the requirement for the advancement to a higher grade level based on fulfilling the required length of service at the next lower grade.

7. RESPONSIBILITIES AND DELEGATION OF AUTHORITY.

A. **The Chairman**, as head of the agency, has authority to implement the merit promotion plan and has delegated that authority to the Executive Director.

B. **The Executive Director** has further delegated the above authority to the Associate Executive Director (OAPM), but maintains authority to set restrictions on how management will be allowed to recruit and fill positions beyond this plan and to approve refilling of higher level positions.

C. **The Associate Executive Director, OAPM**, administers and oversees the SEC's Merit Promotion Plan. OAPM ensures that the plan operates in accordance with the merit principles and federal rules and regulations, and that adequate records are maintained. In addition, OAPM is responsible for informing offices of opportunities to select from other appropriate sources (*e.g.*, reemployment priority lists, reinstatement, transfer, special authorities for hiring persons with disabilities, Veterans Readjustment Act) and to assist in determining which is best to meet objectives, ideas, viewpoints, and affirmative action goals.

D. **Managers and Supervisors** are responsible for the operation of their assigned organizations and, as such, they must:

1. Anticipate personnel needs and initiate timely action for filling vacant positions through the merit promotion procedures or other processes;
2. Work with OAPM to determine whether and what mandatory selective factors are needed to identify the pool of qualified applicants;
3. Work with OAPM to develop quality ranking factors to properly rate qualified applicants; and
4. Release employees selected for a position within the SEC to coincide with the beginning of the first pay period after a two week notice, unless OAPM approval is obtained.

E. **Selecting Officials** are responsible for analyzing the experience and background of each candidate referred from OAPM, determining and selecting the best candidate to perform the duties of the position, and documenting the reasons for that selection.

F. Employees may apply for consideration for any vacant position posted through this Merit Promotion Plan. However, employees should carefully examine the plan to determine appropriate procedures for applying for vacancies, requesting answers to concerns, and/or requesting reconsideration of actions. Employees also are responsible for becoming aware of vacancies, for thoroughly reviewing vacancy announcements before filing applications, and for submitting complete SEC application materials and any appropriate forms required by the instructions indicated on the vacancy announcement. Most importantly, employees must be sure to file their applications no later than the filing deadline.

8. COMPETITIVE MERIT PROMOTION ACTIONS.

A. Listed below are the competitive actions covered by this plan. They are:

1. All promotions to positions that have higher promotion potential;
2. Temporary promotions, or details that train or prepare selectees for positions with higher promotion potential than their current position, when such assignments are for more than 120 days;
3. Reassignments or demotions to positions that have known higher promotion potential except as permitted by reduction-in-force (RIF) regulations;
4. Reassignments from non-supervisory to supervisory positions, unless the action involves an employee who previously held a supervisory position at the same or higher grade level in the SEC;
5. Transfers-in of federal employees to positions with higher promotion potential than the ones currently occupied;
6. Reinstatement of former career or career-conditional employees to permanent or temporary positions with known promotion potential higher than positions previously held; and
7. Selection for structured training and development programs (*e.g.*, Upward Mobility) that are intended to prepare individuals for higher-level positions or new career fields that offer promotion potential.

9. NONCOMPETITIVE MERIT PROMOTION ACTIONS.

A. The following placement actions do not require the competitive procedures of this plan:

1. Career ladder promotion to the full performance level (including cooperative education program appointees);
2. Promotion resulting from an employee's position having been reclassified at a higher grade because of an accretion of duties and responsibilities, as long as the old duties are

absorbed into the higher level position and there are no other employees to whom the higher level duties could be assigned;

3. Reassignments between supervisory positions at the same grade level, and from a non-supervisory to a supervisory position if the individual has held a permanent supervisory position in the SEC at the same or higher grade, as long as the specific supervisory position to which he or she is reassigned has no higher promotion potential;

4. Temporary promotion made permanent without further competition if the temporary promotion was originally made under a competitive posting and provided for such conversion;

5. Temporary promotion or detail to a higher graded position for 120 days or less;

6. Transfer or reinstatement at the same or lower grade than the last position held by the employee under a career or career-conditional appointment;

7. Reassignment or demotion from one position to another having no higher promotion potential;

8. Position change effected under reduction-in-force (RIF) regulations;

9. Promotion as a result of issuance of a new classification standard or correction of a classification error, provided the employee meets the legal and qualification requirements for the higher grade position; and

10. Promotion to a grade previously held. Competitive procedures need not apply in promotion and transfer actions provided the grade of the position for which a candidate is selected is no higher, or has no higher potential, than a grade from which the candidate was demoted without personal cause.

10. RECRUITMENT PROCEDURES.

A. Initiating a Merit Promotion Action. The supervisor is responsible for initiating any promotion action and (in conjunction with his or her administrative contact and OAPM staff) develops, prepares, reviews, and submits the following documentation to the Office of Comptroller, for budgetary purposes, who will then submit to OAPM:

1. Request for Personnel Action (SF-52). Complete as much as possible; however, block number 5 must contain the name, title and signature of the official requesting the action. A separate SF-52 must be submitted when filling or posting multiple positions (but not for a position posted at multiple grades).

a. The Executive Director reserves the right to review General Schedule position actions.

b. Requests to fill GS-15 positions, and any other grades or occupational groups that the Executive Director has indicated an intention to review under a. above, require the signature of the Division Director, Office Head, Regional Director or District Administrator in Part A, block 6 of the SF-52. Other signatures only will be accepted if the person is formally acting for one of the above officials.

2. Position Description (PD). Attach a current (less than 4 years old) position description that has been approved by the Classification and Staffing Branch and that has the supervisor's signature on the cover sheet (OF-8). A separate PD must be submitted for each grade being posted.

3. Performance Standards. Submit separate performance standards for each grade level at which the position is being posted.

B. Completing a Vacancy Announcement. The vacancy announcement is a public notice that contains specific information about a vacant position. A vacancy announcement is jointly prepared by the supervisor, the administrative contact, and the servicing personnel specialist. All announcements will contain the following information:

1. Position. A position may be posted at one grade or at multiple grade levels up to the full performance level of the position (e.g., GS-9/11/12/13). The exact title as shown on the position description is listed on the announcement. In some cases, the organizational title is included under the agency title to distinguish or better describe positions at higher levels (e.g., GS-510-14 Supvy. Staff Accountant, Branch Chief).

2. Area of Consideration. The area of consideration describes the locality or pool from which the agency makes a search for eligible candidates to fill merit promotion actions. Management, with the assistance of OAPM, must determine the area of consideration needed to obtain an adequate number of qualified candidates. The selecting official must consider the broadest area of consideration necessary to ensure fair and open consideration and the location of SEC applicants having the desired experience for the position to be filled.

3. Open Period. The time between the opening and the closing dates of the announcement. The minimum open period for a posting is five work days. Generally, open periods may be expanded to accommodate a wider area of consideration.

4. Duties. The vacancy announcement must contain a concise description of the primary duties to provide candidates with a clear understanding of the position.

5. Minimum Qualification Requirements. The announcement must indicate all OPM specified minimum qualifications for experience, education, training, and time-in-grade requirements necessary to qualify for the position.

6. Mandatory Selective Factors (MSF). These factors are special qualification requirements that all candidates must have to be eligible for further consideration.

7. **Quality Ranking Factors (QRF).** These KSAs are used to rate and rank those candidates who meet the minimum qualification requirements of the position being filled.

C. **Developing a Rating Schedule.** The rating schedule is developed by management, with the assistance of OAPM, to provide the specific KSA criteria and point values to be used to evaluate qualified applicants and distinguish the highly qualified applicants from other qualified applicants. The rating schedule contains:

1. QRFs listed on the vacancy announcement and descriptions of at least three qualitative levels of experience, education, and training which would indicate the degree to which an applicant possesses the KSAs. Point values are assigned to each description on a scale of one (low) to five (high).

2. Qualitative ratings for any MSFs, when it is possible to differentiate higher levels of experience, education, or training beyond the level needed to be eligible for the job.

3. Weights assigned to each QRF and MSF on the rating schedule. One factor may be given a greater overall weight than another factor if the job analysis shows that it is more important to successful job performance.

11. APPLICATION PROCEDURES.

A. **Application Deadline.** Each interested candidate must submit all necessary application materials identified in the vacancy announcement by the closing date. All mailed applications must be postmarked by the closing date, date stamped and received by OAPM within 3 work days of closing to be considered for the vacancy.

B. Late Applications.

1. Under certain circumstances, employees may be allowed to apply after the closing date and before a selection is made. Such conditions include any employee who was absent for any legitimate reason (e.g., official travel, approved leave) for at least the majority of the open period.

2. If an employee seeks to file an application after the closing period, he or she must submit a written justification to the Branch Chief, Classification and Staffing Branch, explaining the reason surrounding the situation immediately upon his or her return. The servicing personnel specialist and Branch Chief will review the justification and notify the employee of OAPM's decision. If approved, the employee must submit an application within three work days after the date of approval. Late applications may be accepted after the issuance of the certificate, but not after a selection is made.

12. DETERMINING BASIC ELIGIBILITY. All applications will be reviewed by a servicing personnel specialist to determine whether they meet the minimum qualification requirements. If positions are posted at multiple grade levels, the servicing personnel specialist will evaluate qualifications based on the grade indicated by the applicant. When a candidate fails to indicate a

grade level, he/she will be considered for the highest grade for which qualified. Time-in-grade requirements and qualifications must be met as of the announcement closing date.

13. EVALUATING QUALIFIED CANDIDATES. Qualified applicants can be evaluated using one or more of the following techniques:

A. **Rating Qualified Applicants.** Candidates who meet the minimum qualifications for the position are rated and ranked against an established rating schedule to determine the best qualified candidates to be certified to the selecting official. *This process is mandatory for one or more candidates.* Two options are available to the selecting official:

1. Rating by the servicing personnel specialist; or
2. Rating by a panel of three subject matter specialists. Panel members (from the SEC or another government agency) will be at or above the grade level of the position to be filled, have technical or subject matter expertise or knowledge of the requirements of the position, and be recommended by management. The personnel specialist will confirm panel members' eligibility and arrange participation, and will provide technical guidance and assistance to prepare the panel for their rating and ranking functions.

B. **Screening Interviews.** The selecting official may have applicants interviewed by a panel.

1. The rating panel may interview the candidates who are highly ranked prior to the development of the certificate(s).
2. After a certificate is issued to the selecting official, he/she may establish a separate screening interview panel to interview all candidates on the certificate (if one candidate from a certificate is interviewed, all candidates from that certificate must be interviewed). If there are multiple certificates, the panel may interview from one or more certificates. The panel may then make a written recommendation to the selecting official. However, all certificates are referred to the selecting official who may or may not take the recommendation of the panel.

C. **Selection from Applicants on Certificate(s).** Interviews are recommended as an integral part of determining the best person for the position. However, the selecting official may make a selection from any of the certificates referred from OAPM with or without conducting interviews. If the selecting official interviews or contacts any candidate in person or by telephone on a certificate prior to selection, he or she must interview or contact all candidates by telephone or in person. If a screening panel formally (in writing) recommends candidates, the selecting official need only interview those recommended. However, if the selecting official also wishes to interview others on the certificate, all must be interviewed.

D. **Structuring Interviews.** In order to assure equity, selecting officials and interviewing panels are encouraged to prepare in advance written questions that are job-related, and must ask them of all candidates. Interviewers may ask follow-up questions that arise from a response to a standard question or from the review of a candidate's particular application (e.g., reasons for leaving a previous job, gaps in employment, details about a particular accomplishment, etc.).

14. CERTIFICATION PROCEDURES.

A. Issuing Certificates. The servicing personnel specialist will issue certificates with candidates in alphabetical order to the selecting official for review.

B. Certificates at Multiple Grades. When there is one position that can be filled at multiple grade levels, the specialist will certify candidates at each grade level for which the position was posted.

C. Lateral Candidates. Candidates who are at the full performance level and eligible for a lateral reassignment or who apply to change to a lower grade will be listed on a separate certificate.

D. Expiration of Certificates. All merit promotion certificates are valid for thirty calendar days from the date of issuance. An extension may be requested for up to two additional weeks if the selecting official provides valid written justification. If a selection is not made by the expiration date of the certificate, or by the end of the extension period, the certificate is no longer valid.

E. Reactivating Certificates. If a selectee declines or later resigns from the position, or a position in the same office and occupational series and grade level(s) becomes vacant, the certificates associated with the earlier vacancy announcement may be reactivated. The selecting official may select a second candidate from the certificates up to 120 days from the initial selection.

15. SELECTION PROCEDURES.

A. The selecting official must sign and date each certificate and return all application materials to OAPM prior to expiration of the certificate(s). The selecting official must write a job-related justification as to why a particular candidate was chosen, or why no selection was made, on the reverse side of the certificate. If there are any displaced candidates determined to be well-qualified, one must be selected in lieu of selection of any other candidate outside of the SEC in accordance with POPPS Chapter 330.A. The selecting official also is responsible for documenting the reasons why any certified (or referred) candidates were not interviewed.

B. The personnel specialist will formally offer the position to the selectee. In addition, the personnel specialist will notify all non-selected candidates in writing after a selection has been made. The effective date of the promotion or reassignment must be at the beginning of a pay period.

C. If the selected employee is from another office, the employee normally is to be released at the beginning of the first pay period following two weeks notice. Any deviations from this standard must be justified in writing to the Associate Executive Director, OAPM, showing undue hardship or serious disruption of work. The employee will be informed of any reason for the delay and the expected release date. If the action is a promotion, the employee will be promoted at the beginning of the pay period following the notice and will physically remain in his or her former position until the date agreed upon by the supervisors of the losing and gaining offices and OAPM. If

officials fail to agree on a release date, the matter will be resolved by the Associate Executive Director, OAPM.

16. PROHIBITED PRACTICES.

A. **Developing Rating Materials.** In designing rating schedules, the length of a candidate's experience alone or a candidate's accumulation of annual or sick leave shall not be used as criteria.

B. **Evaluating Applications.** A rater must not make assumptions when there are no specific references to particular knowledge, skills, or abilities in an application. A rater, interviewing panel member, or selecting official may not show or give preference to any candidate based upon factors not pertinent to the candidate's qualifications for the vacant position or any other non-merit factors.

C. **Prohibition on Nepotism and Personal Favoritism.** All placement and promotion actions must be based on merit and not personal relationships or patronage. Selecting officials shall:

1. **Avoid employment and assignment of spouses or other relatives as listed in 5 USC 3110 within the same organizational unit (i.e., branch or office) where such a relationship could be perceived to generate preferential treatment;**

2. **Not make duty assignments that create a supervisory relationship between relatives; and**

3. **Not select, promote, or show preference to any candidate based upon personal friendships, political connections, or other reasons not related to the candidate's qualifications for the work to be performed.**

17. EMPLOYEE COMPLAINTS AND CORRECTIVE ACTIONS.

A. **Employees' Rights.** Employees who believe that an action fails to comply with this plan should discuss their situation or their complaints with the servicing personnel specialist and/or the Branch Chief, Classification and Staffing Branch, OAPM, or, if potential discrimination is an issue, an EEO counselor. If an employee still believes that this plan has not been followed, he or she may file a formal grievance in accordance with the procedures set forth in POPPS Chapter 771.A. This grievance system applies to any matter of concern or dissatisfaction of any SEC employee if the matter is subject to the control of SEC management. However, failure to be selected for a position covered by the merit promotion plan when proper procedures were followed is not a basis for formal complaint.

B. **Corrective Actions.** Corrective actions will be taken if there is any non-adherence to law, OPM regulations and instructions, and/or SEC policies. The nature and extent of the corrective action taken in each case will be determined on the basis of all the facts in the case, with due consideration to the circumstances surrounding the violation, equitable and legal rights of involved parties, and the interests of the federal government. If an erroneously selected/promoted employee is

retained in the position, the following actions will be taken as appropriate to the situation and the type of violation:

1. If the violation is procedural, the selected employee may be retained if the promotion action can be reconstructed to show that he or she could have been selected had the proper procedures been followed or with OPM approval.

2. If the violation is regulatory, the selected employee may be retained if at the time the violation is discovered he or she meets regulatory requirements, and OPM approval is obtained.

C. **Priority Consideration.** If OAPM or other regulatory authority rules that an employee did not receive proper consideration in a prior promotion action and the erroneous promotion is allowed to stand, the non-selected employee may be granted priority consideration for the next appropriate vacancy without further competition. An employee is entitled to only one consideration under this provision.

1. If an erroneously promoted employee is retained in the position, all qualified employees certified but not selected must be given priority consideration for the next appropriate vacancy before a certificate for such a vacancy may be prepared.

2. If an erroneously promoted employee is not retained in the position, the following actions should be taken as appropriate to the situation.

- a. The promoted employee is to be returned to his or her former position or placed in another position for which he or she is qualified.

- b. Employees not selected, if correctly placed on the certificate initially, will be reconsidered for the vacancy.

3. The selecting official must state in writing to the Associate Executive Director, OAPM, through the Division/Office Head, his or her reasons for non-selection of any employees given priority consideration.

18. RECORDS MAINTENANCE.

A. OAPM maintains internal oversight and establishes appropriate records for each action taken under the plan so that program activities may be effectively evaluated.

B. The servicing personnel specialist ensures that a separate file is established and maintained on each action taken under the plan. The merit promotion file includes:

1. A legible copy of the initial or amended vacancy announcement attached to the left side of the file.


2. A list of all candidates, in alphabetical order, who filed a timely application for the posted vacancy announcement by the filing deadline or any extension granted under

section 11.B above. (Candidates who did not receive consideration because of late applications are not included in the list). This list also will contain an overall summary of the case file consisting of:

- a. Q (qualified) or NQ (not-qualified) determination;
 - b. The summary rating sheet when there are more than 10
qualified candidates;
 - c. Candidates certified to the selecting official;
 - d. Identification of correspondence issued; and
 - e. Remarks (*i.e.*, withdrawals, selectees, etc.)
3. Application materials including the resume, supplemental forms, and
attachments submitted with the applications.
 4. A minimum qualification sheet on each candidate which records
specific qualifying experience.
 5. Copies of all the rating forms (SEC 820) which record the panel
members' ratings.
 6. Copies of the front page of all late applications.
 7. Certificate(s) of eligibles.

C. OAPM safeguards these files when they are not in use or when they are under review by authorized persons from outside of OAPM. OPM requires that agencies retain these files for a period of two years. In the event of an unresolved complaint, the file is retained until resolution of the case.

19. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management, Classification and Staffing Branch.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

8/16/96
Date

Section E Chapter 2

Appointments Above the Minimum of the Grade Based on Superior Qualifications

Overview

- 1. Introduction** This chapter establishes SEC policy on superior qualifications appointments (appointments of candidates who qualify for a base pay above the minimum rate of the grade to which they are being appointed).

In this chapter This chapter contains the following topics.

<i>Topic</i>	<i>See Page E-2-</i>
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Supersession: Replaces POPPS 338-A dated August 5, 1996
Authorities: 5 U.S.C. 5333; 5 CFR Part 531.203
Contact: Servicing personnel specialist, Staffing and Classification Branch
Office of Administrative and Personnel Management

Superior Qualifications Policy

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

2. Policy statement	<p>The Office of Administrative and Personnel Management (OAPM) may, upon the request of a hiring official, authorize a salary offer to candidates with superior qualifications that is above the minimum rate of the grade to which they will be appointed.</p> <p>The purpose of this policy is to provide guidance to management on using this request authority to enhance the ability of the SEC, within budgetary constraints, to attract top quality candidates into the federal service.</p>
3. Who is covered	<p>This policy applies to candidates with superior qualifications appointed to any GS grade in either the competitive or excepted service, providing that the candidate is:</p> <ul style="list-style-type: none">• entering federal civilian service for the first time; or• being reappointed after a break in service of 90 days or more.
4. Conditions	<p>OAPM may authorize a superior qualifications appointment when:</p> <ul style="list-style-type: none">• the superior candidate is unwilling to accept an employment offer because of the proposed pay level; and• a recruitment bonus is insufficient incentive for the candidate to accept the employment offer.
5. Relationship to recruitment bonuses	<p>OAPM may authorize a recruitment bonus under certain circumstances either in place of, or in addition to, a superior qualifications appointment salary offer. To qualify for <i>both</i> a superior qualifications appointment salary offer and a recruitment bonus, the superior candidate:</p> <ul style="list-style-type: none">• is expected to have an immediate impact on the mission and direction of the agency;• would forfeit income by accepting the grade's base pay; and• is applying for a position for which the SEC has experienced recruitment or retention difficulties.

Reference: For information about recruitment bonuses, refer to POPPS E-3.

Basic Criteria for Starting Pay at Higher than Minimum Rates

6. Summary of criteria OAPM determines the starting pay to offer a superior qualifications candidate based on:

- the candidate's actual income/existing pay, *or*
- any current bona fide non-federal job offer(s) the candidate is considering.

Note: Decisions on superior qualifications starting salaries for law clerk candidates have separate criteria, which are described in paragraph 9.

7. Current income/existing pay

The following are *included* in a candidate's current income/existing pay:

- the salary earned in the current position;
- earnings from regularly scheduled overtime (that is, recurring through the year and verified by pay stubs and W-2 forms);
- regular bonuses (i.e., specified in employment contract, guaranteed minimum percentage);
- fringe benefits (such as fully paid health benefits and stock options) *if* they are substantially better than SEC benefits;
- a pay increase scheduled to be received within the next three months; and
- income from outside employment that
 - forms a regular, continuing portion of the candidate's total income, *and*
 - would be forfeited if the candidate is employed by the SEC.

The following are *not included* in calculating current income/existing pay:

- salary from short-term, sporadic *temporary* employment (if the candidate cannot show 3 months of continuous employment at the same salary level);
 - earnings from a single contract or consulting assignment that are significantly higher than the candidate's previous salary or current job offers;
 - a one-time windfall or bonus; or
 - income that the SEC is barred from matching by law or Executive Order, such as military retirement pay forfeited under the dual-compensation law.
-

8. Bona fide job offers

A bona fide job offer is a *non-federal* employment opportunity that:

- is given in writing and offers current employment; and
- specifically identifies the job title, salary or salary range, location, and a start date or request for a start date in the immediate future.

Note: If conflict-of-interest laws make it improper for a company to extend a job offer in writing, OAPM may consider other documentation as evidence that the company has offered the candidate a position.

Additional Criteria for Law Clerks

9. Three mandatory criteria

Third-year law students must meet *all* three criteria below to qualify for a superior qualifications appointment.

Criteria	Description
1	Graduate in the top 20% of their class or have an overall GPA of a B (3.0 on a 4.0 scale, 81 points on a 100-point scale, or equivalent)
2	Demonstrate one or more of the following: <ul style="list-style-type: none">• work or achievement in the law school's <i>Law Review</i> or other recognized law journal;• special high-level honors for academic excellence in law school, such as selection to the Order of the Coif or receipt of the American Jurisprudence Award in employment-related courses;• winning an intra-school moot court competition or membership on the inter-school moot court team;• full-time or continuous participation in a legal aid program (as opposed to one-time, intermittent, or casual participation); <i>or</i>• significant summer law school experience in areas related to the securities industry.
3	Be able to provide one of the following: <ul style="list-style-type: none">• an employment offer, in writing, providing job title, salary or salary range, location, and proposed start date or request for a start date in the immediate future; <i>or</i>• a reasonable-expectation letter signed by the law school projecting salaries for recent graduates for the next four months.

10. Provisional salary offers

After OAPM approves a superior qualifications appointment, OAPM extends a tentative offer to a third-year law student being hired under the agency's Advanced Commitment Program.

The title/series/grade of the provisional superior qualifications appointment is GS series 904, grade 11 step 7 (GS 904-11/7).

A final offer by OAPM will be made only after OAPM receives final documentation of law school grades that meet criteria 1 above.

Requesting and Deciding on Superior Qualifications Appointments

11. Process Each superior qualifications appointment offer must be approved individually by OAPM before a final offer letter may be sent or the candidate begins employment.

The table below describes the stages involved in the request, review, and approval of a superior qualifications appointment.

Stage	Who	Actions/Responsibilities
1	Hiring officials	<ul style="list-style-type: none"> • Conduct preliminary salary discussions with prospective appointees to gather information about their qualifications, current income, and salary requirements; and • submit well-documented requests for superior qualifications appointments, when appropriate, to their servicing personnel specialist. <p><u>Note:</u> See justification and documentation requirements in paragraphs 12-13.</p>
2	Personnel specialists, OAPM	<ul style="list-style-type: none"> • Review recommendations of hiring officials to ensure that all written justification and supporting documents are provided; • negotiate, as needed, with managers on reasonable compensation packages to recommend to the Associate Executive Director, OAPM; • complete SEC Form 230 (rev. 8-96), Request for Superior Qualifications Appointment, including a recommendation for action; • submit the full package to the Associate Executive Director, OAPM; and • ensure adequate record-keeping so that the action in each case can be reconstructed if necessary.
3	Associate Executive Director, OAPM (or delegate)	<ul style="list-style-type: none"> • Approves or disapproves each request for hiring at higher than minimum rates; • sets pay for new employees and determines whether the proposed salary level for the candidate complies with applicable regulations; and • monitors and evaluates use of the superior qualifications appointments in general to ensure the policy is applied fairly and judiciously within the SEC.

Justifying and Documenting Requests

12. Written justification

To justify the request to make an appointment above the minimum rate, the requesting official must address each of the following in the written request:

- the relevance of the candidate's experience, education, and accomplishments to the work to be performed;
- the candidate's unique qualifications to meet a special need of the agency;
- the suggested salary, based on the candidate's current salary or bona fide competing offer and/or information about the candidate's lowest acceptable pay; and
- the reason why a recruitment bonus by itself does not provide enough incentive.

11. Supporting Documents

The following supporting documents must accompany the justification:

- the candidate's resume;
- a completed Form SF 52, Position Description and Performance Standards, if not already submitted; and
- the basis for determining the requested salary (at least one of the following):
 - current salary documents (most recent W-2 form, current earnings and leave statement, IRS 1040 *if* limited to the candidate's salary, employer's written notification of annual salary and/or bonus, etc.), *or*
 - a copy of the competing offer, if applicable, *or*
 - for law school applicants only, a law school transcript in all cases *and* a reasonable expectation letter, if applicable.

Note: For law school applicants, a final transcript must be submitted before a final offer can be extended.

OAPM Records

12. Subject matter files

The subject matter files must contain records of the accepted requests for a superior qualifications appointment for a period of two years from the time of the candidate's hire. The records are filed chronologically by the date on which the candidate became employed, and, within the chronological order, by employee name.

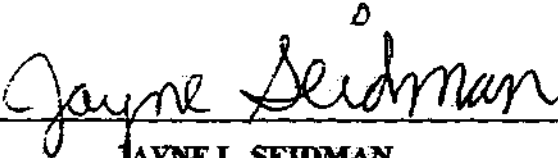
The files must contain the following:

- SEC Form 230;
- a copy of the employee's resume;
- the requesting organization's written justification;
- documentation of the salary basis, as identified in paragraph 13;
- transcript for law clerks; and
- a copy of SF 50 (added after the employee enters on duty).

Note: Disapproved requests are kept in a separate file by fiscal year.

13. Official Personnel Folders

A copy of the SEC Form 230 showing approval of the Superior Qualifications Appointment also will be filed in the employee's Official Personnel Folder.

Policy Approved by	
Date: <u>9/16/98</u>	JAYNE L. SEIDMAN Associate Executive Director Office of Administrative and Personnel Management

Request for Superior Qualifications Appointment
5 C.F.R. 531.203(b)

Name of Candidate: _____

Requested Title, Series, and Grade: _____

Organizational unit Requesting: _____

Servicing Specialist's recommendation: _____
(Pay Plan, Series, Grade/Step, and Salary)

Basis:

Current Salary/Future Promotion ___ Competing Offer ___ Law Clerk Criteria ___

Servicing Specialist's signature: _____ Date: _____

Deciding Official's Action: Approve: ___ Disapprove: ___ Modify Salary: ___

Deciding Official's Signature: _____ Date: _____
Associate Executive Director, OAPM

Items to be maintained in Superior Quals file:

- ___ Resume/Application
- ___ Organizational Unit's Justification
- ___ W-2 Form or other current salary verification
- ___ Transcript or Letter from Register (Law Clerk Appointments only)
- ___ Copy of Competing Offer
- ___ SF-50 (copy to be included after EOD)

Pay Rate Determinant (PRD) code: _____

5 = for both special rate and superior quals rate

7 = for superior quals rate

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, DC 20549

POPPS 6-351.A
June 14, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 351.A

REDUCTION IN FORCE

1. **PURPOSE.** This chapter establishes SEC policy on reduction in force (RIF). The policy is intended to be supplemented by and used in conjunction with appropriate statutory provisions and regulations published by the Office of Personnel Management (OPM).
2. **POLICY.** The SEC will determine when it is necessary to invoke Government-wide RIF procedures to implement budget cuts, personnel reductions, program changes, or reorganizations, after considering the impact of a RIF and any other available alternatives on its employees. The RIF procedures establish certain retention and assignment rights as well as benefits for employees faced with potential separation or downgrade under these circumstances.
3. **EMPLOYEES COVERED.** This chapter applies to all SEC employees other than the Commissioners, Schedule C employees, temporary employees, and members of the Senior Executive Service (SES). Reduction in force in the SES will be covered in POPPS 920.D.
4. **ACTIONS COVERED.** RIF procedures are used when an employee is faced with: (1) separation or downgrading, or a reassignment that displaces another employee, that results from a reorganization, lack of work, shortage of funds, insufficient personnel ceiling, transfer of function, or the exercise of certain reemployment or restoration rights; or (2) furlough (placement in a non-work, non-pay status for non-disciplinary reasons) of more than 30 calendar days, or more than 22 work days if not continuous. In a furlough situation, the RIF retention registers are used to determine order of release and the furlough cannot exceed one year.
5. **AUTHORITIES.** The applicable RIF regulations are found in 5 U.S.C. 3501-3504 and 5 CFR 351, and the reemployment priority regulations are found in 5 CFR 330. For an overall description of the process and definitions of terms refer to OPM's Reduction in Force Handbook, which is available in the Office of Administrative and Personnel Management (OAPM).
6. **RESPONSIBILITIES.**
 - A. The Executive Director is responsible in general for allocating position ceilings and approving agency reorganizations, under guidance and delegated authority from the Chairman. In connection with this policy, he or she is responsible for:
 1. Establishing/revising RIF competitive area definitions; and

2. Authorizing any discretionary use of RIF or furlough procedures in a specific reorganization or downsizing situation.

B. The Associate Executive Director, OAPM is responsible for:

1. Advising agency management of alternative approaches (e.g., hiring freezes, directed reassignments, early retirement, discontinued service retirement) that may apply to a particular situation, and their relative advantages and disadvantages, as well as the legal and regulatory requirements;

2. Determining and maintaining appropriate codes of the competitive levels for individual positions;

3. Preparing all employee notices and informational materials, and determining needs for and arranging/providing appropriate training, counseling, and outplacement services to assist affected employees (see Section 8, Notifying and Assisting Employees) following a final decision to conduct a RIF;

4. Establishing retention registers, determining any assignment rights to other positions, and conducting the RIF in accordance with government-wide procedures and this policy;

5. Assuring RIF provisions are uniformly and consistently applied within any one RIF;

6. Determining any mandatory exceptions to releases from competitive levels and approving/disapproving any management requests for permissive continuing or temporary exceptions in accordance with 5 CFR 351, Subpart F;

7. Implementing priority placement and/or reemployment priority placement lists as appropriate; and

8. Maintaining records of the RIF, including retention registers, notices to employees, and other documentation required by OPM.

C. Division Directors, Office Heads, and Regional Directors generally are responsible for determining the types of positions needed to fulfill their program requirements within allocated personnel resource limits, and recommending the organizational structure for those positions. As such, they are responsible for:

1. Making initial determinations regarding any excess positions and, if overall reductions are needed, which kinds and levels of positions are to be abolished, based on organizational needs, after consultation with the Associate Executive Director, OAPM;

2. Submitting a written recommendation to the Executive Director regarding how reductions should be achieved;
3. Requesting any permissive exceptions to the order of release order within a specific RIF;
4. Determining if any existing vacant positions in competitive levels not affected by a RIF are to be filled based on RIF assignment rights; and
5. Considering all employees referred for priority placement or reemployment consideration.

D. The U.S. Office of Personnel Management (OPM) does not have the authority to approve or disapprove agency decisions to conduct a RIF or to eliminate specific positions, but it has a right to review preparations for a RIF or agency personnel records at any time. Agencies are required to notify OPM (as well as State displaced worker authorities, and others) at the time RIF notices are issued if 50 or more employees within a competitive area receive notices that they will be separated under a RIF.

7. **COMPETITIVE AREAS.** The competitive area sets the limits within which employees compete for retention in a RIF. Agencies are responsible for defining the competitive area on the basis of organizations (e.g., Divisions, Regional Offices, etc.) and geographical location (such as the local commuting area). Competitive areas that are not in effect at least 90 days prior to the effective date of a RIF must first be approved by OPM. The SEC's current competitive areas are defined in Attachment #1.

8. COMPETITIVE LEVELS AND RETENTION REGISTERS.

A. **Competitive Levels.** OAPM establishes these groupings of positions similar in grade, occupational series, qualifications, duties, and working conditions. Specifically, competitive levels are established separately according to: (1) competitive and excepted service, (2) different appointment authorities, (3) pay schedule, (4) work schedule, (5) supervisory and nonsupervisory status, and (6) trainee status.

B. **Retention Registers.** Separate retention registers are established for each competitive level affected by a RIF based on each employee's tenure group, veterans' preference, length of service, and performance credit. The retention register shows an employee's place in terms of the order in which he/she will be considered for release in a RIF action, beginning with the employee at the bottom of the register.

C. **Performance Credit.** In establishing a retention register, employees will receive extra RIF service credit for performance based upon the average of their last three (and most recent) annual performance ratings of record during the four-year period immediately preceding a RIF, based on the following formula: Outstanding - 20 years; Exceeds Fully Successful - 16 years; Fully Successful - 12 years; and below Fully Successful - no credit. Only ratings issued at least 90 days prior to the effective date of a

RIF can be considered in the awarding of performance credit. Employees receiving fewer than three ratings will be given credit for a "fully successful" rating to achieve the three-rating minimum. Administrative Law Judges receive no service credit for performance in the creation of a retention register.

D. Temporary Exceptions.

1. The SEC may make exceptions to the order of employee release when it is determined that the employee's services are required to meet a Government obligation or that the employee's release would cause a significant interruption to the agency's performance of its mission. In such situations, employees within the same competitive level who have a higher retention standing will be notified that the employee with a lower retention standing is being retained temporarily beyond the effective date of the RIF action. This notification is required for temporary exceptions lasting more than 30 days.

2. The SEC also may make certain temporary exceptions for eligible employees to allow them to carry health benefits into retirement, to accommodate employees who are on sick leave, or to permit the use of accrued annual leave in order to become eligible to receive an immediate retirement benefit as a result of a temporary extension. The temporary extension is limited by the amount of sick leave or annual leave accrued.

9. ASSIGNMENT RIGHTS.

A. Competitive service employees. The SEC shall offer employees appropriate assignment, "bump," and "retreat" rights in accordance with OPM regulations, with the objective of maximizing the potential placement and rapid utilization of those employees affected by the RIF.

B. Excepted service employees. An employee with an excepted service appointment has no assignment (i.e., bump and retreat) rights. Therefore, excepted service employees who are reached for release on a retention register will be separated.

10. RIF NOTICE PERIOD. Following OPM regulations, the SEC will give at least a 60 day specific notice period (unless OPM approves a shortened notice period of at least 30 days due to unforeseen circumstances). However, management will try to give employees as much general information as possible prior to the formal specific RIF letter. In addition, if the SEC believes certain employees will actually be separated under the RIF, and other regulatory provisions apply, the agency may issue Certificates of Expected Separation to them earlier, up to the legal maximum of six months before the RIF effective date.

11. PLACEMENT ASSISTANCE.

A. Interagency Placement Program (IPP). This OPM activity assists competitive service employees (and those with competitive service reinstatement eligibility) who face a RIF situation or who have already been separated due to a RIF. It assists employees through a priority referral process in finding positions in other Federal agencies over other applicants who do not have Federal employment status. Employees may register for the IPP up to 6 months in advance of a RIF after they have been given a general notice that a RIF would likely occur, or as soon as they receive an individual notice. The SEC will assist

these employees with understanding and accomplishing the IPP registration process. Only competitive service employees and those excepted service employees with competitive status are eligible for IPP consideration.

B. Reemployment Priority List (RPL).

1. Regulations provide for individual Federal agencies to establish and administer a RPL for each commuting area where the agency will separate or has separated competitive service employees through a RIF. An employee must apply for the RPL in order to be considered under that assistance program.

2. Under the RPL, eligible separated employees who have applied for coverage must not have refused a RIF employment offer of assignment to a position at the same grade and must be in either tenure group I or II in the competitive service. Employee names will be maintained on the RPL for 2 years (if in tenure group I), or 1 year (if in tenure group II).

3. Excepted service employees are not normally eligible for RPL listing. However, those excepted service employees who have veterans' preference eligibility and who are separated by a RIF are permitted to have their names placed on a RPL which gives them future consideration for excepted positions filled within the SEC.

C. Agency Discretionary Placement Assistance. Beyond the IPP and RPL, the SEC is committed to providing assistance to employees in a RIF situation with consideration given to budgetary constraints and hiring projections. This may include counselling services, job referral assistance, training for affected employees, and adoption of short-term internal procedures (such as restrictions on filling vacancies) to facilitate the placement of employees who would be subject to a RIF action.

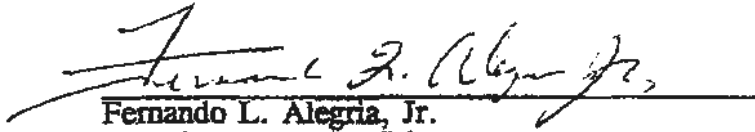
12. RECORDS MAINTENANCE.

A. RIF/Furlough Files. The SEC shall maintain a complete file for all RIF and furlough actions. This file will include copies of retention registers, all official memoranda to employees and any related official documents which served to determine those employees who would be subject to these actions.

B. Records Inspection. Any documentation used to determine the retention standing of an employee may be examined by a representative of OPM, as well as by an employee of the SEC or his/her representative to the extent that the records pertain to a specific action taken, or specified in the RIF notice as to be taken, with respect to that employee.

C. Records Retention. The SEC shall preserve all retention registers and records relating to any employee who received a specific and formal RIF or furlough notice. This documentation will be retained for at least one year from the date that the employee is issued such notice for a RIF. For furloughs, records will be retained for at least a year subsequent to notification of employee recall.

13. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and
Personnel Management.


Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management
6/14/95
Date

Attachment:

1. RIF Competitive Areas

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

POPPS Chapter 6-351.A, Attachment 1

**SECURITIES AND EXCHANGE COMMISSION
COMPETITIVE AREAS FOR REDUCTION-IN-FORCE**

SEC HEADQUARTERS: This competitive area encompasses all employees with a duty station located within the metropolitan Washington, DC commuting area, including the Operations Center and Annex, but excluding the Office of the Inspector General.

OFFICE OF INSPECTOR GENERAL: This competitive area encompasses all employees of the Office of Inspector General.

REGIONAL AND DISTRICT OFFICES: Each regional and district office comprises a separate competitive area, since each is in a distinct commuting area.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Section H Chapter 1

Training and Career Development

Overview

1. Purpose

This chapter describes the SEC's general policies and procedures for training and career development of SEC employees. Related information is contained in Chapter H-2, SEC Conferences and Meetings.

In this chapter

This chapter contains the following topics.

<i>Topic</i>	<i>See Page H-1-</i>
Policy	2
• Policy statement	2
• Definition of training	2
• Who is covered	2
• Training programs	3
• Mandatory training	3
• Appropriate content and methodologies	3
• Appropriate contracting sources and facilities	3
Management and Employee Responsibilities	4
Planning Training	5
• Training needs assessment	5
• Indicators of a training need	5
• Individual Development Plan (IDP)	5
Training Budget Allocations	6
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• Course evaluation	6
External Training	7
• Submitting requests	7
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• Failure to successfully complete training	7
• Continued service agreement	7
Tuition Assistance	8
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• Prohibition against degree training	8
• TAP guidelines and limitations	8
Contractor Training	9
Records and Reporting Requirements	9

Supersession: Replaces POPPS 410.A dated September 30, 1993

Authorities: Public Law 85-507 (1958), as amended by Public Law 103-226 (1994); 5 USC Chapter 41; 5 CFR Parts 410 and 412; Exec. Order 11348; OPM Letter dated July 13, 1995 on Training of Civilian Officials Appointed by the President

Contact: Training specialists, Employee Relations and Development Branch
Office of Administrative and Personnel Management

Policy

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

2. Policy statement

The SEC provides training and career development according to the merit system principles (see POPPS Chapter B-1) and government-wide training regulations. Training is intended to enable employees to:

- perform their current functions at the maximum level of proficiency; and
- prepare for advancement.

Note: Refer to the SEC Merit Promotion Plan (POPPS Chapter D-6) for procedures for competitively selecting employees for training that leads to advancement outside the employees' career ladder or in another occupation.

Employees with disabilities receive equal consideration for training, and reasonable accommodations are provided when required.

3. Definition of training

Training is the process of providing programs for employee(s) to improve their individual and organizational performance and to enable them to assist the SEC to achieve its mission and performance goals. "Programs" can include planned, prepared, and coordinated courses, curricula, systems, or routines of instruction or education.

Mission-related training (5 CFR 410.101) is training that supports the SEC's goals by improving organizational performance at any level of the agency, including training that:

- supports the agency's strategic plan and performance objectives;
- improves an employee's current job performance;
- allows for expansion or enhancement of an employee's current job;
- enables the employee to perform needed or potentially needed duties outside the current job at the same level of responsibility (and grade); or
- meets organizational needs in response to human resource plans regarding organizational and/or program changes.

4. Who is covered

This chapter applies to all SEC employees except presidential appointees.

The authority to approve training of presidential appointees has been delegated to agency heads and cannot be redelegated. The heads of agencies must continue to submit their own requests for training to the U.S. Office of Personnel Management (OPM).

Note: Contractors hired to do work for the SEC may receive certain training from the SEC under separate authority (see Paragraph 23).

Continued on next page

Policy, Continued

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| 5. Training programs | To help employees and organizational units perform to their full potential, the SEC provides a wide range of training, including classroom training, on-the-job training, employee self-development activities, and conference-style career-development activities. Budgetary constraints influence the amount of training allowed. |
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| 6. Mandatory training | <p>Employees are expected to complete all training that the SEC requires for a particular position or group of positions. OAPM periodically issues a notice about agency-wide mandatory training programs.</p> <p><u>Note:</u> The Chief, Employee Relations and Development Branch, OAPM, may waive the obligation for individuals who can show records of equivalent training taken prior to employment with the SEC, upon written request and with the concurrence of the immediate supervisor.</p> |
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| 7. Appropriate content and methodologies | The SEC is committed to ensuring that it does not use inappropriate non-technical training techniques, such as "new age" personal growth training techniques as defined in the Equal Employment Opportunity Commission Notice N-915.022 (dated September 2, 1988). Supervisors are expected to accommodate an employee's religious beliefs, generally by excusing him or her from part or all of the training, if notified that the course's training techniques or content conflict with religious beliefs. If an Office is considering sponsoring training that potentially includes any new age techniques, it must consult with a training specialist prior to making contractual arrangements. |
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| 8. Appropriate contracting sources and facilities | <p>To avoid a conflict of interest or the appearance of a conflict of interest, the SEC generally does not enter into paid contracts for training services directly with its employees or employees of other federal agencies. However, the SEC may use interagency agreements or <i>voluntary</i> services provided by SEC staff or other federal employees.</p> <p>The SEC shall not use training facilities that discriminate in the admission or treatment of students or participants.</p> |
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Management and Employee Responsibilities

9. The table below describes the responsibilities related to employee training and career development.

Position/Title	Responsibilities
Associate Executive Director, OAPM	<ul style="list-style-type: none"> Establishes overall training policy parameters and priorities; Maintains appropriate administrative controls for the training program; and Evaluates activities and programs.
Chief, Employee Relations and Development Branch, OAPM	<p>Oversees the overall operations of the Training Unit and its staff, including:</p> <ul style="list-style-type: none"> ensuring compliance with provisions of all government training regulations; coordinating the development of all training programs; effectively publicizing training opportunities; ensuring effective use of training resources, including the budget and allocation process; coordinating the development of internal training policies and procedures; and ensuring that training programs are evaluated for their effectiveness and that appropriate records are maintained.
Training Officer	<ul style="list-style-type: none"> Approves or disapproves individual training requests to ensure compliance with SEC policy and government-wide regulations; Coordinates training needs assessment and budget allocation processes; Ensures accurate training records in the automated system, and monitors and ensures compliance with office training allocations; Coordinates assigned training programs; and Coordinates day-to-day administrative functions.
Managers and supervisors	<ul style="list-style-type: none"> Encourage employee self-improvement through training; Assess the immediate and long-range organizational training needs; and Approve training, based on an employee's workload and schedule, to ensure the training time is convenient for the productivity of the organization and the employee.
Employees	<ul style="list-style-type: none"> Assist their supervisor to identify training needs; Successfully complete training and the training evaluation forms; Adjust their work schedules to coincide with the hours of training (employees are not entitled to premium pay, such as overtime or night differential, while attending training); and Integrate the training into their work practices to the maximum extent feasible.

Planning Training

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

10. Training needs assessment

Agencies are required to assess, at least every three years, their requirements for training employees. Therefore, the SEC expects:

- managers and supervisors to evaluate the training needs of their employees on a continuing basis; and
 - Division Directors and Office Heads to identify special training needs annually, in coordination with the Training Officer.
-

11. Indicators of a training need

Managers and supervisors should be alert to situations such as the following:

- below standard production, either in quantity or quality;
- inadequate backup capability (to provide backup, other employees may need to be cross-trained);
- a change in the organization's mission or function; or
- evidence that employees are not familiar with SEC policies, objectives, and procedures.

If any of these situations occur, the employee(s) involved may need training or re-training. Managers or supervisors should contact the OAPM training staff for assistance in selecting appropriate training programs.

12. Individual Development Plan (IDP)

An Individual Development Plan (IDP) is a document that outlines a systematic approach to attaining long-term and short-term career goals. The OAPM training staff is available to provide guidance on developing IDPs.

An IDP may be required for employees participating in an SEC-sponsored *formal* career development program. If so, the requirement will be identified in the program description. IDPs are *not* required for other SEC employees.

Training Budget Allocations

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

13. Budget allocations

The SEC pays for costs associated with approved training, according to the policies in this chapter and subject to the availability of funds.

Each organizational unit in the SEC receives a yearly training allocation. Any travel expenses associated with approved training are payable from that organization's travel budget, not the training budget. Factors considered in making training allocations include:

- needs identified and prioritized by the organizational unit;
- SEC's overall fiscal year training budget;
- size of the organization; and
- historical organizational training expenditures.

OAPM also offers courses, such as supervisory training and standard SEC computer software training, that are *not* charged to an office's training allocation. Announcements for these courses specify that the cost is not borne by the organizational unit.

Internal Training

14. Registering for internal training

Courses are announced via the Training Bulletin Board, Intranet, and/or by separate course announcements sent to all Administrative Contacts.

Employees are required to obtain their supervisor's permission to attend training prior to registering. To register, send an e-mail to the "TRAINING REGISTRATIONS" mailbox. Each course announcement outlines specific procedures.

Note: An SF 182, Request, Authorization, and Certification of Training, is *not* required for internal courses.

15. Course evaluation

Employees participating in internal SEC training should complete the SEC course evaluation form at the end of the training session. Summary evaluation data is maintained in the automated system.

External Training

-
- 16. Submitting requests** To request training outside the SEC, employees must: obtain supervisory approval; complete form SF 182, Request, Authorization and Certificate of Training or electronic equivalent (if available); and submit it through their Administrative Contact to the OAPM Training Unit. When submitting training requests to OAPM, they also must attach:
- the vendor's training brochure or course description from an academic institution's catalog; and
 - a request for accommodation of a disability, if needed.
-
- 17. Requesting reimbursement of training cost** Employees who plan to use personal funds to register for training and then be reimbursed by the SEC *must* obtain approval for the reimbursement *before* registering. If the request is approved, the employee must complete the SF 182 or equivalent, and enter the word "Reimbursement" under the heading "Appropriation/Fund."
- To receive reimbursement, the employee must:
- complete form SF 1164, Claim for Reimbursement for Expenditures on Official Business;
 - submit it to the OAPM Training Unit; and
 - attach the receipt from the vendor as proof of payment.
-
- 18. Failure to successfully complete training** If an employee is unable to attend a training session for which he/she is registered, he/she must inform the Training Unit prior to the applicable cancellation deadline.
- If grades are given, a copy of the grade report is required. Credit is given only for grades of "C" or better.
- If an employee does not successfully complete the training, the SEC may refuse to pay for future training. In addition, the SEC may require the employee to reimburse the agency for the cost of training.
-
- 19. Continued service agreement** The SEC reserves the right to require an employee to sign a continued service agreement if he or she is approved for long-term training. The written agreement identifies the length of time the employee agrees to continue to work for the SEC after completing the training, and provides that the SEC may require reimbursement if an employee leaves the government before the continued service agreement is fulfilled.
-

Tuition Assistance

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

20. Overview of Tuition Assistance Program (TAP)

Employees may request approval to take academic classes outside of work hours through local colleges and universities to enhance their career development, within budget constraints. To be approved, each course must satisfy the definition of mission-related training in paragraph 3 (*i.e.*, be related to the employee's job or SEC organizational needs, which includes enhancing core skills). The Training Officer has final approval on courses.

21. Prohibition against degree training

Agencies are prohibited from paying for training for the sole purpose of providing an employee the opportunity to obtain an academic degree, unless exceptional circumstances exist where agencies develop a specific program to alleviate shortages of qualified candidates in mission-critical skills.

22. TAP guidelines and limitations

Generally, the cost of these courses is charged against the organization's training allocation. In certain circumstances, OAPM may pay for courses out of the central training fund.

The following requirements and limitations apply to all tuition assistance requests.

Aspect	TAP Guidelines
Eligibility	<ul style="list-style-type: none">• Individuals must have successfully completed 1 year of SEC career or career-conditional service.
Approval criteria and limits	<ul style="list-style-type: none">• Supervisors must approve each proposed course• Training Officer must approve the course on SF 182 in advance of registration (submit at least 2 weeks before registration deadline)• Limit of 1 course per semester/quarter, not to exceed 4 courses per year
SEC payments	<ul style="list-style-type: none">• Maximum of \$700 tuition plus applicable registration, activity, or lab fees per course• One-time matriculation fee• No reimbursement for books, other materials, parking, or transportation
Other requirements	<ul style="list-style-type: none">• Academic institutions must be accredited by an appropriate recognized authority• Courses are to be taken outside of work hours (supervisors may adjust work schedules or approve use of credit hours where feasible)• Grades must be submitted to OAPM and be 'C' or better, or the agency must be reimbursed

Contractor Training

23. Limits on contractor training

SEC contractors may be trained in skills they are not required to bring to their jobs. For example, they may be trained in SEC rules, practices, procedures, and/or systems unique to the SEC and essential to the performance of their assigned duties at the SEC. Such training is subject to the availability of funds and requires the approval of the Associate Executive Director, OAPM.

Approval for contractor training is based on the authority to administer contracts, *not* the training law (see 42 Comp. Gen. 673 (1963)).


Records and Reporting Requirements

24. Records maintenance

The OAPM Training Unit maintains the official training records of the SEC's training events, including automated records and/or copies of employees' SF 182 forms for the period prescribed by government-wide retention policies. A separate record of disapprovals is maintained by fiscal year. Access to records is governed by Privacy Act Systems Notice SEC-40.


25. Reporting

The OAPM Training Unit submits required reports to OPM on SEC training programs, plans, and expenditures when requested.

Policy Approved by	
Date	4/2/99
	JAYNE SEIDMAN Associate Executive Director Office of Administrative and Personnel Management

MEMORANDUM

FEB 17 1994

TO: All Executives, Managers, and Supervisors
FROM:  Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management
SUBJECT: Executive and Management Development Program - Interim Policy

Coverage

This policy applies to all supervisory, managerial and executive employees in the GS, the SES or equivalent pay systems. Most supervisors occupy positions at the GS-13, GS-14 or equivalent grade levels, although some supervisors in the support offices occupy positions in lower grades. Managers occupy positions at the GS-15 or equivalent grade level. Executives are employees who occupy positions in the Senior Executive Service.

Policy

It is the policy of the SEC to provide training and development needed for supervisors, managers and executives to perform their current functions at the maximum possible level of proficiency and to provide training and development to prepare individuals for advancement.

Types of Training

Mandatory

New SEC employees at all levels of management must attend a ½ day briefing of SEC Policies and Procedures as soon as possible after their appointment.

New SEC supervisors must take a two day course in Introduction to Supervision. This course may be waived if records are available confirming that similar training was taken prior to employment with the SEC.

SEC employees at all levels of management must attend all required special emphasis training, such as Sexual Harassment Training, as soon as possible. Designation of mandatory courses will be recommended by the OAPM Associate Executive Director and approved by the Executive Director to address agency-wide issues, convey agency-wide information on important topics, and/or meet any specific regulatory requirements. Some required courses may be waived for individuals if records are available to confirm that similar training was taken prior to employment with the SEC.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Optional Training

Employee development for incumbent supervisors, managers, and executives, as well as potential management candidates, will be based on identified needs. Development may be accomplished through a variety of sources, such as: on-the-job training; attendance at OPM, USDA Graduate School, or other formal training courses; seminars; workshops; and conferences.

POPPS Holders:

Please file this interim policy memorandum in your POPPS Manual after Chapter 410.A. This policy memorandum will remain in effect until superseded by a POPPS Chapter covering this topic.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-430.A
April 30, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 430.A

SEC PERFORMANCE APPRAISAL SYSTEM

Section 1. Introduction

1-1. PURPOSE. This Chapter describes revised policies and procedures for the SEC's Performance Appraisal System. The system is designed to provide for: periodic appraisals of job performance of employees covered by the system; participation by employees in establishing performance standards; granting of cash awards and other recognition for accomplishments and service based upon superior performance; use of performance appraisal results as a basis for training, reassigning, promoting, reducing in grade, retaining and removing employees, as well as assisting employees in improving unacceptable performance; and decisions to adjust base pay and enhance utilization of the SEC's human resources. Revisions to the Performance Appraisal System become effective immediately and include updated definitions to reflect new OPM regulations and elimination of the reviewing official requirement in cases where a Division or Office Head is the Rating Official.

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Section 2. Policy and General Information

2-1. POLICY. The Performance Appraisal System shall be administered at appropriate levels of management in a manner designed to promote and ensure a high degree of productivity and accomplishment of the Commission's goals and objectives. The system serves to recognize, and where appropriate, to reward quality performance both individually and organizationally. Such performance includes, but is not limited to: meeting and exceeding goals/objectives; improvements in efficiency, productivity, quality of work or service; reductions in paperwork; cost effectiveness; timeliness; and achievements of equal employment opportunity requirements. The system also provides managers with a tool to document and take appropriate remedial action when dealing with poor performance.

2-2. SCOPE. The Performance Appraisal System applies to all employees in the competitive and excepted service,¹ except for those in the Senior Executive Service (SES), presidential appointees, members of the Commission, administrative law judges, and experts and consultants, if employed intermittently. Positions for which employment is not reasonably expected to exceed 130 days in a 12 month period are excluded from this plan. (e.g., special government employees under 18 U.S.C. 202).

2-3. AUTHORITY. Chapters 43, 45, and 53, of title 5, U.S. Code, provide the underlying regulations for performance appraisals, awards, and pay for federal employees.

2-4. DEFINITIONS. See also 5 CFR Part 430.

A. **Critical Job Element.** A work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable.

B. **Initial Rating.** The summary rating assigned to the employee by the rating official, approved by the reviewing official, and presented to the employee.

C. **Level of Achievement.** The level of an employee's performance achievement as measured against pre-established performance standards.

D. **Non-Critical Job Element.** A dimension or aspect of individual, team, or organizational performance, exclusive of a critical element, that is used in assigning a summary level. Such elements may include, but are not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance.

E. **Performance Improvement Plan (PIP).** The plan agencies are required to provide each employee whose performance has been determined to be unacceptable (i.e.,

¹ The inclusion of Schedule C employees under this system does not extend coverage of any rights to those employees which are not provided by the Schedule C appointment authority.

unsatisfactory in one or more critical elements). As part of the plan, agencies notify the employee of the critical element(s) in which he/she is performing at an unacceptable level; describe the types of improvements that the employee must demonstrate to attain acceptable performance; offer assistance to the employee in attaining acceptable performance; and provide the employee with a reasonable period of time, commensurate with the duties and responsibilities of the employee's position, to demonstrate acceptable performance.

F. **Performance Plan.** All of the written, or otherwise recorded, performance elements that set forth expected performance. A plan must include all critical and non-critical elements and their performance standards.

G. **Performance Rating.** The written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical and non-critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a summary level (as specified in 5 CFR 430.208(d)).

H. **Performance Standards.** The management-approved expressions of the performance thresholds, requirements, or expectations that must be met to be appraised at a particular level of performance. A performance standard may include, but is not limited to, quality, quantity, timeliness, and manner of performance.

I. **Progress Review.** Communicating with the employee about performance compared to the performance standards of critical and non-critical elements.

J. **Rating Official.** The official, usually the immediate supervisor or team leader, who initially appraises the employee's performance and recommends the rating of record or summary rating.

K. **Rating of Record.** The performance rating prepared at the end of an appraisal period for performance over the entire period and the assignment of a summary level (as specified in 5 CFR 430.208(d)). This constitutes the official rating of record.

L. **Reviewing Official.** The official, usually the rating official's immediate supervisor, who reviews and concurs with or changes the recommended rating before it is given to the employee.

M. **Supervisor.** An individual having authority to: hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove employees; to adjust their grievances; or to effectively recommend such action. The exercise of the authority may not be merely routine or clerical in nature but requires the consistent use of independent judgment.

2-5. RESPONSIBILITIES.

A. The Executive Director administers the Performance Appraisal System under the general direction of the Chairman.

B. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM), is the official with responsibility for managing the agency's awards budget.

C. First Line Supervisors/Rating Officials are responsible for establishing job-related performance plans for employees under their supervision and for communicating the performance plans (i.e., job elements and standards) to their employees.

D. Employees are encouraged to provide input in the setting of individual performance standards to their supervisors/rating officials. In addition, where appropriate, employees are encouraged to provide input in the setting of organizational objectives, particularly as those objectives relate to their performance plan. Employees should also advise their supervisors/rating officials of the essential resources and managerial support required to meet performance standards and inform their supervisors of any factors or circumstances which should, in their opinion, be considered in appraising performance.

Section 3. Performance Plans and Progress Reviews

3-1. OVERVIEW. The performance appraisal period will be from May 1 through April 30 of the following year unless adjusted due to individual circumstances. The appraisal process is a continuous one with three identifiable phases:

A. In performance planning, the supervisor discusses with the employee the setting of explicit expectations about what is to be accomplished and levels of observable performance to be achieved by the employee over a given period of time.

B. In at least one progress review held during the rating period, the supervisor monitors the employee's performance by noting progress or taking corrective actions if there are performance deficiencies or unexpected circumstances and conditions beyond the control of the employee which affect the work situation.

C. At the end of the appraisal period, the supervisor appraises the employee's performance and discusses the appraisal with the employee.

3-2. CONTENT OF PERFORMANCE PLANS. Performance plans are reviewed and revised or rewritten within 30 days of the beginning of each appraisal period, for each employee continuing in their current position. Completed performance plans must be submitted with each request for a personnel action that involves the movement of an

employee to a new position. These would include all postings, reassignments, promotions or position changes. Each performance plan must identify:

A. **Critical Elements.** All jobs will have at least two critical elements, with five to eight elements being the norm. Identified critical elements will include those required for a given rating period by the Commission and/or by the major organizational unit within the agency. Additional elements will be specified by the rating official or proposed by the employee. All executives, managers, and supervisors (regardless of pay plan) are required to incorporate a critical element into their performance plans to reflect their responsibilities in Equal Employment Opportunity (EEO) and Human Resources Management (HRM), as provided for in POPPS Chapter 430.B. When appropriate, performance plans should also include accomplishment of organizational objectives.

B. **Non-critical Elements.** While not required, a job may have one or more non-critical elements.

C. **Priority Weights.** The priority weight of each element will be determined by the supervisor such that weights of all elements (critical and non-critical) equal 100%. Critical elements must be given more weight than any non-critical elements.

D. **Performance Standards.** It is mandatory to specify the written performance standards for each job element against which performance will be judged in terms as objective, explicit and measurable as possible. The performance plans will specify what factors (e.g., quality, timeliness, accuracy, etc.) will be used by the rating official in determining how well a job has been done. Each element must have at least three written performance standards describing the minimally satisfactory, fully successful, and exceeds fully successful levels of performance.

3-3. STEPS AND RESPONSIBILITIES FOR DEVELOPING PERFORMANCE PLANS.

A. Supervisors are responsible for assuring that there is a mutual understanding between supervisor and employee of performance standards, and weights of critical elements. The supervisor will inform the employee at the beginning of the rating period what the actual performance expectations are, and should assist the employee in understanding the performance expectations. While it is most desirable that the two agree on the performance expectations, agreement is not always possible and is not necessary in order for the supervisor to establish the expectations. **Final determination of performance plans is a management right.**

1. Each supervisor will establish and document on SEC 2331 (Page A, Section I, Job Elements and Performance Standards Worksheet), the performance standards for each employee.

2. In developing a performance plan for a position, the supervisor should draw upon the employee's position description and other relevant information, such as documents on organizational mission and function, program plans, and budgets.

3. Performance plans will cover the full performance period. For projects or work assignments that span more than one performance period, interim plans will be structured so performance within the current period can be appraised.

4. Maximum participation by employees in developing performance plans is encouraged.

5. Employee participation in establishing performance plans may include the following:

a. Employee and supervisor discuss and develop performance plan together;

b. Employee provides to supervisor a draft performance plan;

c. Employee comments on draft performance plan prepared by supervisor; and/or

d. Performance plan is prepared by a group of employees occupying similar positions, with supervisor's approval.

B. The supervisor must confer with the reviewing official on performance plans to ensure their comparability among employees with similar duties and responsibilities.

C. The supervisor will sign the employee's performance plan, identifying the employee's performance standards. Written performance plans are official when they are signed by the supervisor and a higher level reviewer, and are given to the employee.²

D. The employee should sign and date SEC 2331 (Coversheet, page 1) acknowledging that he/she has received either an electronic or paper copy of the performance plan. Signing the form does not impede the employee's right to: (1) disagree with or request reconsideration of the performance standards; (2) disagree with or contest a subsequent rating based upon the performance standards; or (3) disagree with or appeal any

² A higher level review is not required when the rating official is a Division Director, Office Head, Regional Director, or District Administrator. The incumbents of these positions will sign the performance plan as both the rating and reviewing official.

adverse action which flows as a result of the employee's rating or an application of the performance standards³.

E. Within 10 calendar days of an employee's request for a review of performance standards, the reviewing official will indicate his or her review and changes, if any, by signing and dating SEC 2331 (Coversheet). The reviewing official's decision is official.

F. When all written performance plans have been completed, the major organizational unit should then undertake a review to monitor for organization-wide consistency in the level of difficulty of performance plans.⁴ This completes performance planning.

3-4. ON-GOING PERFORMANCE AND PROGRESS REVIEWS.

A. To be effective, the performance management process should be a continuous one carried on in a spirit of open, frequent and constructive communication between the supervisor and the employee. Employees must be given at least one formal progress review during the rating period, during which the supervisor provides oral and/or written feedback on each job element and how the employee's work products compare with the established performance standards. Circumstances may require more frequent progress reviews.⁵

B. Supervisors must indicate all progress reviews on SEC 2331 (Coversheet) which should then be initialed by both the supervisor and employee. Attach additional documentation to SEC 2331 (Coversheet) as needed. During the appraisal period, expectations of performance for the remainder of the period may be added to, deleted from or modified in the performance plan. However, to be rated on a job element and performance standards, the employee must have the opportunity to perform under consistent performance standards for at least 120 calendar days during the rating period. Examples of circumstances that do not constitute changes to performance standards are modifications to weights, deleting of standards for lack of opportunity to perform, delay of due dates, and elaboration on or clarification of existing standards.

³ An employee who refuses to sign the form shall be given a Notice of Employee Refusal to Sign Performance Plan (see Attachment 2 Sample Notice). Copies of the notice must be retained in the Employee Performance File established under POPPS Chapter 293.C and sent to OAPM.

⁴ While major organizational units are expected to review performance plans for organization-wide consistency once those plans are official, they are encouraged to conduct the review prior to performance plans being given to employees.

⁵ If during the review process it is determined that someone's performance is unacceptable, refer to Section 5-7 of this Chapter.

Section 4. Performance Appraisal Procedures

4.1. TIME LIMITATIONS FOR PERFORMANCE RATING AND RATING OF RECORD.

A. **Minimum Appraisal Period.** The minimum period for an employee to receive a performance rating under an established performance plan is 120 days, except for temporary or intermittent excepted service employees whose minimum appraisal period is 130 days.

B. **Performance Rating Upon Position Movement.** All employees who complete at least 120 days under the same performance plan during the rating period must be given a summary rating for that period when they move out of the position for any reason other than a career ladder promotion or change in pay plans.⁶ Also, supervisors who move out of their position must complete summary ratings for each employee they supervise, provided the employee has completed 120 days under the same elements and performance standards. The employee's supervisor of record (i.e., permanent supervisor) at the end of the appraisal period will be responsible for determining the employee's rating of record, taking into consideration any summary ratings the employee received during the rating period. However, if an employee is reassigned to a new position or has a change in supervisor within 30 days of the end of the rating period, the losing supervisor's summary rating will become the rating of record.

C. **Position Conversions.** If a position is converted from one federal pay system to another and there is no change of duties and responsibilities, the employee's rating of record will be considered to have been derived under the authority covering the pay system for the position occupied at the time the rating is required.

D. **Unratable Employees.** If an employee has been in a position for more than 30 days but less than 120 days, the rating period will be extended to provide a minimum appraisal period of 120 days under the same performance plan. An extended rating period may also be given if the supervisor has left the SEC and higher level supervisors cannot reasonably appraise the performance of the employee or if the employee is on long term training or on Intergovernmental Personnel Act (IPA) assignment.

E. **Details.** Employees who are on detail for 120 days or more during the appraisal period will also be rated on their performance while on detail. Where details are expected to last 120 days or more, a performance plan covering the detail should be developed with the employee and approved by the supervisor of the detail prior to the beginning of the detail.

⁶ Performance ratings under one pay plan cannot be used to determine ratings of record for another pay plan.

4.2. EVALUATING PERFORMANCE FOR PERFORMANCE RATING AND RATING OF RECORD.

A. The rating official will review the previously determined performance standards of each critical and non-critical job element and will then review the records documenting the employee's actual performance.⁷ Employees are urged to provide their rating officials with input concerning their performance, and the factors impacting on their performance, as a means of enhancing the dialogue between the rating official and the employee. The rating official will consider this when preparing the narrative summary of the employee's performance accomplishments, which will be recorded on SEC 2331 (Page B, Section II).

B. At the end of the rating period, each job element weight (as assigned at the beginning of the rating period or modified during progress reviews) will be multiplied by the performance level rating score for that element. The sum of the products will be used to determine the employee's rating of record for the appraisal period. This will be recorded on SEC 2331 (Page C, Section III).

C. Five official rating levels are established under the system. The summary ratings and scores are shown below:

<u>Numerical Score for Individual Element</u>	<u>Rating Level</u>	<u>Numerical Score for Overall Performance Rating</u>
5	Outstanding (O)	450 to 500
4	Exceeds Fully Successful (E)	380 to 449
3	Fully Successful (FS)	285 to 379
2	Minimally Satisfactory (MS)	200 to 284
1	Unsatisfactory/Unacceptable (U) ⁸	100 to 199 or U in any critical element

D. **Forced Distributions.** The agency may not prescribe a distribution of ratings for employees covered by the SEC performance appraisal system.

⁷ The performance 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.

⁸ The level 1 summary rating of Unsatisfactory equates to an unacceptable summary rating as defined in 5 CFR 430.207(d)(2)(ii).

E. **Performance Ratings.** The supervisor shall initiate performance ratings for employees which must receive concurrence by the appropriate reviewing official.⁹

F. **Consideration of Performance Ratings and Progress Reviews.** When determining the rating of record, rating officials must give consideration to all appropriate performance ratings given throughout the rating period. In addition, supervisors should also consider all progress reviews for the current position given throughout the rating period. Such consideration may include percent of rating period in each position, relative importance of each position, or other appropriate criteria. This does not limit the rating official in terms of how he/she may use the prior rating official's summary rating.

G. **Ratings of Record.** Ratings of record shall receive a higher level review by the rating official's immediate supervisor, prior to the initial rating being given to the employee.¹⁰ The reviewing official shall either concur with the rating official or, after discussion with the rating official, shall assign a different rating. If the reviewing official concurs with the rating official, he/she signs SEC 2331 (Page C, Section III), overall Performance Rating. If a different rating is assigned, the reviewing official fills out a new form and it becomes the initial rating. The new initial rating must be signed by the rating official and the reviewing official before it is given to the employee.

H. **Employees rated unsatisfactory must be given a PIP and must be assisted by management in improving performance as described in Section 5-7.**

4-3. DISTRIBUTION OF RATING FORM. A copy of SEC 2331 (Pages B and C) containing the performance appraisal and rating, will be provided by the rating official to the employee. A copy of SEC 2331 (Page C) for each employee will be sent to OAPM by the due date established each year by the Associate Executive Director, OAPM. The official copy of the form will be filed in the employee's performance folder (EPF) where it will be retained for four years.

4-4. RECONSIDERATION. If the employee is dissatisfied with the initial rating, he/she must request written reconsideration by the reviewing official within ten calendar days.¹¹ The reviewing official must issue a written decision within ten calendar days of receipt of the employee's request. If the employee is dissatisfied with the decision of the reviewing

⁹ If the rating official is a Division Director, Regional Director, District Administrator, or Office Head, there is no requirement for a higher level review, unless the rating given is unsatisfactory. The incumbents of these positions will sign as both the rating and reviewing official.

¹⁰ Unless the rating official is also the reviewing official (Division Director, Regional Director, District Administrator, or Office Head).

¹¹ Employee time limit for filing reconsideration and/or grievance requests begins when the initial rating is presented to the employee, regardless of whether the employee makes a written response. If the filing deadline falls on a weekend or holiday, the deadline moves to the next workday.

official, then the employee has five calendar days to grieve the performance rating or assigned rating of record by using the procedures described in POPPS Chapter 771.A, SEC Grievance Procedures.

Section 5. Use of Appraisal as a Basis for Personnel Actions

5-1. EMPLOYEE RECOGNITION. The following information is presented only to show the relationships between specific awards and appraisals (see POPPS Chapter 451.A).

A. **Performance Award.** This is a one-time lump sum award which recognizes past performance of regularly assigned duties and is based upon the employee's rating of record which must be fully successful or higher. The employee's job performance has been clearly superior, but a quality step increase is not appropriate. (For example, overall performance may not be high enough to warrant an increase in basic salary, the employee may be in the top step of the grade, or a promotion may be pending.)

B. **Special Act or Service Award.** This is a one-time cash payment, time off award, or non-monetary honorary recognition to an employee in recognition of a one time special act, suggestion, invention or exceptional performance in a specific aspect or element of the job.

5-2. QUALITY STEP INCREASES FOR GS EMPLOYEES. Specific criteria for the quality step increase are described in POPPS Chapter 531.A. The quality step increase is an additional pay increase given for consistently higher quality performance of regularly assigned duties above that ordinarily found in the type of position concerned. It may be granted only when an employee under the General Schedule has received an outstanding rating of record. However, a quality step increase is not granted automatically to an employee just because he/she has been rated outstanding. There must be an expectation that the same high quality of performance will continue in the same position. The granting of a quality step increase is optional and is at management's discretion. A quality step increase not only raises the employee's basic rate of pay but provides continuing benefits such as increased life insurance coverage. A quality step increase also can favorably affect the level of pay received in connection with subsequent promotions and retirement computations.

5-3. WITHIN-GRADE INCREASES. Employees receive within-grade increases when eligible if their overall performance is fully successful or higher. The intent is to base within-grade increases on the quality of the work rather than length of service. Thus, the employee's job performance must be of a sufficiently high quality to warrant a pay increase and not just adequate for retention on the job. To be eligible for a within-grade increase, an employee must have a current overall appraisal of fully successful or higher, based on the most current appraisal even though the employee may be in a two or three year waiting period (see POPPS Chapter 531.A).

5-4. PROMOTIONS.

A. **Career Ladder Promotions.** The results of performance appraisals are used as a basis for determining whether employees have demonstrated the capability to perform at the next higher level of a career ladder. Performance in the present position must be appraised as at least fully successful on all critical elements. In addition, there must be a determination made that the employee is performing at, or has demonstrated the ability to perform at, the next higher grade level.

B. **Merit Promotions.** Under merit promotion procedures (see POPPS Chapter 335.A), candidates are evaluated on the skills, knowledge, and abilities required for the position to be filled, rather than overall performance in the candidate's present position. Performance appraisals are used as one basis for determining the extent to which the employee possesses the knowledge, skills and abilities required in the position to be filled. However, an overall performance rating of at least fully successful is needed in order to be eligible to apply for positions under Merit Promotion procedures.

5-5. TRAINING.

A. Supervisors may request training to improve performance in an employee's present job and for certain developmental purposes. The performance appraisal process should identify areas where remedial or developmental training may be necessary for an employee to meet or exceed specified performance standards. Refer to POPPS Chapter 410.A, for additional information.

B. The decision as to whether formal training would be appropriate to bring about needed improvement in job performance is made by the supervisor, subject to authorization by the OAPM Training Officer. Such formal training should be provided only when there is reasonable assurance that the training would improve performance in specific aspects of the job.

5-6. REDUCTION IN FORCE (RIF).

A. The three most recent ratings of record within the past four years will be used for RIF purposes. Employees who do not have three ratings of record will have RIF service credit calculated based on assumed ratings of fully successful as necessary to credit the employee with service for three annual performance ratings.

B. Any rating of record which becomes official on or after the date of issuance of a specific RIF notice shall not be considered as one of the employee's three most recent ratings of record.

C. No rating of record will be assigned for the sole purpose of affecting an employee's RIF retention standing.

D. To provide adequate time to determine employee retention standing, the Executive Director may determine administratively a cut off date for receipt of ratings of record. That cut-off date shall be at least 30 days prior to the effective date of the RIF. Employees are still given ratings when scheduled, but ratings received after the cut-off date do not become a part of the retention register. When a cut-off date is used, an employee will receive performance credit for the three most recent annual ratings received during the four-year period prior to the cut-off date.

5-7. PERFORMANCE IMPROVEMENT PLAN (PIP).

A. At any time during the appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the supervisor shall afford the employee an opportunity to improve through a Performance Improvement Plan (PIP).¹² Unacceptable performance means that performance on at least one critical element that has been judged unsatisfactory. The supervisor should contact OAPM if he/she is considering giving an employee a PIP. The opportunity period for improvement will begin once the supervisor gives the employee a written PIP, which includes:

1. Notification of the critical element(s) in which he/she is performing below the acceptable level, with examples of specific performance deficiencies;
2. The performance standards which must be attained in order to demonstrate acceptable performance in his or her position¹³;
3. Offer of assistance to the employee in improving to the acceptable level (which may include formal training, on-the-job training, counseling, and closer supervision); and
4. Provision of a reasonable period of time¹⁴ for the employee to attain the acceptable level. Any employee who fails to attain at least the acceptable level after a reasonable period of time to improve performance on the specified critical element(s), and to sustain an acceptable level of performance, may be reduced in grade or removed.¹⁵

¹² Under certain circumstances affording an employee an opportunity to improve may not be feasible or appropriate (e.g., when the employee's duties have a direct and serious relationship to health and/or safety of others).

¹³ Supervisors must describe at least the minimally satisfactory level of performance. Supervisors are not required to describe fully successful performance, but may do so at their discretion.

¹⁴ The minimum length of time to demonstrate acceptable performance is "a reasonable period of time," which is usually 30 to 120 days depending on the nature of the duties.

¹⁵ GS employees who improve to an acceptable level, but not to the fully successful level, may be subject to denial of a Within-Grade Increase (see POPPS Chapter 531.A).

5-8. REDUCTION IN GRADE AND REMOVAL FOR UNACCEPTABLE PERFORMANCE.¹⁶

A. Once an employee has been afforded an opportunity to improve performance through a performance improvement plan (PIP) and the employee's performance continues to be unacceptable (i.e., unsatisfactory) in the same critical element(s) at the completion of the PIP, a performance based reduction in grade or removal may be initiated.

1. If an employee has performed at the acceptable level for one year from the beginning of a PIP (in the critical element(s) for which the employee was afforded an opportunity to improve) and the supervisor subsequently determines the employee's performance is unacceptable, the supervisor shall afford the employee an additional PIP before determining whether to propose a reduction in grade or a removal.

2. A decision to reduce in grade or remove an employee for unacceptable performance may be based only on those instances of performance that occurred during the one year period ending on the date of issuance of the advance notice of proposed action.

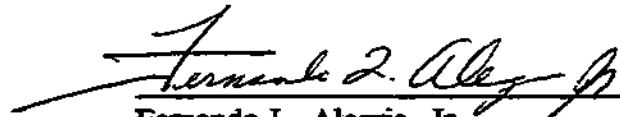
B. The decision as to whether a demotion should be effected in lieu of removal is a supervisory one. If an employee's position can be restructured in a manner consistent with good position management and this will permit better use of the employee's knowledge, skills, and abilities, retention in the position at the same or lower grade level may be considered. Similarly, an employee may be considered for a vacancy at the same or lower grade if there is reason to believe that the employee could perform the duties in a fully successful manner.

¹⁶ An employee may be reassigned at any time. However, before reassigning an employee, the supervisor is advised to consult with the Office of Administrative and Personnel Management concerning the implications of such an action.

Section 6. Additional Information

6-1. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes POPPS Chapter 430.A dated February 10, 1993. POPPS Chapters 430.B and 920.B contain related information.

6-2. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management, Employee Relations and Development Branch.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

April 30, 1996
Date

Attachments:

1. SEC 2331 (4/96), Performance Management Record and Instructions
2. Sample Notice of Employee Refusal to Sign Performance Plan

**U.S. Securities and Exchange Commission
PERFORMANCE MANAGEMENT RECORD
and Instructions**

Name	Rating Period		
Title	Organization		
Pay Plan, Series, Grade/Step			
Employee Covered by: <input type="checkbox"/> General Schedule <input type="checkbox"/> Prevailing Rate <input type="checkbox"/> Senior Executive Service			
SUPERVISORY POSITION CERTIFICATION AND AUTHORIZATION OF PERFORMANCE PLAN			
<input type="checkbox"/> I have reviewed the position description of record and certify that it is (check appropriate box below per instructions):			
ACCURATE	INACCURATE		
<input type="checkbox"/> Less than 4 years old <input type="checkbox"/> Over 4 years old; send new coversheet to the Office of Administrative and Personnel Management (OAPM).	<input type="checkbox"/> Minor pen and ink changes attached (copy given to employee). <input type="checkbox"/> Major changes; rewrite must be submitted to OAPM within 45 days. If this box is checked, please send a photocopy of this page to OAPM as soon as signatures are obtained.		
<input type="checkbox"/> The attached performance plan is a complete and accurate statement of the work that will be the basis of the employee's performance appraisal.			
Name, Title, and Signature of First Line Supervisor/Rating Official	Date		
APPROVAL BY REVIEWING OFFICIAL I agree with the certification of the position description and approve the performance plan.			
Name, Title, and Signature of Reviewing Official	Date		
EMPLOYEE ACKNOWLEDGEMENT My signature only acknowledges RECEIPT (paper or electronic copy) and discussion of the performance plan, and does not necessarily signify my agreement.			
Employee Signature	Date		
PROGRESS REVIEW At least one progress review is required. Written documentation can be attached, if appropriate. During the review, each element should be discussed.			
1st Progress Review (Mandatory)	Employee's Initials	Supervisor's Initials	Date
2nd Progress Review (Optional)	Employee's Initials	Supervisor's Initials	Date
3rd Progress Review (Optional)	Employee's Initials	Supervisor's Initials	Date

INSTRUCTIONS FOR COMPLETING THE PERFORMANCE MANAGEMENT RECORD

SUPERVISORY POSITION CERTIFICATION AND AUTHORIZATION OF PERFORMANCE PLAN

If the position description (PD) is accurate and it is less than four years old, please check the appropriate box and no further action is required (make sure each employee has a copy of his or her PD).

If the PD is accurate and over four years old, contact your servicing classification specialist for recertification procedures. If the PD is inaccurate, the rating official must prepare a redescription and send it to the classification representative for his or her review within 45 days.

SECTION I—JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET

1. Attach the performance standards for each job element (employees should normally have 5-8 elements).
2. Identify the job element of the employee's job.
3. Specify if the element is critical or non-critical (check appropriate box).
4. Assign a weight to the job element to show the time devoted to accomplishing the element and/or its importance. The total weight of all job elements in the plan must equal 100 (see space provided at top of page).
5. Define what the element is intended to accomplish, focusing on the overall result, and identify the major activities or results needed to accomplish the job element. For every job element there must be three written performance standards "Minimally Satisfactory," "Fully Successful," and "Exceeds Fully Successful". These standards are to be written in outline or paragraph format, and should describe work products or results expected at each of the performance levels. The standards may include, but are not limited to, factors such as quantity, quality, and timeliness.

SECTION II—PERFORMANCE ACCOMPLISHMENTS

Attach a description of the accomplishments made by the employee on each job element, by citing actual performance compared to the performance standards.

SECTION III—PERFORMANCE SUMMARY AND RATING

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it. If an employee has not had a chance to perform in all of the elements, the rating official should reallocate the weights to those elements in which the employee has had an opportunity to perform.
2. Assign a rating level for each element: (5) Outstanding; (4) Exceeds Fully Successful; (3) Fully Successful; (2) Minimally Satisfactory; and (1) Unsatisfactory. The Rating Codes are as follows: "O" Outstanding; "E" Exceeds Fully Successful; "FS" Fully Successful; "MS" Minimally Satisfactory; and "U" Unsatisfactory.
3. Score each element by multiplying the weight (sum of individual weights must total 100) by the rating level. The Score is equal to the Element Rating Score multiplied by the Priority Weight for each Job Element. The Total Score is the sum of the Individual Scores.
4. After each element has been scored, compute the total score by summing all individual scores. The total score can range from 100 to 500. *NOTE: If any critical element is rated Unsatisfactory, the overall rating is Unsatisfactory. This is equivalent to OPM's summary rating of unacceptable.*
5. A completed copy of this form must be sent to OAPM along with the performance accomplishments.

The Performance Rating is completed by the rating official, and the reviewing official concurs before the rating is discussed with the employee. All of the information documented is discussed with the employee at the formal appraisal meeting, and a copy of the rating is given to the employee. The employee signs the form only to acknowledge that an appraisal meeting was held.

If the employee is dissatisfied with the initial rating, he or she must request written reconsideration by the reviewing official within ten calendar days of receipt. If the reviewing official changes a rating, he or she must document the reasons. A copy of the new rating must be given to the employee.

SECTION IV—PERFORMANCE RECOGNITION

The rating official completes any recommendations for performance awards, and forwards it through the reviewing official to the proper channels for processing the award.

SECTION V—PERFORMANCE RECOGNITION FOR SES EMPLOYEES

The rating official completes any recommendations for performance awards, and once the proper signatures have been obtained, forwards it to the proper channels for processing the award.

For historical purposes only: the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Section I—JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET Use one form for each
element. Use reverse side to continue.

Assigned Weight:	%	<input type="checkbox"/> Critical <input type="checkbox"/> Non-Critical	Element No.	of
------------------	---	---	-------------	----

For historical purposes only: the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Section I—JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET (Continued)

Element No. _____ of _____

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Section II--PERFORMANCE ACCOMPLISHMENTS Please discuss employee's accomplishments in terms of each element. Continue on reverse and attach additional sheets if necessary. A completed copy of this page must be sent to the OAPM at the end of the rating period along with the completed page C.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Section II—PERFORMANCE ACCOMPLISHMENTS (Continued)

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

ce: _____

SECTION III - PERFORMANCE SUMMARY AND RATING

Job Element (Identify title)	Critical or Non-Critical (C or NC)	Priority Weight	Element Rating (1-5)	Score

The PERFORMANCE RATING is based on your total score except if a critical element is Unsatisfactory, the overall rating is Unsatisfactory.

TOTAL SCORE: _____

OVERALL PERFORMANCE RATING

<input type="checkbox"/> Outstanding (450-500)	<input type="checkbox"/> Exceeds Fully Successful (380-449)	<input type="checkbox"/> Fully Successful (285-379)	<input type="checkbox"/> Minimally Satisfactory (200-284)	<input type="checkbox"/> Unsatisfactory (100-199)
--	---	---	---	---

Rating Official's Signature and Title	Date
---------------------------------------	------

Reviewing Official's Signature and Title	Date
--	------

Employee's Signature (Indicates appraisal meeting held.)	Date	Employee Comments Attached <input type="checkbox"/> Yes <input type="checkbox"/> No
--	------	--

SECTION IV - PERFORMANCE RECOGNITION (See Section V on reverse side for SES employees.)

<input type="checkbox"/> Recommended Quality Step Increase (QSI) (Outstanding rating required) Applies only to GS employees. I expect employee's performance to continue at this level.	<input type="checkbox"/> Recommended Performance Award. Applies to GS and PR employees. \$ _____ or % _____
---	--

Has the employee been promoted within the last 4 months? ☐ Yes ☐ No If yes, the rating official should contact the servicing personnel specialist in the Office of Administrative and Personnel Management.

Rating Official's Signature and Title	Date
---------------------------------------	------

Reviewing Official's Signature and Title	Date
--	------

Division Director/Office Head/Regional Administrator's Signature	Date
--	------

OAPM/Executive Director/Chairman Approval (as appropriate)	Date
--	------

Payment Authorized by Office of Administrative and Personnel Management	Date	OAPM Code
---	------	-----------

Name: For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

SECTION V - SES EMPLOYEES

Initial Performance
Rating

Total Score

Rating Official Recommendation(s), please check appropriate block(s).

☐ Performance-related pay adjustment (rate): _____

☐ SES Bonus \$ _____

or % _____

Rating Official Signature and Title

Date

OPTIONAL HIGHER LEVEL REVIEW (AT EMPLOYEE'S REQUEST)

Comments:

Higher Level Reviewer's Recommendations:

Higher Level Reviewer Signature and Title

Date

PERFORMANCE REVIEW BOARD (PRB) REVIEW

PRB concurs with initial rating ☐ Yes ☐ No *If no, explain below:*

PRB concurs with other recommendations ☐ Yes ☐ No *If no, explain below:*

PRB Chairperson Signature

Date

APPOINTING AUTHORITY

I ☐ Agree ☐ Disagree with the PRB recommendations. *If disagree, explain below:*

FINAL RATING OF SENIOR EXECUTIVE

☐ Outstanding

☐ Exceeds Fully
Successful

☐ Fully
Successful

☐ Minimally
Satisfactory

☐ Unsatisfactory

Appointing Authority Signature (or Designee)

Date

MEMORANDUM

TO:

FROM:

SUBJECT: Notice of Failure to Sign Performance Plan

The SEC Performance Appraisal System (POPPS 430.A) requires that each employee acknowledge discussion of his or her position description and receipt and discussion of his or her performance plan by signing the Coversheet of SEC 2331, Performance Management Record.

As provided in the regulation, this process acknowledges only discussion of the position description and receipt and discussion of the performance plan. Your signature and initials do not indicate your agreement or disagreement with the contents, nor preclude any other rights provided to you.

On (insert date) you were presented with a copy of your job elements and performance standards, appropriately signed and initialed by (insert name of immediate supervisor). You refused to sign and initial these forms.

Accordingly, as required by POPPS 430.A, paragraph 3-3D, this official notice is issued. This notice will be placed in your employee performance file and will be maintained in accordance with procedures specified in POPPS 293.C.

A copy of the standards which you did not sign are attached and were given to you on (insert date).

Attachment

**cc: EPF
OAPM**

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-430.B
February 10, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 430.B

**PERFORMANCE STANDARDS ON EEO AND HRM
FOR EXECUTIVES, MANAGERS, AND SUPERVISORS**

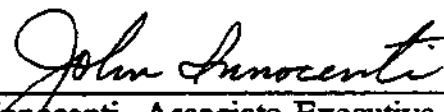
1. **PURPOSE.** This Chapter conveys the requirement for all executives, managers, and supervisors (regardless of pay plan) to incorporate a critical element into their performance plans to reflect their responsibilities in Equal Employment Opportunity (EEO) and Human Resources Management (HRM). It also provides standardized language for each level of performance for which written performance standards are required.
2. **POLICY.** The Commission is committed to the philosophy that its ability to successfully meet the programmatic goals of the Commission is directly linked to its ability to recruit, select, develop, evaluate, and recognize the people who are entrusted with the responsibility for achieving those goals. These human resources must be managed in a way that promotes the development of individual potential, treats employees fairly and with respect, and recognizes and builds upon the cultural diversity among us. Equal opportunities must be provided to all employees and applicants regardless of age, race, color, religion, sex, national origin, or disability. Managers and supervisors at all levels are expected to take positive steps to ensure equitable treatment for all, and to support affirmative employment goals. Accordingly, it is the Commission's policy to specifically evaluate these aspects of managerial performance as a major critical element of every managerial or supervisory position.
3. **SCOPE.** This Chapter applies to each Commission executive, manager, and supervisor who is responsible for three or more subordinates.
4. **PROCEDURES.**
 - A. The attached generic job element and performance standards shall be included in the management responsibilities section of all executives', managers', and supervisors' performance plans.

B. This element must be assigned a priority weight of at least 10 per cent of total performance.

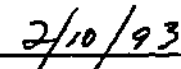
C. Language may be added, if desired, to the standards to reflect specific activities that are expected to be undertaken by the incumbent to achieve positive employee relations, equal employment opportunity, and/or a discrimination free environment. Additions also may be geared to addressing specific identified problems.

5. **EFFECTS ON OTHER DOCUMENTS.** POPPS Chapter 430.B dated September 9, 1991 is superseded. This Chapter should be read in conjunction with POPPS Chapter 430.A, SEC Performance Appraisal System.

6. **OFFICES OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management and Office of Equal Employment Opportunity.



John Innocenti, Associate Executive Director
Office of Human Resources Management



Date

Attachment:

EEO/HRM Generic Performance Standards

Attachment to POPPS Chapter 430.B

Name: _____

Division/Office: _____

SECTION I — JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET

Assigned Weight: _____

☐ Critical ☐ Non-Critical

Element No. _____ of _____

(Use one form for each element. Use reverse side to continue content.)

EEO and Human Resources Management

Assesses human resource requirements needed to manage assigned program responsibilities. Assigns work, taking into account skills and abilities of staff, and monitors work performance. Recruits and promotes individuals in accordance with proper personnel management procedures, demonstrating interest in and commitment to SEC EEO/affirmative employment and cultural diversity objectives. Works with staff to develop performance plans and conducts periodic formal progress reviews, including discussions relative to career development. Evaluates performance and initiates appropriate recognition or corrective action as necessary. Motivates staff and works with them to function as a team, taking into account both individual and organizational needs.

Exceeds Fully Successful

Keeps employees informed and involved regarding EEO activities and programs (e.g., upward mobility, training opportunities, career enhancement or intern programs) which further SEC EEO/affirmative employment objectives. Shows commitment to SEC/EEO affirmative employment objectives by actively seeking and encouraging disabled individuals, minorities, and women to apply for positions. If and when EEO problems occur, the supervisor recognizes them and initiates corrective actions consistent with proper personnel management principles and practices. The supervisor establishes positive working relationships with staff and deals with subordinates fairly and justly. He/she provides opportunities for staff to have a proactive role in accomplishing organizational objectives by contributing to setting meaningful goals for their units of the organization. Seeks staff input to development of performance plans. Encourages professional development and training at all levels, creating developmental assignments when appropriate formal training does not exist. Promptly and effectively recognizes accomplishments of subordinates. Encourages team spirit and high morale through effective use of various management techniques. This may be accomplished under severe time constraints and pressure situations generated by work, without sacrificing high productivity and quality of work.

Name: _____

Division/Office: _____

Element No. _____ of _____

SECTION I — JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET (Continued)

EEO and Human Resources Management (Con't)

Fully Successful

The supervisor demonstrates a commitment to just, fair treatment of employees, equal opportunity and the affirmative employment objectives of the organization. Adheres to and implements agency policy in areas of personnel and EEO requirements in a consistent manner. The supervisor works successfully with subordinate staff by listening to suggestions and organizationally relevant requests, incorporating them when planning and carrying out his/her program responsibilities. Supervisor ensures accurate performance plans are in place for each employee. Supervisor tells staff what is expected, advises them of necessary changes as jobs progress and holds them responsible for timely completion of work assignments. The supervisor rewards good performance and corrects poor performance through sound use of the performance appraisal system, performance-based incentive awards and, when needed, adverse actions. Uses available training resources to provide appropriate development for staff.

Minimally Satisfactory

All basic regulatory and policy requirements are met for personnel actions and recommendations in areas such as selection, performance appraisal, promotion, recognition and equal employment opportunity. However, one or more significant deficiencies impact performance of the organizational unit(s) for which the supervisor is responsible.

Some of the following deficiencies are typical, but not always characteristic of the supervisor's work, and may occur on more than an infrequent basis.

Does not acknowledge EEO/affirmative employment beyond meeting minimal personnel requirements; fails to address developmental needs of staff and ignores special needs of culturally diverse groups; provides unclear assignments and performance requirements to subordinates; provides insufficient instructions to subordinates on how to carry out program; and fails to provide sufficient explanation of organizational needs and the subordinates' roles in meeting those needs. Lack of direction and leadership inhibits team spirit and fosters low morale among subordinate staff.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-451.A
February 10, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 451.A

EMPLOYEE RECOGNITION PROGRAM

Section 1. Introduction

1-1. PURPOSE. This Chapter describes the Commission's policies and procedures for recognizing employees of the Commission and certain others for their contributions in the form of suggestions, superior performance, and special acts or services.

1-2. INDEX. Page

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Attachments

1. Summary Rating and Award Recommendation Section of SEC 2331, Performance Management Record
2. Revised SEC 48, Recommendation for Special Act or Service Award
3. SEC 2323, On-The-Spot Cash Award (Certificate)
4. SEC 699, Time and Attendance Record
5. Optional Form 303, Employee Suggestion
6. Awards Scale for Recognition of Tangible Benefits
7. Awards Scale for Recognition of Intangible Benefits
8. Honorary Awards (Descriptions)

1-3. POLICY. The SEC employee recognition program is designed to motivate employees and recognize employee contributions above and beyond normal job requirements with monetary and non-monetary awards, and to improve the efficiency of operations through the suggestion program. Awards may be granted for contributions either within or outside of job responsibilities; however, if the contribution is within job responsibilities, it must be so superior or meritorious that it warrants special recognition. Awards granted should consider the motivational needs of the employee and the interests of the Commission. All forms of employee recognition must be given due consideration in selecting employees for promotion. All award limits referenced in this Chapter are gross amounts rather than net amounts received by the employee after applicable deductions.

1-4. SCOPE. While this plan applies to all SEC employees, certain awards or cash recognition are limited to specific employee groups. Those limitations are described for each form of recognition. Former Commission employees or estates of deceased employees are eligible to receive awards for contributions made by such persons while employed by the Commission. Employees of other federal agencies, whose suggestions or other contributions benefit the Commission, also are eligible to receive awards under this program.¹

1-5. AUTHORITIES. For employees covered under the Performance Management System (PMS), authority for Superior Accomplishment Awards (Special Acts and Services; Suggestions; Inventions) is found in Title 5 U.S.C. Chapter 45. Authority for employees covered under the Performance Management and Recognition System (PMRS) is Chapter 54 of Title 5 U.S.C. Section 5407 for Cash/ Incentive Awards, and Performance Awards. Authority for SES performance awards is covered under Title 5 U.S.C. Section 5384. Applicable regulations also may be found in 5 CFR Part 451; FPM Chapter 451; FPM Letter 296-115 dated September 19, 1991, describing documentation of Time Off Awards; and FPM Letter 451-9 dated June 24, 1991, describing On-The-Spot Awards.

1-6. DEFINITIONS.

A. Basic Pay. The total amount of pay received during any one calendar year at the rate fixed by law or administrative action for the position held by an employee before any deductions and exclusive of geographic adjustments or locality pay.

B. Contribution. An employee's suggestion, invention, or personal effort substantially contributing to the productivity, efficiency, economy or other improvement of government operations (i.e., the employee's special act or service, in the public interest, either within or outside normal job responsibilities).

¹ Private citizens also may be recognized with honorary certificates or plaques for their service contributions to the Commission.

C. Employee. All full-time, part-time, and intermittent employees of the Commission.

D. Honorary Award. Any non-cash award which may involve the presentation of a token remembrance of nominal value (e.g., a certificate, emblem, pin, coffee mug, clock, desk set or other item the employee can wear, display or use in an office setting). Items awarded by the Commission should have the Commission's seal or logo where practical.

E. Incentive Award. An all inclusive term which refers to any type of award granted under 5 CFR 451 such as a Special Act or Service, Suggestion, or Invention award. An incentive award may be a cash award, honorary award or both.

F. Intangible Benefits. Non-monetary values that affect SEC functions, mission or personnel (e.g., change of operating principle, improvement to quality of product, program or service to the public or initiation of a new procedure).

G. Interagency Award. An incentive award granted for an approved contribution from an employee or employees of another agency.

H. On-The-Spot Award. A form of Special Act or Service Award used to reward an employee who performs a particular task (usually short-term) or assignment or other job responsibility in an exemplary manner. The intent of an On-The-Spot award is to streamline the approval process so that recognition can occur very quickly after the contribution.

I. Performance Award. A performance-based cash payment to an employee based on the employee's rating of record.

J. Presidential Award. An award granted by the President to federal employees under 5 U.S.C. 4504 for employee suggestions, inventions or an exceptionally meritorious act or service, and under 4507 for awarding of ranks in the Senior Executive Service.

K. Prevailing Rate. Prevailing Rate (PR) refers to employees in the Wage Grade or Federal Wage System.

L. Rating of Record. The summary rating under 5 U.S.C. 4312, 4302, and 4302a for SES, GM, GS and PR employees required at times specified in the performance appraisal plan or at such times specified for special circumstances (see POPPS Chapters 430.A, 540.A and 920.B).

M. Special Act or Service Award. A Superior Accomplishment Award (either monetary or non-monetary) granted to an individual or group for a non-recurring contribution, a scientific achievement, or an act of heroism. The tangible and/or intangible benefits must be cited in writing to support the award recommendation.

N. Tangible Benefits. Monetary benefits/savings to the government.

O. Time Off Award. An excused absence granted to an employee without charge to leave or loss of pay, in recognition for his or her contribution to the quality, efficiency, or economy of government operations.

1-7. RESPONSIBILITIES AND DELEGATION OF AUTHORITY.

A. Agency Head. As head of this agency, the Chairman has the authority to implement the agency's recognition program and to delegate authority as required to achieve such implementation. In addition to the authorities granted to managers for their own staffs, the Chairman retains delegated authority for the implementation of this program and to:

1. Approve performance awards up to 10 percent of an employee's basic pay and cash awards up to \$10,000 for employees in the Chairman's office.

2. Authorize a performance award up to 20 percent of an employee's basic pay (See Section 2-2 of this Chapter).

3. Recommend awards in excess of \$10,000 up to \$25,000 to the Office of Personnel Management (OPM) for review and approval.²

4. Approve time off awards up to a maximum of 40 hours for a single contribution.

B. Executive Director. The Executive Director is delegated authority to:

1. Approve performance awards from 5 percent to 10 percent of an employee's basic pay.

2. Exercise delegated authority to approve special act or service awards of \$1500 to \$10,000.

3. Modify delegated authority of Division Directors, Office Heads and Regional Administrators for approving cash awards.

4. Approve all time off awards for SES employees, and for all other SEC employees for more than three workdays off up to a maximum of 40 hours for a single contribution (See Section 5-1 of this Chapter).

² The President may authorize an additional cash award for significant contributions.

C. Associate Executive Director of Office of Human Resources Management (OHRM). The Chairman has delegated authority for overall administration of the Employee Recognition Program to the Associate Executive Director, OHRM, who shall:

1. Exercise delegated authority as the official responsible for managing the agency's award budget, and granting final approval for ratings of record and awards.
2. Train managers and supervisors to effectively use this Program to achieve organizational goals and objectives, and provide them with guidelines for initiating appropriately selected performance-related awards, encouraging employees to submit suggestions, and evaluating and processing suggestions.
3. Issue criteria for Division Directors, Office Heads and Regional Administrators to use in reviewing and approving recommendations for granting performance-related and other awards to their subordinates.
4. Monitor and evaluate both the adequacy of documentation for award recommendations and the use of approval authority delegated to Division Directors, Office Heads and Regional Administrators.
5. Approve time off awards that grant his or her employees up to 3 workdays off.
6. Exercise delegated authority to approve special act or service awards of \$751 to \$1,499.
7. Authorize payment of performance awards, cash awards, or quality step increases to employees.
8. Educate employees regarding the Employee Recognition Program, providing information such as descriptions of all pertinent forms of recognition, criteria for each, and how they may attempt to earn them.
9. Develop strategies to promote employees' use of the Commission's Suggestion Program.
10. Ensure that the Commission's promotion policies take into account recognition granted under the Employee Recognition Program as a factor in ranking employees who otherwise satisfy requirements for promotion.
11. Refer employee performance contributions which appear to have application to other federal agencies to OPM in accordance with the interagency referral procedures in Section 7 of this Chapter. This authority is further delegated to the Suggestion Officer within OHRM.

D. Division Directors, Office Heads and Regional Administrators. Division Directors, Office Heads and Regional Administrators shall ensure that the Commission and SEC employees may derive the greatest possible benefits from awards; specifically, these officials shall:

1. Exercise delegated authority to approve special act or service awards up to \$750 for employees in their division, office or region, as well as for employees in other divisions, offices or regions who worked on special projects under his or her supervision.
2. Exercise delegated authority to administratively approve all performance awards up to 5 percent of a GM/GS/PR employee's basic pay.
3. Exercise delegated authority to approve On-The-Spot Awards up to \$150 per employee, not to exceed \$300 per year to any one employee. Such authority is separate from and does not count against special act or service award approval limit of \$750, and can be delegated to another management official within the chain-of-command.
4. Manage the portions of the award budgets allocated to that office or division. This responsibility can be delegated to another management official within the chain-of-command.
5. Promote the program in their division or office so as to develop the interest and participation of employees in the improvement of Commission and government operations.
6. Identify through the management review process, program or operational areas where superior work results warrant recognition, and recommend or grant appropriate awards under this Chapter.
7. As requested, review criteria or the eligibility of subordinates for GM, GS, and PR honorary awards and prepare justifications in support of nominations for such awards.
8. Obtain a prompt evaluation of suggestions arising in or referred to their offices, and adopt deserving suggestions which are within their authority or obtain necessary approval for the adoption of suggestions which may require Commission approval.
9. Approve time off awards that grant their employees up to 3 workdays off (see Section 5-1 of this Chapter).

E. Supervisors. Supervisors are responsible for using the Employee Recognition Program as a management tool. They shall:

1. Recognize the superior performance and special achievements of their employees³ with appropriate award recommendations submitted within six months following the contribution for which the award recommendation is made. Whenever feasible, supervisors shall process recommendations as soon as possible after the employee's contribution so that the award will be more clearly associated with the specific contribution which warrants the award.

2. Not discuss performance award nominations with employees until they are approved.

3. Approve time off awards that grant their employees one workday off (see Section 5-1 of this Chapter).

4. Motivate employee interest and participation in the Incentive Awards Program by encouraging and being receptive to employee suggestions.

5. Within 30 days of receipt, review and evaluate suggestions referred to them for evaluation.

6. For suggestions which they evaluate and adopt or recommend adoption, the supervisor will determine the amount of tangible benefits and/or degree of intangible benefits to the government and will notify the Suggestion Officer in writing of those benefits, on which the Suggestion Officer will base the award amount.

F. Suggestion Officer. The Suggestion Officer within OHRM is responsible for processing all suggestions submitted under this Chapter, including the:

1. Receipt and acknowledgement of suggestions within five (5) days after receipt;

2. Evaluation of suggestions, including providing guidelines to managers for evaluating suggestions within required time frames;

3. Determination of award amounts to be granted based upon the amount of tangible and/or intangible benefits;

4. Notification to suggestors of the final disposition of their suggestions;

5. Verification that awards were granted for adopted suggestions; and

6. Referral of employee suggestions or contributions which appear to have application to other federal agencies in accordance with procedures in Section 7 of this Chapter.

³ Supervisors may recommend employees who report directly under their supervision on a regular basis, as well as employees from other divisions, offices or regions who worked on special projects under his or her supervision.

G. Employees. Employees are responsible for seeking answers to their questions concerning the Employee Recognition Program and the various forms of recognition available. Employees are encouraged to submit suggestions to enhance efficient operations and facilitate achievement of both National and Commission goals and objectives. Upon acceptance of a monetary award for a contribution, suggestion or invention, an employee has no further basis for claim against the government.

Section 2. Performance Awards

2-1. GM PERFORMANCE AWARDS. This performance-based cash payment to GM employees is based on the employee's rating of record and does not increase basic pay (see POPPS Chapter 540.A).

2-2. GS AND PREVAILING RATE PERFORMANCE AWARDS.

A. **Description.** This performance-based cash payment to a GS or Prevailing Rate (PR) must be based upon the employee's rating of record. Therefore, performance awards may be recommended only when the employee's annual rating of record has been completed. The recommendation is contained in Section IV of SEC 2331, Performance Management Record.

B. **Eligibility.** Each GS or PR employee with a rating of record of Fully Successful or higher is eligible for a performance award, subject to availability of funds and managerial discretion.

C. **Criteria.** A performance award may be granted to recognize performance throughout the rating period. The performance appraisal documentation describing actual performance against the standards on each job element must support the rating given. In determining whether to grant a performance award, or the amount of such an award, managers may take into account the likelihood of a promotion in the near future, the appropriateness of a Special Act or Service Award or a QSI in lieu of a performance award.

D. Performance Award Approval Levels for GS and PR Employees.

	<u>Award Amount⁴</u>	<u>Approval</u>
1.	Up to 5% of employee's rate of basic pay	Division Director, Office Head or Regional Administrator
2.	Up to 10% of employee's rate of basic pay	Executive Director
3.	Up to 20% of employee's rate of basic pay	Chairman

E. **Recommendation Procedures.** Submit the completed Performance Management Record with appraisal narrative and summary rating (see Attachment 1) through the chain-of-command for review to the Division Director, Office Head, or Regional Administrator for approval. Then submit one original and one copy of the package (i.e., appraisal narrative, summary rating and approval signatures) to the Associate Executive Director, OHRM for review and authorization of payment. OHRM will secure any additional approvals.

⁴ All recommendations for performance awards in excess of \$10,000 up to \$25,000 will be submitted by the Chairman to OPM for approval.

Section 3. Quality Step Increases for GS Employees

3-1. INTRODUCTION. This form of recognition is similar to a performance award in that it rewards employees for superior performance demonstrated over an extended period of time. Unlike a performance award, which is a one-time cash award, the Quality Step Increase (QSI) is a pay action which increases the employee's basic pay and affects fringe benefits.

3-2. ELIGIBILITY.⁵ All General Schedule employees except those in step 10 of their grade are eligible if they have received an Outstanding performance rating as their most current rating of record.⁶ All QSI recommendations must be approved by the Associate Executive Director, OHRM.

3-3. RECOMMENDATION PROCEDURES. For each QSI recommendation, the required form and documentation are the same as those described for a performance award (see Section 2.2 of this Chapter).

3-4. PAYMENT. A QSI recognizes a continued high level of employee performance but it is not an award. The QSI consists of raising the employee's basic pay to the next higher step within the pay range for the employee's position. Only in unusual circumstances may a combination of a QSI and a lump sum Performance Award, Special Act or Service Award be used.

3-5. NUMBER OF QUALITY INCREASES. A QSI may be granted only once within a 52-week period, and can be granted in addition to a regular within grade increase. An employee may not receive a second QSI in the same grade and position unless two calendar years have passed since the last QSI was granted.⁷

⁵ Prevailing Rate, PMRS and SES employees are not eligible for QSIs.

⁶ If the QSI would place the employee in the fourth or seventh step of the grade, it would effectively delay the employee's next regularly scheduled within grade increase. In that situation, consult OHRM for assistance in determining the proper timing for effecting the QSI or appropriate alternate recognition.

⁷ This supersedes the requirements currently listed in POPPS Chapter 531.A, dated September 9, 1991, which incorporated SECR 6-11. As of the date of publication, the revised POPPS Chapter 531.A has not yet been issued.

Section 4. Special Act or Service and On-The-Spot Awards

4-1. SPECIAL ACT OR SERVICE AWARDS.

A. **Description.** For GM employees, a special act or service award may be used to recognize any non-recurring contribution which is highly exceptional and unusually outstanding and which is beyond normal job responsibilities and performance standards. For GS and other employees, a special act or service award may be used to recognize a non-recurring contribution either within or outside of job responsibilities.

B. **Eligibility.** All employees are eligible for this type of award.

C. **Special Act or Service Award Approval Levels.**

	<u>Award Amount</u>	<u>Approval</u>
1.	Special Act or Service Award of \$10,000 to \$25,000	Chairman may submit recommendations to the Director of OPM for approval.*
2.	Special Act or Service Award of \$1,500 to \$10,000	Chairman/Executive Director
3.	Special Act or Service Award \$751 to \$1,499	Associate Executive Director, OHRM
4.	Special Act or Service Award up to \$750	Division Director, Office Head, or Regional Administrator
5.	On-The-Spot Award \$25 to \$150	Approval is by the Division Director, Office Head, or Regional Administrator or the official designated by him or her to be the official with approving authority.

D. **Recommendation Procedures.⁹** Submit one original and one copy of the following for approval to the Division Director, Office Head or Regional Administrator and then to the Associate Executive Director, OHRM for review and authorization of payment:

1. SEC 48, Recommendation for Award; and

* This footnote has been omitted.

⁹ Any supervisor or management official may recommend an employee for a special act or service award who reports directly under his or her supervision on a regular basis, as well as employees from other divisions, offices or regions who worked on special projects under his or her supervision.

2. A memorandum providing justification for the award and the basis for the tangible and/or intangible benefits for paying the award amount (see Attachments 6 and 7).

4.2. ON-THE-SPOT AWARDS.

A. **Description.** The On-The-Spot Award is a special act or service award designed to quickly recognize one-time and short-term tasks or assignments or other job responsibilities performed by an employee in an exemplary manner. This award may provide either monetary or non-monetary recognition. Monetary recognition will not be less than \$25, nor more than \$150 per instance and will be commensurate with the nature of the service or act being recognized. An employee may not receive more than \$300 per twelve month period under this authority.

B. **Eligibility.** All employees are eligible for this award.

C. **Initiation Procedures.** A supervisor may nominate any deserving employee by completing SEC 48, Recommendation for Special Act or Service Award. The employee contribution deserving of On-The-Spot recognition must be described briefly in a short paragraph in the space provided on the back of the SEC 48. The recommending official will also complete an SEC 2323, On-The-Spot Award Certificate. The recommending supervisor or management official then forwards the completed SEC 48 and SEC 2323 through the chain-of-command to his or her Division Director, Office Head or Regional Administrator or another official to whom such authority has been delegated.

D. **Approval.**

1. The Division Director, Office Head or Regional Administrator is normally responsible for administering the awards budget in his or her office. This responsibility may be delegated to another member of the office staff. The Division Director, Office Head or Regional Administrator may retain authority to approve all On-The-Spot Awards or designate a management official to approve such awards.

2. The official with approving authority will sign the SEC 48 and SEC 2323 and subtract the award amount from the Division/Office incentive awards allocation. The SEC 48 is then forwarded to the OHRM servicing personnel specialist for processing in the same manner as other awards are processed. The approving official returns the SEC 2323 to the recommending supervisor for presentation to the employee.

E. **Payment.** The award granted shall be included in the employee's paycheck.

Section 5. Time Off Awards

5-1. DESCRIPTION AND REQUIREMENTS.

A. Description. Time off awards provide a different type of employee incentive as compared to cash or honorary awards. Since these awards have a monetary value to the SEC in terms of lost production time, decisions on granting and determining the length of time off awards should take into consideration the benefits from the contribution and the cash award that otherwise might be considered for recognition.

B. Appropriate Use. Time off awards may be used in combination with cash or honorary awards for the same contribution and may be given to employees simultaneously receiving another type of award (e.g., performance award, special act) based on different contributions or criteria.

C. Eligibility. All employees are eligible for time off awards.

D. Criteria. Supervisors may grant employees time off from duty as an incentive award to encourage and reward superior accomplishments or other personal efforts, in much the same way as a special act or service award is used. Time off awards may be used in combination with cash or honorary awards for the same contribution and may be given to employees simultaneously receiving another type of award (e.g., performance award, special act) based on different contributions or criteria. A time off award is appropriate in situations in which an employee:

1. Makes a unique contribution involving a difficult or important assignment;
2. Displays special skill or initiative in completing an assignment or project before the deadline or in the face of unusual obstacles or pressures;
3. Uses notable initiative or creativity in making improvements in a product, activity, program, or service (this may be through either direct action or an employee suggestion); or
4. Ensures the mission of the organization unit is accomplished during a difficult period by successfully completing additional work or a project assignment while maintaining his or her own regular workload.

E. Approval Authority.

1. For GM, GS and PR employees.
 - a. Immediate supervisors of employees (e.g., those persons with the authority to approve leave and evaluate performance) are authorized to approve time off awards of one workday without higher level review and approval.

b. Division Directors, Office Heads and Regional Administrators are authorized to approve time off awards of up to three workdays without higher level review and approval.

c. The Executive Director is authorized to approve time off awards for more than three workdays off up to a maximum of 40 hours for a single contribution.¹⁰

2. For SES employees. All time off award recommendations must be forwarded through appropriate management channels to the Executive Director for final approval.

F. Length of Award.¹¹

1. A maximum of 40 time off awards hours may be granted to a full-time employee for a single contribution. For a part-time employee, the maximum award for a single contribution is half the number of hours he or she is regularly scheduled to work in a biweekly pay period (e.g., a part-time employee who regularly works 30 hours per pay period is limited for a single contribution to a 15 hour time off award).

2. The total amount of time off awards that a full-time employee may be granted within any one leave year is 80 hours. For a part-time employee, the total is the average number of hours worked in a biweekly pay period. For example, a part-time employee who regularly works 30 hours per pay period is limited in any one leave year to 30 hours of time off awards.

5-2. PROCEDURES.

A. Recommendation and Approval.

1. A supervisor will complete SEC 48, Recommendation for Special Act or Service Award, to reward an employee's contribution with a time off award. A brief justification of one or two paragraphs, describing the employee's achievement and the resulting benefit to the SEC, must be provided on the reverse of the form or attached to it, if more space is required. If the award is for **one workday**, the award documentation is forwarded directly to the servicing personnel specialist in OHRM.

2. If the time off to be granted is **more than one workday** (up to the 40 hour limit for an award), the award request has to be reviewed and approved as outlined in Section 5-1 of this Chapter. The approved award documentation is then forwarded to OHRM for compliance review and final approval and authorization.

¹⁰ See Section 1-7 of this Chapter for the Chairman's approval authority.

¹¹ Time off awards normally should not be authorized for less than a full workday. An employee's workday is the number of hours for which he or she is normally scheduled to work.

3. After reviewing the award documentation for compliance for all time off awards granting one or more workdays off, the Associate Executive Director, OHRM, or a subordinate with delegated authority, will authorize processing of the award. A SF-50, Notification of Personnel Action, will be generated, which makes the award effective as of the final approval date indicated on the SF-50. The Office of the Comptroller will be informed of the approval of the award via the Payroll copy of the SF-50. The employee's copy of the SF-50 will be sent to the administrative contact, who must provide a copy to the timekeeper and file a copy of the award documentation in the Employee Performance Folder (EPF). The original SF-50, with a copy of the award documentation, is presented to the employee.

4. The timekeeper, upon receipt of the copy of the SF-50 authorizing the award, shall annotate the employee's SEC 699, Time and Attendance Record, with an asterisk on the date approved and a notation in the remarks section to show that a time off award of "x" hours was approved on (date). The SF-50 shall be attached to the SEC 699 to provide documentation of the hours earned. Compliance will be subject to periodic review and/or audit (A sample annotated SEC 699 is provided in Attachment 4).

B. Scheduling Use of Time Off Awards.

1. A time off award must be scheduled and used within one year of the date on the SF-50. The time normally should be used in full day increments, but need not be consecutive days.

2. The employee must work with his or her supervisor to schedule the use of the time off award in consideration of organizational workload and mission accomplishment. The time off should be documented through an SF-71, Application for Leave, on which the "other" block is marked and time off award specified, and the supervisor must sign to approve the absence at that specific time. An SF-71 must be completed for each non-consecutive absence to use the time off award.

3. The excused administrative absence is entered into the time and attendance system and on the SEC 699 as administrative leave, but the SEC 699 is annotated as "TOA." The timekeeper must review each such notation to ensure that the hours used do not exceed the hours earned as shown in the remarks section.

4. Time used for a time off award shall be designated in STATS as time category "9" (administrative leave - other) and with "TOA" in the project identification blocks.

5. Time off awards should be scheduled and used so as not to adversely affect an employee who is in an annual leave "use or lose" situation.

6. If an employee becomes physically incapacitated for duty during a time off award period, sick leave may be granted for the period of incapacitation. The normal rules for requesting and granting sick leave shall apply.

7. If the employee leaves the agency for any reason, including a transfer to another federal agency, any unused time remaining from a time off award will expire. Time off awards cannot be converted to cash under any circumstances, nor can remaining time be transferred to another agency.

5-3. GROUP AWARDS. To foster teamwork, time off awards may be used to recognize small group as well as individual employee achievements. Procedures for nominating groups for time off awards parallel those for special act awards. Time off granted to a group may be given in equal shares or to each employee in the group in proportion to his or her contribution.

5-4. TAX IMPLICATIONS. Whereas cash awards represent additional employee compensation and thus are subject to Federal (and state) tax, FICA, and Medicare based on an employee's withholding status, time off awards are not. This is because the employee's wages or salary are already subject to such withholding.

Section 6. SES Awards

6-1. SES PERFORMANCE AWARDS.

A. Description. Performance awards may be granted annually to career executives based upon their rating of record and the size of the bonus pool (as limited by law and OPM regulations). A performance bonus is a special act or service award which does not increase the executive's annual basic pay.

B. Criteria. A career executive who receives a fully successful rating or higher is eligible for a performance award of no less than 5 percent nor more than 20 percent of his or her rate of basic pay at the end of the performance appraisal period.

C. Recommendation Procedures. Specific guidance on the recommendation and approval procedures is contained in POPPS Chapter 920.D.¹²

6-2. PRESIDENTIAL RANK AWARDS.

A. Presidential Ranks and accompanying stipends are granted annually by the President to recognize prolonged, high quality accomplishment by not more than 5 percent of the career members of the Senior Executive Service.¹³ The two types of awards are:

1. "Meritorious Executive" for sustained accomplishment which includes a lump sum payment of \$10,000, a certificate signed by the President and a pin.

2. "Distinguished Executive" for sustained extraordinary accomplishment which includes a lump sum payment of \$20,000, a certificate signed by the President and a pin.

B. All career appointees in the SES are eligible for consideration. The performance for which a nomination is submitted shall have been sustained over a minimum period of at least three years. Preferably, the executive's performance over an even longer period should be taken into account. Any individual who receives a rank of either Meritorious Executive or Distinguished Executive shall not be entitled to receive that same award during the following four fiscal years. A Senior Executive may not be nominated for a rank award in the same calendar year he or she receives a bonus award unless specific approval has been given by the Director of OPM. To provide for progression in the awarding of ranks, a nominee for Distinguished Executive normally shall have received the rank of Meritorious Executive. An exception may be made, however, in a case where an executive's achievements are of such an exceptional nature that only the highest rank permissible would serve as a fitting award.

¹² As of the date of publication, the referenced Chapter has not yet been issued.

¹³ Presidential Rank Awards granted to SEC employees are paid from SEC award funds.

Section 7. Suggestions and Inventions

7-1. DESCRIPTION. A suggestion is a constructive idea conceived and developed by an employee(s) which is submitted in writing to management for evaluation and award consideration based on the tangible and/or intangible benefits to the SEC and the government. A suggestion need not be new or original to be considered, and may result from the suggestor's work environment, work experience, research, education or other means. The award determination shall be based entirely on the proposal's identification of a specific problem or organizational challenge and the proposed solution that will contribute to the economy, efficiency or effectiveness of government operations.

7-2. SUBMISSION OF SUGGESTIONS. Suggestions should be submitted on Optional Form 303, Employee Suggestion. Copies may be obtained from Publications, OHRM, or designated administrative contacts. Suggestions may be submitted directly to the Suggestion Officer in OHRM or through the suggestor's supervisor. Suggestions will be acknowledged by the Suggestion Officer in writing to the suggestor within five days of receipt.

7-3. EVALUATION PROCESS.

A. The Suggestion Officer will have the suggestion evaluated by the office or offices that could benefit from it and will notify the suggestor in writing as to whether or not the suggestion has been found practical for adoption and the reason or reasons why. If the suggestion has been approved for partial or complete adoption, the suggestor will be advised in writing and granted an award. The process is normally completed within 60 days.

B. If five or fewer government agencies could benefit from the suggestion, the Suggestion Officer will transmit the suggestion directly to those agencies for evaluation. If more than five agencies can benefit from the suggestion (i.e., government-wide), the Suggestion Officer will transmit the suggestion to OPM.

7-4. ELIGIBILITY FOR SUGGESTION AWARD.

A. If the suggestion is considered to be part of the normal duties of the suggestor's position, it is ineligible for cash award unless the proposal is over and above that which normally is expected from the incumbent of that position. This decision will be made by the suggestor's supervisor.

B. If the suggestion is implemented by the SEC within two years after an initial evaluation decision not to adopt or further application of an adopted suggestion is made, the employee will be considered for an award.

C. An informal suggestion which has been adopted is eligible for an award if, within six months from the date of its adoption, it is submitted in writing as a formal suggestion in accordance with procedures.

D. Duplicate suggestions are not eligible for award recognition unless the suggestion adds value to the original suggestion or the original suggestion was not previously adopted.¹⁴

7-5. MODIFICATION OF SUGGESTIONS. It is appropriate to grant an award for a suggestion which, though not adopted in the form originally submitted, was directly instrumental in motivating management's action in effecting an improvement. Such a suggestion has made a contribution and the award should reflect the value of that contribution.

7-6. EXCLUSIONS. The following ideas are not considered a suggestion under this program and should be handled through normal administrative channels:

A. Services and benefits to employees, such as vending machines, cafeteria services, parking facilities or holidays;

B. Working conditions such as air conditioning, decorations, furniture or mirrors;

C. The routine work of taking care of buildings, grounds, repairing, cleaning, replacing, painting or adjusting, etc.;

D. Normal or routine safety practices, such as normal protective devices, removal of obstructions, or installation of warning or special door signs. When ideas for changes in the above areas have a significant impact on energy conservation, they may be submitted as suggestions; or

E. Forms which have typographical errors, clerical or drafting errors.

7-7. PAYMENT. The amount of a suggestion award will be determined based upon tangible and/or intangible benefits to the Commission or the federal government. Whenever tangible benefits can be identified, the cash award will be based upon the procedures outlined in Attachment 6. When intangible benefits can be identified, the cash award will be based on the procedures outlined in Attachment 7. When employee contributions produce both tangible and intangible benefits/savings, the award will be based on the combination (i.e., its total value to the Commission or government).

7-8. SUPPLEMENTAL AWARDS. If at the end of one year the benefits derived from the suggestion have exceeded the estimated benefits, a supplemental award can be granted to more appropriately reward the employee. The supplemental award would adjust for the difference between what the employee actually received and what the employee should have received with a more accurate estimation of benefits.

¹⁴ In the situation that the original suggestion was not previously adopted, both the original and the duplicate suggestions are eligible for an award.

7-9. GROUP AWARDS. When a contribution has been made by more than one employee or by a group of employees, all employees contributing, including supervisors, may share in the award. The cash award may be in equal shares, or to each employee in proportion to his/her contribution. Exceptions to the published scales must be approved by the Associate Executive Director, OHRM. The amount may be determined using either the scale for tangible benefits (Attachment 5), the scale for intangible benefits (Attachment 6), or both. The award recommendation should include an explanation of how the amount of award was derived and how the share to be paid to each contributor was determined. In instances of group awards of over \$10,000, the \$10,000 limitation applies to each member of the group.

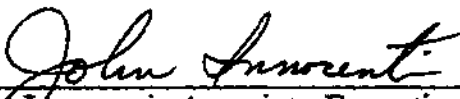
Section 8. Additional Information

8-1. OTHER SPECIAL RECOGNITION. For non-performance related activities which are not related to the employee's official duties but which serve the public interest or the interests of the agency, the Associate Executive Director, OHRM may authorize honorary recognition such as commemorative articles (e.g., plaques or engraved or decorated articles for display) or cash equivalent awards (e.g., U.S. Savings Bonds) not to exceed an agency expenditure of \$100 per person per activity. Such recognition must be presented in connection with a ceremony publicizing the contribution and the benefits to the public or the agency.

8-2. OVERVIEW OF HONORARY, NON-CASH AWARDS. These prestigious awards are sponsored by the Commission or other organizations, often to provide recognition for a specific purpose or with eligibility limited to certain groups of employees who meet specialized criteria. Recognition is most often in the form of a certificate, pin, or personal memento suitable for display. Attachment 8 identifies SEC Honorary Awards, including the eligibility criteria and nomination procedures for each. In addition, a copy of OPM's latest annual Honor Awards Planning Guide, which provides a compilation of honorary awards available to federal employees, will be made available for review (as a supplementary reference) in OHRM.

8-3. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes POPPS Chapter 451.A dated September 9, 1991 (which incorporated SECR 6-2 dated October 14, 1986), POPPS Chapter 451.B, dated July 13, 1992, as well as Section C (Quality Step Increases) of POPPS Chapter 531.A dated September 9, 1991. POPPS Chapters 430.A, 430.B, 540.A and 920.B contain related information. Internal award nominations described in this policy are subject to the provisions of the Privacy Act, which limit access and establish accountability procedures for authorized disclosure of personal information.

8-4. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch in conjunction with the Staffing and Employee Relations Branch.


John Innocenti, Associate Executive Director
Office of Human Resources Management

2/10/93
Date

(Attachments listed on next page.)

Attachments

1. Summary Rating and Award Recommendation Section of SEC 2331, Performance Management Record
2. Revised SEC 48, Recommendation for Special Act or Service Award
3. SEC 2323, On-The-Spot Cash Award (Certificate)
4. SEC 699, Time and Attendance Record
5. Optional Form 303, Employee Suggestion
6. Awards Scale for Recognition of Tangible Benefits
7. Awards Scale for Recognition of Intangible Benefits
8. Honorary Awards (Descriptions)

POPPS 6-451.A, Attachment 1

U.S. SECURITIES AND EXCHANGE COMMISSION
PERFORMANCE MANAGEMENT RECORD
AND INSTRUCTIONS

Position Review • Performance Plan • Progress Review
• Performance Appraisal • Performance Recognition

Employee's Name: _____ Social Security #: _____

Position Title: _____

Pay Plan, Series, Grade/Step: _____

Organization: _____

Rating Period: _____

Covered By: ☐ Senior Executive Service ☐ General Schedule
☐ Performance Management and Recognition System ☐ Prevailing Rate

☐ Paper copy of job elements and performance standards and/or work objectives attached.

or
☐ Electronic copy of job elements and performance standards and/or work objectives were transmitted on _____ and receipt by employee was verified electronically on _____

SUPERVISORY POSITION CERTIFICATION AND AUTHORIZATION OF PERFORMANCE PLAN

☐ I have reviewed the position description of record and certify that it is (see instructions):

Accurate: ☐ Less than 4 years old

Inaccurate: ☐ Minor pen and ink changes attached.

☐ Over 4 years old; send new coversheet to the Office of Human Resources Management.

☐ Major changes; rewrite must be submitted to the Office of Human Resources Management (OHRM) within 45 days. (If this box is checked, please send a photocopy of this page to OHRM as soon as signatures are obtained.)

☐ This performance plan is a complete and accurate statement of the work that will be the basis of the employee's performance appraisal.

Name and Title of First Line Supervisor/Rating Official

Signature

Date

APPROVAL

I agree with the certification of the position description and approve the performance plan.

Name and Title of Reviewing Official

Signature

Date

EMPLOYEE ACKNOWLEDGEMENT

My signature only acknowledges discussion of the position description and receipt and discussion of the performance plan, and does not necessarily signify agreement.

Signature

Date

PROGRESS REVIEW

During this progress review each job element has been discussed. At least one progress review is required.
Note: Attach written documentation to this form as needed.

1st Progress Review

Initials	Date
Emp.	Supv.

2nd Progress Review (Optional)

Initials	Date
Emp.	Supv.

3rd Progress Review (Optional)

Initials	Date
Emp.	Supv.

PRIVACY ACT STATEMENT - Disclosure of your Social Security Number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 1

Name: _____ Division/Office: _____

SECTION I - JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET

Assigned Weight _____

☐ Critical ☐ Non-Critical

Element No. _____ of _____

(Use one form for each element. Use reverse side to continue content.)

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 1

Name: _____ Division/Office: _____

Element No. _____ of _____

SECTION I - JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET (Continued)

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 1

Name: _____ Division/Office: _____

Section II - PERFORMANCE ACCOMPLISHMENTS: Please discuss employee's accomplishments in terms of each element. Continue on reverse and attach additional sheets if necessary. A completed copy of this page must be sent to the OHRM at the end of the rating period along with the completed page C.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 1

Name: _____ Division/Office: _____

Section II - PERFORMANCE ACCOMPLISHMENTS (Continued)

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 1

Name: _____

Division/Office: _____

SECTION III - PERFORMANCE SUMMARY AND RATING

Performance Element (Identify ESE)	Critical or Non-Critical (C or NC)	Priority Weight	Element Rating (1-5)	Score
------------------------------------	------------------------------------	-----------------	----------------------	-------

TOTAL SCORE: _____

Item 2. PERFORMANCE RATING. (Based on total score except that if a critical element is unsatisfactory, the overall rating is unsatisfactory.)

___ Outstanding
(450-500)

___ Exceeds Fully
Successful
(380-449)

___ Fully
Successful
(285-379)

___ Minimally
Satisfactory
(200-284)

___ Unsatisfactory
(100-199)

Rating Official's Signature and Title

Date

Reviewing Official's Signature and Title

Date

Employee's Signature (Indicates appraisal meeting held.)

Date

Employee Comments Attached

___ Yes ___ No

Section IV. PERFORMANCE RECOGNITION (See Section V on reverse side for SES employees)

☐ Recommended Quality Step Increase (QSI)
(Outstanding rating required) Applies only to GS employees.
I expect employee's performance to continue at this level.

☐ Recommended Performance Award
Applies to GS and SES employees.
\$ _____ or % _____

Has employee been promoted within the last 4 months? If yes, the rating official should contact the servicing personnel specialist in the Office of Human Resources Management.

___ Yes ___ No

Rating Official's Signature and Title

Date

Reviewing Official's Signature and Title

Date

Division Director/Office Head/Regional Administrator's Signature

Date

CHRM/Executive Director/Chairman Approval (as appropriate)

Date

Payment authorized by Office of Human Resources Management

Date

CHRM Code: _____

PMRS EMPLOYEES ONLY: If the total score is 475 or more and the rating official wishes to recommend an unusually outstanding performance award of 10 to 20% of base pay, forward a copy of the rating and justification through appropriate channels. (This award requires approval by the Chairman.)

POPPS 6-451.A, Attachment 1

Name: _____ Division/Office: _____

Title: _____

Section V - SES Employees Only Initial Performance Rating _____ Total Score _____

1. Rating Official Recommendation(s) {Check appropriate block(s)}.

☐ Performance-related pay adjustment (rate) _____ ☐ SES Bonus \$ _____ or % _____

Rating Official Signature and Title Date

2. Optional Higher Level Review (at employee's request)

Comments:

Higher Level Reviewer Recommendations:

Higher Level Reviewer Signature and Title Date

3. PRB Review

PRB concurs with initial rating ___ Yes ___ No (explain below)

PRB concurs with other recommendations ___ Yes ___ No (explain below)

PRB Chairperson Signature Date

4. Appointing Authority

___ Agree ___ Disagree with PRB recommendations. If disagree, explain.

Final Rating of Senior Executive

☐ Outstanding ☐ Exceeds Fully Successful ☐ Fully Successful ☐ Minimally Successful ☐ Unsatisfactory

Appointing Authority Signature (or Designee) Date

AWARD RECOMMENDATION AND APPROVAL

**SUBMIT ORIGINAL AND ONE COPY THROUGH THE ADMINISTRATIVE CONTACT TO:
ASSOCIATE EXECUTIVE DIRECTOR, OAPM** *(See instructions and definitions on reverse)*

Name of Employee		Division or Office	
Present Title, Grade and Salary		Title, Grade and Salary During Period Upon Which Recommendation is Based <i>(If different)</i>	
Dates of Service Upon Which Recommendation is Based	\$ Amount/Hours Recommended	\$ Amount/Hours Approved	
RECOMMENDED RECOGNITION: <input type="checkbox"/> LUMP-SUM AWARD, SPECIAL ACT OR SERVICE <input type="checkbox"/> LUMP-SUM AWARD, ADOPTED SUGGESTION <input type="checkbox"/> TIME OFF AWARD <input type="checkbox"/> ON-THE-SPOT AWARD		FOR OAPM USE ONLY NOAC Authority Code Effective Date	

JUSTIFICATION (below or on separate page)

I certify that the employee's contributions and/or accomplishments have been accurately described, and fully meet the criteria for the specified award as described in POPPS Chapter 451.A, Employee Recognition Program.

SIGNATURES AND TITLES:	DATE	REVISED AWARD AMT.
Rating/Recommending Official		
Reviewing Official		
Division, Office, or Regional Office Approving Authority		
OAPM, Executive Director, or Chairman's Approval <i>(If appropriate)</i>		
OAPM Authorization		

TYPES OF AWARDS AND SUBMISSION INSTRUCTIONS

Type of Award	Definition	Justification	Approval Levels
Special Act and Service	Lump Sum Award in recognition of a special act or service such as exemplary or courageous handling of an emergency situation in connection with or related to official employment.	Attach a separate written justification describing the employee's specific achievements. If the justification references his or her performance expectations, a copy of the performance plan and description of accomplishments also may be attached.	Up to \$750: Div. Dir., Offc. Hd., or Regional Dir. \$751-\$1499: Assoc. Exec. Dir., OAPM \$1500-\$10,000: Executive Dir. (or Chairman for own off.) \$10,000-25,000: Chairman may recommend to OPM
Time Off	An excused absence granted to an employee without charge to leave or loss of pay, in recognition of a contribution to the quality, efficiency, or economy of government operations. This is most often appropriate for use in circumstances in which a special act or service award could be granted.	Provide a written justification on front of SEC 48 form (or on a separate sheet if more space is needed), with the content the same as for a Special Act or Service Award.	Non-SES: 1-3 workdays: Div. Dir., Offc. Hd. or Reg. Dir. 4-5 workdays: Executive Dir. SES Time Off Awards: Executive Dir.
On-The-Spot	Small lump sum award similar to a Special Act or Service Award used to quickly recognize one-time and short term efforts of especially high quality or quantity service.	Include a short paragraph justification on the front of the form.	\$25-\$150: Div. Dir., Offc. Hd. or Reg. Dir., or designated official
Suggestion	Lump Sum Cash Award in recognition of the adoption of a suggestion designed to accomplish a job better, faster, and/or cheaper and which results in tangible or intangible benefits to the Government. The suggestion may save materials or property, promote health, increase safety, improve morale or administrative routine.	Attach a separate memorandum that explains when the suggestion was put into effect, or when it will be put into effect; the amount of tangible money savings and/or intangible benefits; and the amount of the award computed according to the tangible awards scales in Attachments 1 and 2 of POPPS Chapter 451.A, Employee Recognition Program.	Assoc. Exec. Dir., OAPM or designated official, based on evaluation of suggestion by office(s) who would benefit.

This form is not used for Performance Awards or SES Awards. Use SEC 2331 Section IV or V.

Additional information on Awards may be found in POPPS Chapter 451.A, Employee Recognition Program.

For Group Awards (all types except On-The-Spot): Describe tangible/intangible benefits, degree of each employee's contribution, and the extent to which each employee is to share in the award.

Approving Official completes \$ Amount/Hours Approved block in line 3.

After approval, this original form will be returned to originating office. Provide a copy to the employee with the SF-50, and file original form and copy of SF-50 in employee's Employee Performance Folder.

POPPS 6-451.A, Attachment 3

ON - THE - SPOT AWARD

U.S. Securities and Exchange Commission

(Name)



(Amount)

*Congratulations! You are being recognized for
performance warranting special attention. I thank
you for your effort. Keep up the good work.*

(Signature - Recommending Official)

(Signature - Approving Official)

Look for thi\$ award in your paycheck.

On-the-Spot Procedures:

1. Recommending official completes certificate (along with form SEC 48); and
2. Forwards to higher level management official (for approval); who
- 3 a. Forwards the approved SEC 48 to the appropriate OHRM servicing Personnel Specialist; and
- b. Returns the approved certificate to the recommending official; who
4. Presents the certificate to the employee.



SEC 2323 (10-92)

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 3

PRIVACY ACT STATEMENT

Section 6311 of Title 5 of the U.S. Code authorizes collection of this information. The primary use of this information is by management and your payroll office to record your use of leave and your entitlement to compensation. Additional disclosure of the information may be: To the Department of Labor when processing a claim for compensation regarding a job connected injury or illness; to a State unemployment compensation office regarding a claim; to Federal Life Insurance or Health Benefits carriers regarding a claim; to a Federal, State or local law enforcement agency when your agency becomes aware of a violation or possible violation of civil or criminal law; to a Federal agency when conducting an investigation on you for employment or security reasons; to the Office of Personnel Management or General Accounting Office when the information is required for evaluation of leave administration; and to the General Services Administration in connection with its responsibilities for records management.

Where the employee identification number is your Social Security Number, collection of this information is authorized by Executive Order 9397.

If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

U.S. SECURITIES AND EXCHANGE COMMISSION TIME AND ATTENDANCE RECORD 1993

NAME		EMPLOYER NUMBER	SOCIAL SECURITY NO.	DATE CODE	TIME PERIOD	LOCATION CODE	MILITARY LEAVE		COMPENSATION		OTHER LEAVE		REMARKS		
LEGEND		OT - Overtime hours of hours OT for the appropriate day(s)		0 - Sick leave	00 - General leave	00 - Military leave	Sick leave		Compensation		Other leave		Remarks		
A - Annual leave		COP - Continuation of pay for temporary injury (shall not exceed 13 calendar days per 1 year)		0 - Holiday	00 - Compensatory leave	0 - General leave	Sick leave		Compensation		Other leave		Remarks		
L - LWOP		ADN - Administrative		00 - Compensatory leave		0 - General leave	Sick leave		Compensation		Other leave		Remarks		
W - LWOP		ADN - Administrative		00 - Compensatory leave		0 - General leave	Sick leave		Compensation		Other leave		Remarks		
PAY PERIOD	SUN	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
303 01/10 - 01/23								H							
304 01/24 - 02/06															
305 02/07 - 02/20								H							
306 02/21 - 03/06															
307 03/07 - 03/20															
308 03/21 - 04/03															
309 04/04 - 04/17															
310 04/18 - 05/01															
311 05/02 - 05/16															
312 05/16 - 05/26															
313 05/26 - 06/12		H													
314 06/13 - 06/26															
315 06/27 - 07/10								H							
316 07/11 - 07/24															
317 07/25 - 08/07															
318 08/08 - 08/21															
319 08/22 - 09/04															
320 09/05 - 09/18		H													
321 09/19 - 10/02															
322 10/03 - 10/16								H							
323 10/17 - 10/30															
324 10/31 - 11/13															
325 11/14 - 11/27															
326 11/28 - 12/11															
401 12/12 - 12/26															
402 12/26 - 01/09						H									

(NOTE: PLEASE SEE THE PRIVACY ACT STATEMENT ON THE REVERSE OF THIS FORM.)

SEC 039 (12-93)



- Please type your suggestion or print legibly.
- Think out your suggestion thoroughly—present it completely as a specific method or way to solve the problem.
- Be sure your suggestion is a constructive proposal which directly contributes to productivity, economy, efficiency, or increased effectiveness in carrying out the agency's programs or mission, or other improvements in Government operations.
- Discuss your idea with your supervisor—he or she has the responsibility to assist you.

Some types of suggestions are not eligible for processing through the Suggestion Program and should be handled through administrative channels. The following types of suggestions are NOT eligible for consideration.

- Proposals for routine maintenance;
- Proposals for services and benefits to employees such as vending machines, cafeteria services, parking facilities, restroom facilities, or holidays;
- Normal or routine safety practices; or
- Suggestions concerning obvious typographical, clerical, or drafting errors.

OPTIONAL FORM 303 (5-85)
U.S. Office of Personnel Management
FPM Chapter 451

Date Suggestion Received	Date Acknowledgement Sent	Due Date
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Evaluating Official (To Whom Suggestion was Sent)

[illegible]

Final Action		If Adopted, Show Type of Benefits Realized		Date of Final Communication to Suggester	Amount of Tangible Benefits	Amount of Award
<input type="checkbox"/> Adopted	<input type="checkbox"/> Non-Adopted	<input type="checkbox"/> Intangible	<input type="checkbox"/> Tangible			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

POPPS 6-451.A, Attachment 5

EMPLOYEE SUGGESTION

(Complete Parts 1, 2 and 3)

Optional Form 303 (5-85)
U.S. Office of Personnel Management
FPM Chapter 451

PART 1—Official Suggestion Registration <i>(Complete Items 1-10)</i>		1. Date Suggestion Submitted	CONTROL NO. (Do Not Use)
Suggestion/Awards Coordinator at Your Local Level		2. Title of Suggestion	
		3. Suggester's Name (Last, First, MI—Print or Type)	
4. Suggester's Office Address (Include Department or Agency)		5. Position Title	
6. Grade (or Salary)		7. Organizational Unit	
8. Office Phone		9. Name of Supervisor (If Consulted)	
10. CERTIFICATION—I understand that this suggestion may be granted an award only if adopted by the Government, by written notification or through practical application of the idea as a result of the suggestion within two years of the date of the final action on the suggestion as defined in the agency plan. I also agree that the use of this suggestion by the United States shall not form the basis for a claim of any nature upon the United States by me, my heirs, or assigns.		DO YOU DESIRE YOUR SUGGESTION TO BE PROCESSED ANONYMOUSLY? <input type="checkbox"/> YES <input type="checkbox"/> NO Employee's Signature	

Part 1

PART 2—Acknowledgment of Employee Suggestion <i>(Complete Items 1 and 2)</i>		CONTROL NO. (Do Not Use)
1. Title of Suggestion		This acknowledges receipt of your suggestion. You will be notified when action is completed.
2. Suggester's Name and Office Address		
3. Expected Action Date		4. Signature—Incentive Awards Program Coordinator
5. Date of Acknowledgement		

OPTIONAL FORM 303 (5-85)
U.S. Office of Personnel Management
FPM Chapter 451

Part 2

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

POPPS 6-451.A, Attachment 5

PART 3—Suggestion Description
(complete Items 1-6 Continue on Reverse if Necessary)

1. Date Suggestion Submitted

CONTROL NO. (Do Not Use)

2. Title of Suggestion

3. Describe Present Procedures or Conditions

4. Explain Your Suggestion (How will it work? What will it do? Where can it be used?)

5. State Benefits to the Government (Show savings where possible)

6. Indicate Other Areas of Any That May Benefit From This Suggestion

POPPS 6-451.A, Attachment 6

Awards Scale for Recognition of Tangible Benefits

A. General. Whenever possible, evaluation or recommending officials should identify dollar savings or benefits resulting from the contribution and use these savings as the basis for the award.

1. Normally, awards for contributions that result in tangible benefits/savings are based on an estimate of the first-year dollar savings or benefits. If the tangible benefits/savings in the first year following implementation are not representative of the benefits to the government, the benefits/savings during the second or third year following implementation, or an average of the several years following implementation may be used.

2. An estimate of savings, rather than actual savings, may be used in most cases to permit timely recognition of the contribution.

3. Supplemental Awards. If at the end of one year the actual savings from the contribution have exceeded the estimate of savings, a supplemental award can be granted to more appropriately reward the employee. The supplemental award would adjust for the difference between what the employee actually received and what the employee should have received with a more accurate estimation of benefits/savings.

B. Recommended Awards. The table below is to be used to determine awards based on tangible benefits:

BENEFITS	AWARDS
Estimated First-Year Benefits to Government	Amount of Award to Employees
Up to \$10,000 in benefits	10% of benefits
Between \$10,000 and \$100,000 in benefits	\$1,000 plus 5% to 10% of benefits above \$100,000
More than \$100,000 in benefits	\$3,700 to \$10,000 for the first \$100,000 in benefits, plus 1% of benefits above \$100,000, up to \$25,000, with the approval of the Office of Personnel Management. Presidential approval is required for all awards of more than \$25,000.

POPPS 6-451.A, Attachment 7

Award Scale for Recognition for Intangible Benefits

A. Determining award amounts based on intangible benefits or savings requires the contribution to be weighed in terms of its impact on the organization, its value to the organization, whether its value reaches beyond the organization originally benefiting.

B. Contributions recognized by cash awards based on intangible benefits must be comparable, in value to the government, with those based on tangible benefits.

C. The award scale, in this attachment, guides the SEC in making determinations on monetary awards to be granted to employees based on intangible benefits/savings.

Awards Based on Combined Tangible/Intangible Benefits

A. When an employee's contribution produces both tangible and intangible benefits/savings, recommending officials should base the award on both types of benefits (i.e., its total value to the agency or the government).

B. The total award would be based on a combination of the award value based on tangible benefits and the award value based on intangible benefits.

POPPS 6-451.A, Attachment 8

HONORARY AWARDS

The SEC Honorary Awards are non-monetary forms of recognition which distinguish career-oriented achievements and significant contributions that have benefitted the government in areas such as equal employment opportunity, energy conservation, scientific research, improved communications with or service to the public. These awards are established by the SEC and external agencies and recognize specific conditions through the awarding of a citation, plaque, letter of appreciation, certificate, badge or other item of nominal value that can be worn or displayed, and which has an honor or award connotation.

1. SEC AWARDS.	Page
SEC Community Service Recognition	2
SEC Distinguished Service Award	3
Equal Employment Opportunity Award	4
Examination Award for Excellence	5
Jeanne Gerber Hartford Award	6
Productivity Improvement Award	7
Supervisory Excellence Award	8
Support Staff Award for Excellence	9
2. EXTERNAL AWARDS FOR SEC EMPLOYEES ONLY.	
Andrew Barr Award	10
Manuel F. Cohen Outstanding Young SEC Lawyer Award	11
Philip A. Loomis, Jr. Award	12
Sydney C. Orbach Award	13
Irving M. Pollack Award	14
Byron D. Woodside Award	15
3. SELECTED EXTERNAL AWARDS FOR WHICH SEC EMPLOYEES ARE ELIGIBLE. ^{1/}	
Justice Tom C. Clark Award	16
Arthur S. Flemming Award	17
William A. Jump Memorial Award	18
Mary A. Pinkard LIFE Award	19
SEA Executive Excellence Award	20
Younger Federal Lawyer Award	21

^{1/} The criteria and nomination dates are set by award provider and are subject to change. OHRM will notify appropriate Divisions, Offices and Regions on a case by case basis of the request for nominations for these awards.

POPPS 6-451.A, Attachment 8

2

1. SEC AWARDS.

COMMUNITY SERVICE AWARD

Purpose	To recognize an SEC employee for his or her profound effect on the quality of life in their neighborhood or community.
Award	Letter from Chairman and a Certificate
Target Employee	Any SEC employee
Criteria	An individual who has contributed to the quality of life in their neighborhood or community through his or her voluntary service
Nomination Procedures	Any staff member may submit a memorandum summarizing the individual's contribution in no more than two pages of double spaced typewritten narrative. The original and one copy of the nomination should be submitted to the Director, OHRM
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

3

DISTINGUISHED SERVICE AWARD

Purpose	To recognize employees who have made a significant contribution to the Commission.
Award	Framed Certificate and Medallion
Target Employee	Any SEC employee
Criteria	Nominee must have been on the SEC staff for five or more years, and have made a significant contribution to the Commission or the Administration of the Federal Securities Laws.
Nomination Procedures	Nominations may be made by any staff member. Nominations must be typewritten, double-spaced and limited to four pages. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

4

EQUAL EMPLOYMENT OPPORTUNITY AWARD

Purpose	To recognize an employee who has contributed to the advancement of equal employment and promotion opportunities.
Award	Framed Certificate
Target Employee	Any SEC employee
Criteria	Must have significantly contributed to the advancement of equal employment and/or promotion opportunities for minorities and/or the handicapped, at the Commission, or in the community.
Nomination Procedures	Any staff member may submit the nomination which should contain substantive reasons and specific examples which indicate the employee's qualification for the award. It must be typewritten, double-spaced, and must not exceed four pages in length. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

5

EXAMINATION AWARD FOR EXCELLENCE

Purpose	To honor a Securities Compliance Examiner who displays excellence, integrity and exceptional performance.
Award	Plaque
Target Employee	Any Securities Compliance Examiner
Criteria	Nominee must be a Securities Compliance Examiner who during the year made a significant contribution to the examination program, to the Commission, and to investors by displaying individual excellence, integrity and exceptional performance in the conduct or oversight of examinations.
Information Requested	Division Director/Office Head or Regional Administrator may submit the nomination which must be typewritten, double-spaced, four pages maximum and include the nominee's name, title, and brief summary of contribution deserving of recognition. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

6

JEANNE GERBER HARTFORD AWARD

Purpose	To recognize an SEC employee who has made an outstanding contribution to the status of women at the Commission.
Award	Framed Certificate (Awarded in March at Women's History Month Program)
Target Employee	Any SEC employee
Criteria	Nominee must be an employee, male or female, employed at the Commission for at least one year who received an annual rating of Exceeds Fully Successful or Outstanding on their most recent performance evaluation, and who contributes significantly to the enhancement of the status of women at the Commission while maintaining his/her high level of job competency.
Nomination Procedures	Nominations may be made by any staff member and must be typed, double-spaced, two pages maximum. Include the employee's name, job title, and specific reasons the nominee should be considered for the award. The nominator should include his or her name and phone number. The original and one copy of the nomination should be submitted to the Director, EEO.
Nomination Deadline	January

POPPS 6-451.A, Attachment 8

7

PRODUCTIVITY IMPROVEMENT AWARD

Purpose	To recognize and honor individuals or groups who have measurably improved productivity at the Commission or public, such as by reducing the cost required to perform a particular function or by improving the quality and timeliness of service to the Commission or public.
Award	Plaque
Target Employees	Any Commission Employee, or Group of Employees
Criteria	Individuals or groups nominated must have improved productivity at the Commission in some measurable way such as reducing the cost to perform a particular function while maintaining or improving the quality of work, or improving the quality and timeliness of service to the Commission or the public.
Nomination Procedures	Division Director/Office Head or Regional Administrator may nominate by summarizing the individual or group contributions in no more than four typewritten pages (double-spaced) and cite specific productivity gains. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

8

SUPERVISORY EXCELLENCE AWARD

Purpose	To recognize SEC supervisors and managers who have demonstrated outstanding performance.
Award	Framed Certificate
Target Employee	Any Supervisor or Manager on the SEC Staff
Criteria	<p>Achieve productive, high quality results and operational improvements through active encouragement of employee contributions and suggestions as well as through the supervisor's own efforts.</p> <p>Encourage and assist employees toward development and utilization of their highest skills.</p> <p>Establish and maintain employee confidence that the supervisor's actions and decisions are fair and equitable and respectful of the personal worth of each individual employee.</p> <p>Provide sympathetic assistance with employee problems whenever possible.</p> <p>Responsiveness to and active support of special Presidential and national programs such as the equal employment opportunity programs for employment of women, the physically handicapped, youth, etc.</p>
Nomination Procedures	Any staff member may nominate by memorandum describing the nominee's achievement in each of the categories described above. Nominations must be typed, double spaced, and not exceed four pages. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

9

SUPPORT STAFF AWARD OF EXCELLENCE

Purpose	To recognize the exceptional performance of an employee whose diligent efforts have made a significant impact on the mission of a division or office.
Award	Plaque or citation
Target Employee	Any administrative, technical or clerical career employee at the GS-5 to GS-9 level who meets the above stated criteria.
Criteria	<p>Minimum of three years of SEC service at the time of nomination.</p> <p>Career employee appointed competitively in an administrative, technical or clerical position at GS-5 to GS-9.</p> <p>Significant contribution to the overall success of a division or office.</p> <p>Notable demonstration of exceptional competence, productivity and devotion in the performance of duties.</p> <p>Employee should have received an "Outstanding Performance Rating" during his/her last rating cycle.</p>
Nomination Procedures	<p>The nomination should contain the substantive reasons, with specific examples of accomplishments, and why the nominee is believed to qualify for the award. The nomination must be complete within itself; cross references to performance appraisal worksheets or other documents and exhibits are not acceptable.</p> <p>Nominations may be made by any staff member. The typewritten nomination must not exceed four pages in length, double spaced. If more than one nomination is submitted by a particular office or division, such nominations must be prioritized.</p> <p>The original and one copy of the nomination should be submitted to the Director, OHRM.</p>
Nomination Deadline	Each Fall as announced annually

2. EXTERNAL AWARDS FOR SEC EMPLOYEES ONLY.

ANDREW BARR AWARD

Purpose	To recognize outstanding accounting ability, analysis, creativity and critical judgement.
Award	Plaque (awarded by the American Institute of Certified Public Accountants)
Target Employee	Any SEC Accountant
Criteria	Accountant on the staff of the Commission who displays the qualities of outstanding accounting ability, analysis, critical judgement and creativity, along with education to public service and the Commission. The performance of the individual consistently demonstrates high standards of personal and professional integrity.
Nomination Procedures	The nomination should be typewritten, double-spaced, limited to four pages, with the name, title, mailing address of nominee. Brief summary of the positions held at the SEC. The original and three copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

11

MANUEL F. COHEN YOUNGER LAWYER AWARD

Purpose	To recognize a young lawyer who has displayed outstanding legal ability and performance which has resulted in significant benefit to the SEC and which promises a continuing high level of performance in the future.
Award	Framed Certificate and Set of the Securities Laws with Supplements (awarded by the Securities Subcommittee of the Federal Bar Association)
Target Employee	Any attorney 35 years of age or younger who has served with the SEC as an attorney for not fewer than two years, nor more than four continuous years.
Criteria	A nominee may be qualified by outstanding legal ability and performance over a sustained period, or because of a specific accomplishment of which the nominee is primarily responsible. Whether the achievements are of a general or specific nature, they should have resulted in a significant benefit to the Securities and Exchange Commission and should be evidence of a continuing high level of performance in the future.
Nomination Procedures	The nomination should be typewritten, double-spaced, not to exceed four pages, with the name, date of birth and official address of the nominee; the total number of years during which the nominee has served with the SEC; and the division/office in which the nominee has served or is presently serving. The Division Director or Office Head for whom the employee now or previously has worked shall develop and enlarge upon the substantive reasons why the nominee is believed to qualify. Nominator's signature and official address on the last page of the nomination. Each Division Director, Office Head or Regional Administrator should submit one nomination (the original and three copies) to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

12

PHILIP A. LOOMIS, JR. AWARD

Purpose	The Philip A. Loomis, Jr. Award honors a Securities and Exchange Commission attorney for significant contributions to the development of the Federal securities laws through a career of sustained excellence on the Commission's staff. The Award is particularly intended to recognize individuals who display the qualities of the Award's namesake: outstanding legal scholarship, analysis, and draftsmanship; the legal counselor's ability to reconcile opposing viewpoints and create workable solutions to difficult legal and policy issues; and the highest caliber of personal and professional integrity.
Award	Framed Certificate (awarded by the Securities Law Committee of the Federal Bar Association)
Target Employees	Any attorney engaged in the development of the Federal securities laws.
Criteria	Nominees must have served a minimum of ten years on the Commission's staff and be currently on the staff. Nominees must have displayed sustained excellence in legal scholarship, analysis and draftsmanship, while demonstrating an ability to reconcile opposing viewpoints and create workable solutions to difficult legal and policy issues. Nominees must also have exhibited the highest caliber of personal and professional integrity.
Nomination Procedures	The Commission will submit at least two nominations to the selection committee and summarize each employee's contribution and basis for nomination. Recommendations should not exceed four double-spaced, typewritten pages. The original and three copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

13

SYDNEY C. ORBACH AWARD

Purpose	To honor an SEC Accountant.
Award	Plaque (awarded by the American Institute of Certified Public Accountants)
Target Employee	Any Accountant at the GS-GM/14 Level or Lower
Criteria	This award is presented to an accountant at the GS or GM-i4 pay level or lower, who during the year made a special contribution of significant benefit to the full disclosure program, to the Commission, and to the protection of investors.
Nomination Procedures	The nomination must be typewritten, double-spaced, limited to four pages with the nominee's name, title, mailing address and a brief summary of the positions held at the SEC. The original and three copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

14

IRVING M. POLLACK AWARD

Purpose	To recognize and honor an employee in enforcement work who demonstrates devotion to the SEC, fairness and compassion in performance of official duties and in relating with the public and members of the SEC staff, scholarship and professional expertise, and adherence to stringent standards of personal and professional integrity.
Award	Framed Certificate (provided by the Securities and Exchange Commission Alumni, Inc.)
Target Employee	Any Enforcement Division or Regional Office employee who is engaged in enforcement work. This award alternates between the Enforcement Division and the Regional Offices each year as announced by OHRM.
Criteria	Each nominee must have at least ten years of service in the Securities and Exchange Commission, and must be in the Division of Enforcement or in one of its Regional Offices, and have exhibited dedication to service in the public interest and who, in the opinion of that individual's colleagues and the selection committee, have consistently demonstrated a devotion to the Securities and Exchange Commission, fairness and compassion in the performance of his/her official duties and in his/her relationship with the public and member of the Commission's staff, scholarship and professional expertise, and adherence to stringent standards of personal and professional integrity. Must not have been a previous recipient of the award.
Nomination Procedures	Nominations may be made by the Director of the Division of Enforcement and Regional Administrators. Summarize the employee's contribution and basis for nomination. All nominations must be typewritten, double-spaced, and limited to four pages. The original and three copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

POPPS 6-451.A, Attachment 8

15

BYRON D. WOODSIDE AWARD

Purpose	To recognize and honor a career employee who has made a significant contribution to the Commission's full disclosure program, while demonstrating integrity, leadership, professionalism and dedication to public service.
Award	Plaque and personal memento (awarded by the Federal Bar Association and the Byron D. Woodside Foundation).
Target Employees	Any career accountant, analyst, attorney, or engineer involved in the full disclosure program.
Criteria	Nominee must be a professional career employee who is currently one of the following: accountant, analyst, attorney, or engineer, and who over the course of at least seven years on the Commission's staff have made a significant contribution to the full disclosure program. In addition, the nominee should possess the personal qualities of integrity, leadership, professionalism and dedication to public service.
Nomination Procedures	The nomination should contain no more than four double-spaced, typewritten pages summarizing the employee's background and citing specific accomplishments that are considered distinguished or significant. The original and three copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	Each Fall as announced annually

3. SELECTED EXTERNAL AWARDS FOR WHICH SEC EMPLOYEES ARE ELIGIBLE.

JUSTICE TOM C. CLARK AWARD

Purpose	To give public recognition to outstanding career lawyers in the government service.
Award	Plaque
Target Employee	Limited to lawyers of the career service employed in the District of Columbia by the U.S. Government or the Government of the District of Columbia.
Criteria	A nominee may be qualified by outstanding legal ability, scholarship, and performance over a sustained period; or by virtue of a specific accomplishment which results in a significant benefit to the government or to the legal profession and which constitutes a contribution to the development of public law.
Nomination Procedures	The nomination should be typewritten, double spaced, limited to five pages, which includes the name and age of nominee, and the total number of years served in the U.S. Government or in the Government of the District of Columbia, and the departments or agencies served in. Include the general or specific accomplishments of the year preceding the nomination. The original and six copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	April
Sponsor	Federal Bar Association District of Columbia Chapter 1815 H Street, N.W. Washington, D.C. 20006-3697

POPPS 6-451.A, Attachment 8

17

ARTHUR S. FLEMING AWARD

Purpose	To recognize those who have performed outstanding and meritorious work for the Federal Government.
Award	Plaque
Target Employee	Any federal employee of the Executive Branch who will not reach his/her 40th birthday before January 1, and who will have a minimum of 36 months of federal service by January 1.
Criteria	Awards will be made principally for outstanding and meritorious achievements having current impact on federal programs or operations and for participation in community service.
Nomination Procedures	<p>The nomination should be typewritten, single-spaced with double-spacing between paragraphs. The nominee's federal employment history, professional achievement including a description of the nominee's scientific or administrative abilities, community involvement including civic, charitable, youth-oriented, or other volunteer projects, awards and publications germane to the nominee's career objectives should each be described on a separate sheet of paper, one side only.</p> <p>Nomination must be submitted by the Chairman.</p>
Nomination Deadline	January
Sponsor	Downtown Jaycees Arthur S. Fleming Awards Program 1140 Connecticut Ave., N.W. Suite 295 Washington, D.C. 20036

POPPS 6-451.A, Attachment 8

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WILLIAM A. JUMP MEMORIAL AWARD

Purpose	To recognize outstanding service in administration and notable contributions to the efficiency and quality of public service.
Award	Gold Key and Certificate of Merit Special Certificate to all nominees who meet qualifications
Target Employee	Career employee who has not reached age 37 on or before December 31 of the award year.
Criteria	At least five years of experience in either a line or staff position with the Federal Government. Unusual competence and interest in any area of public administration. Demonstrated leadership in the direction or development of programs. Demonstrate high levels of creativity and resourcefulness. Adherence to the basic principles of enlightened public service. High level of integrity and a strong dedication to duty.
Nomination Procedures	Nominations must consist of name, title, grade, phone number, salary, bureau and department or agency, date of birth, home address, and educational background of nominee. Description of present grade, duties and specific accomplishments which illustrate each of the eligibility criteria. Wording of a proposed citation to be included on the award certificate. The original and five copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	February
Sponsor	William A. Jump Memorial Foundation Room 147 - E Administration Building U.S. Department of Agriculture Washington, D.C. 20250

POPPS 6-451.A, Attachment 8

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MARY D. PINKARD LIFE AWARD

Purpose	To recognize outstanding contributions towards equity in federal employment.
Award	Plaque
Target Employee	Any Federal Employee or Immediate Past Employee
Criteria	Any federal employee who is responsible for activities of consequence that ultimately advance equity in the federal government, at personal and professional risk to themselves and provided a positive role model to other federal employees.
Nomination Procedures	Nominations must consist of the name, title, address and phone number of the nominee and the nominator; name, title address and phone number of three references for the nominee; a narrative statement indicating the nominee's qualifications; a brief biography statement, not to exceed three pages, summarizing the nominee's career. The original and one copy of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	April
Sponsor	Federally Employed Women Legal & Education Fund, Inc. Pinkard Award Committee P.O. Box 4830 Washington, D.C. 20008

POPPS 6-451.A, Attachment 8

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SEA EXECUTIVE EXCELLENCE AWARD

Purpose	To recognize career senior executives and careerists in equivalent level positions who have made significant contributions to public service and who have improved the image of the career Senior Executive Service.
Award	Plaque and Certificate
Target Employee	SES (and Equivalent Level) Careerists
Criteria	Sustained superior performance over years of service at the federal executive level. Variety of outstanding achievements, complexity of assignments, scope of duties and responsibilities and their impact nationally/internationally. Professional standards and conduct which bring high credit to the SES and the federal executive corps. Personal integrity and dedication to public service.
Nomination Procedures	Agency head submits nominations for each of the two categories Executive Achievement or Distinguished Executive Service, which must have transmittal letter signed by nominating official. Nomination of one to two pages (doubled-spaced) must include name, title, SES or equivalent rank, agency address, nominee work phone number, description of nominee's current position, employment chronology, education background, previous awards, and a two to three page narrative (double-spaced) which specifically describes the nominee's accomplishments in conformance with the selection criteria. The original and seven copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	September
Sponsor	Senior Executives Association Professional Development League Executive Excellence Awards P.O. Box 7610 Ben Franklin Station Washington, D.C. 20044

POPPS 6-451.A, Attachment 8

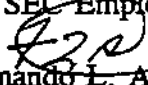
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YOUNGER FEDERAL LAWYER AWARD

Purpose	To recognize a young federal attorney who has displayed outstanding legal ability and performance which has resulted in significant benefit to the federal government and the legal profession and contributed to the development of public law.
Award	Engraved Plaque
Target Employee	Any civilian or military attorney employed by the U.S. Government for more than three continuous years who has not reached the age of 36 before the established deadline.
Criteria	A nominee may be qualified by outstanding legal ability and performance over a sustained period, or because of a specific accomplishment for which he or she is primarily responsible. Whether the achievements are of a general or a specific nature, they should either have resulted in a significant benefit to the federal government and the legal profession and contributed to the development of public law, or be a significant contribution to the legal community and/or profession that is not necessarily required by the nominee's government position.
Nomination Procedures	The name, date of birth, and official address of the nominee; the total numbers of years he or she has served in the U.S. Government; the agency or department in which she or he served or is presently serving; paragraphs which develop and enlarge on the substantive reasons why the nominee is believed to qualify. The original and seven copies of the nomination should be submitted to the Director, OHRM.
Nomination Deadline	June
Sponsor	Federal Bar Association Younger Federal Lawyer Awards Committee 1815 H Street, N.W. Washington, D.C. 20006-3697

MEMORANDUM

September 25, 1997

TO: All SEC Employees
FROM:  Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management
SUBJECT: Nominations for Honorary Awards

The Securities and Exchange Commission's Annual Awards Ceremony is rapidly approaching. The specific date will be announced in a subsequent memorandum. All employees eligible for Length of Service Awards will be included in the award ceremony brochure. In order to keep the ceremony to a reasonable length, we will include service awards only for those with 30 years of SEC or federal service. **If you have had breaks in your government service, and believe you are eligible to receive a service award this year, please contact Denise Taylor on (202) 942-4079 to ensure that you are properly recognized.**

Nominations for honorary awards are due by **October 15, 1997**. Nominations for awards (1) through (5) below may be submitted by any staff member. Nominations for the remainder of the awards must be approved by the Division Director, Office Head or Regional Director where the nominated employee is assigned. If an organization has two or more nominations for the same award, that office or division must rank the nominations in priority order before submitting them to the Office of Administrative and Personnel Management.

Brief descriptions of the major awards with summary information on the nomination criteria and procedures are listed below.

(1) The Distinguished Service Award is the Commission's highest honorary award. To be eligible, an employee must have at least five years of service with the Commission and must have made a major contribution to the work of the Commission and/or the administration of the federal securities laws.

(2) The Supervisory Excellence Award emphasizes the high value the Commission places on supervisors who achieve results by excelling in both their "people" and "program" responsibilities. Persons at all grade levels who officially supervise three or more subordinates are eligible.

(3) The Support Staff Award for Excellence recognizes administrative, clerical and technical employees in grades GS-5 through GS-9 who have made significant contributions to the work of their office or division.

(4) The Equal Employment Opportunity Award reflects the Commission's special appreciation for staff members who have made important contributions to the advancement of equal employment and promotion opportunities for women, minorities and those with disabilities at the Commission or in their communities.

(5) The Community Service Award recognizes individuals who not only have made personal contributions of their time and skills, but have had a significant impact on their community.

(6) The Productivity Improvement Award recognizes individuals or groups who have measurably improved productivity at the Commission, such as reducing the cost required to perform a particular function or by improving the quality and timeliness of service to the Commission or public.

(7) The Examination Award of Excellence is given to a securities compliance examiner who has made a significant contribution to the examination program of the Commission and to investors.

(8) The Regulatory Simplification Award recognizes offices, divisions, or individual employees who have initiated measures which will reduce the burden on persons who must comply with the Commission's regulations.

(9) The Plain English Award recognizes employees who have made significant contributions to the Chairman's initiative on plain English. The goal is to encourage firms to write all disclosure documents- prospectuses, annual reports, and periodic filings in a style that investors can better understand to help them make investment decisions. The initiative also includes using the plain English style for SEC letters, memoranda, orders and rules.

(10) The Jay Manning Award honors an employee in the Division of Market Regulation who has demonstrated a commitment to excellence, dedication to preserving fair and honest markets, and tireless pursuit of just and workable regulatory responses to practical business problems.

(11) The Martha Platt Award honors an the late Martha Platt, who was a highly respected and admired attorney in the Division of Investment Management. It is given annually to an employee in that Division who demonstrates the highest degree of professional excellence and personal integrity and who serves as a model of dedicated service to the Division and the Commission in the public interest.

(12) The Ellen Ross Award honors an Enforcement attorney or other Enforcement professionals who have demonstrated exemplary commitment, enthusiasm and performance in working to fulfill the Commission's responsibilities for the fair and effective enforcement of the federal securities laws.

(13) The Manuel F. Cohen Award is given to a staff attorney who has displayed outstanding legal ability and performance which resulted in significant benefit to the Commission and which promises to continue. To be eligible for this award, the employee must have graduated from law school within ten years (i.e., no later than December 31, 1987), and have at least two (by December 1, 1997) but not more than four years of SEC service (as of December 1, 1997).

(14) The Irving M. Pollack Award honors the career Enforcement employee who has demonstrated his/her dedication to public service and the SEC, as well as fairness and compassion in dealing with the public and staff. The employee must have at least ten years of service in the SEC. This award alternates between the regions and the Division of Enforcement. This year the nominations are limited to the regional offices.

(15) The Philip A. Loomis, Jr. Award is presented to the employee who displays the qualities of outstanding legal scholarship, analysis and draftsmanship, the legal counselor's ability to reconcile opposing viewpoints and create workable solutions to difficult legal and policy issues and the highest caliber of personal and professional integrity.

(16) The Byron D. Woodside Award is presented to a career employee who has made a significant contribution to the Commission's full disclosure program. The recipients must have demonstrated the qualities for which Mr. Woodside was noted: integrity, leadership, professionalism and dedication to public service.

(17) The Sydney C. Orbach Award is given to an accountant at the GS-14 pay level or lower who made a special contribution of significant benefit to the full disclosure program, the Commission and the protection of investors.

(18) The Andrew Barr Award is given to an accountant who displays the qualities of outstanding accounting ability, analysis, critical judgment and creativity, along with dedication to public service and to the Commission. The performance of the individual consistently demonstrates high standards of personal and professional integrity.

(19) The Stanley Sporkin Award is presented to employees who have made exceptionally tenacious and insightful contributions to the SEC's efforts to enforce compliance with the federal securities laws and the Commission's rules.

(20) The Capital Markets Award recognizes the tireless efforts of employees to strengthen the capital markets in the United States and, thereby, the contributions these markets make to the economic future of the nation.

(21) The Law and Policy Award recognizes employees who develop legal theories that respond to the nation's changing capital markets, and who demonstrate dedication to the goals of the securities laws through their untiring efforts on legislative issues.

(22) The Chairman's Award For Excellence is presented to employees whose special accomplishments produced significant improvements in the agency's programs or management.

All nominations should be submitted to Linda Hunt, OAPM, Mail Stop 0-22; faxed copies of nominations from the regional and district offices are acceptable. The fax number for OAPM is (703) 914-1097. If you have any questions, please call Ms. Hunt on (202) 942-4068 or Ms. Pinkney on (202) 942-4159.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-511.A
April 29, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 511.A

POSITION CLASSIFICATION

1. PURPOSE AND SCOPE. This Chapter establishes policies and procedures governing the classification of General Schedule positions and similar positions and all positions within the Federal Wage System. **Classification is the system the Federal Government uses to analyze, evaluate and rank work; it is an evaluation method which compares duties and responsibilities on a whole-job basis. Predefined classification standards are established that identify occupational classes and define levels of work within a class. Positions are placed in whichever classification (i.e., numerical job series and grade) best matches the type and level of work.**

2. POLICY.

A. The Commission's policy is to classify positions in the appropriate occupational series and grades in accordance with the classification standards issued by the Office of Personnel Management (OPM). The Federal Government classification process provides a means for implementing the following principles:

1. Equal pay for substantially equal work; and
2. Variations in grade levels must reflect differences in the difficulty, responsibility, and qualification requirements of work assigned.

B. Positions are classified on the basis of duties assigned to the position and the level of responsibility, as well as the qualifications required to perform the duties of the position.

3. SCOPE. This Chapter covers all positions in the Securities and Exchange Commission, except temporary positions for experts and consultants which are exempt from the classification system by 5 U.S.C. 3109.

4. AUTHORITIES. This Chapter implements 5 U.S.C. 51, 5 CFR 511, and 5 CFR 532.

2 **POPPS 6-511.A April 29, 1993**

5. RESPONSIBILITIES.

A. The Office of Personnel Management issues classification standards and guidelines and adjudicates classification appeals; OPM is empowered to review and correct agency classification determinations.

B. Office of Human Resources Management (OHRM). The Associate Executive Director, OHRM has been delegated authority by the Chairman, through the Executive Director, to classify positions according to legal and regulatory requirements, and may further delegate this authority to staff members of that office. The Occupational Analysis and Compensation (OA & C) Branch in OHRM has immediate operational and oversight responsibility for the agency's classification program, excluding the Office of the Inspector General.

C. Division Directors, Office Heads, and Regional Administrators are responsible for ensuring accurate position descriptions within their offices and that subordinate supervisors fulfill their responsibilities (See POPPS Chapter 511.C for procedures on position description accuracy). Before approving a position change, they are responsible for ensuring that it is consistent with division or office-wide needs, priorities, budget, and other position management concerns.

D. Managers and Supervisors are responsible for assigning and accurately describing the duties, responsibilities, and supervisory relationships for persons under their supervision. Managers and supervisors formally describe these duties and responsibilities in the form of a position description (PD). Also see POPPS Chapter 511.C for procedures on position description accuracy. When major changes occur in any position, the immediate supervisor is responsible for initiating a request for position review through the organization's administrative channels. Upon request, supervisors provide OHRM with any supplemental information necessary to classify the position.

6. POSITION DESCRIPTIONS. The PD is the primary tool in the classification of a position. It is management's official description of the assignment of duties, responsibilities and supervisory relationships. At a minimum, the document consists of the following two parts:

A. Optional Form 8 (OF-8, rev. 1-85). The cover sheet identifies the established grade of the position, provides the basis for determining a pay range for the assigned employee and, in effect, is a pay voucher that is used to authorize the payment of appropriated funds. The cover sheet is the official document on which the permanent immediate supervisor (required) and/or higher level supervisor (optional) certifies the allocation of the duties listed, and an official authorized to classify the position certifies the accuracy of the title, pay plan, occupational series, and grade.

B. The Text. The text sets forth the major duties, responsibilities, supervisory relationships, and qualifications required to communicate a good understanding of the content of the job. It cannot, and need not, describe every task

that might ever be assigned to an employee. Conversely, neither should it be so brief that it fails to convey complete information about work assignments. Most descriptions are in the traditional format, including an introduction, a duty statement, supervisory relationship, and a qualifications statement. However, recent standards have dictated that certain series must be in the Factor Evaluation System (FES) format which describes a position in terms of nine factors (See Attachment 1). OHRM recommends the use of the FES format for the writing of all PDs and will provide assistance on request.

7. PROCEDURES FOR WRITING POSITION DESCRIPTIONS.

A. Before you begin to write, consider using the following:

1. Standardized position descriptions. OHRM has established and implemented these PDs for certain kinds of similar positions that exist across organizational lines. Managers and supervisors should refer to these standardized descriptions to determine whether one is suitable for a personnel action being requested within their organization. The use of standardized descriptions, where appropriate, will facilitate prompt action on classification requests. The classification specialist in OHRM assigned to your organization can provide assistance.

2. Automated PD formulation. OHRM has an automated computer program that may provide assistance in the development and classification of some PDs.

B. If you cannot use either of the above methods, follow these guidelines when you write the PD:

1. Determine if the FES format is mandatory. See 6 B above.
 2. Use direct, clear language that can be understood by persons generally familiar with the work of the Commission. Describe the degree of difficulty of the work and the extent of the employee's responsibility. Technical terms should be avoided wherever possible, or at least explained.
 3. Include only regularly assigned duties.
 4. Ensure that all duties are consistent with the functions of the organization where the position is established.
 5. Do not include duties performed in the absence of another employee unless they are regularly assigned (i.e., more than 10% of the time). Most commonly, back-up responsibilities requiring more than 10% of an employee's time apply to full deputies who act in the supervisor's absence. It may also be appropriate to ensure critical skills are provided during periodic absences of other employees.
-

6. Identify **only the official immediate supervisor** of the position, how the work is assigned, the incumbent's responsibilities for carrying out the assignments, and how the work is reviewed. Specify in a separate sentence if the incumbent may receive work review or direction from a team leader, other designated staff, or a higher level supervisor.

7. Specify only qualification requirements which are relevant to the assigned duties to avoid undue restriction on individuals with disabilities.

8. Compare the final draft PD with the corresponding performance plan to ensure that they generally agree. The difference between the two is that the PD identifies the duties and responsibilities of the position while the performance plan describes levels of performance for the critical duties of the position.

8. PROCEDURES FOR REVISING POSITION DESCRIPTIONS.

A. Use pen and ink notations to effect minor changes to position descriptions which, in the opinion of OHRM, do not significantly change the duties or the classification of the position. For example, pen and ink changes may be appropriate to accomplish a change in organization name or to document a minor procedure or workflow change. These changes require the certification of the immediate supervisor and the approval of OHRM in Block 23 of the OF-8.

B. Rewrite the entire PD when major duties have been deleted or substantially changed or when significant new duties are added.

9. APPROVAL OF A NEW OR REVISED POSITION DESCRIPTION (The Classification Process).

A. Management (e.g., Division Director, Office Director, Branch Chief) submits the draft PD to the assigned classification specialist in OHRM for review and approval.

B. OHRM classifies the position based on all the information available. This frequently requires obtaining additional information. This information can be gained through the following means:

1. A review of functional statements and organizational charts;
2. An interview with the incumbent of the position (desk audit);
3. A discussion with the supervisor or other management officials having knowledge of the duties; and/or
4. A survey of other employees and/or management officials in like positions or in organizations with similar functions.

POPPS 6-511.A April 29, 1993

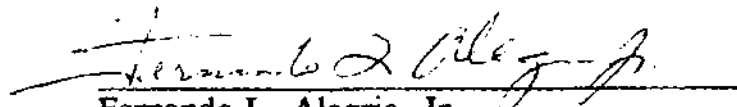
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10. APPEALS. Employees have the right to appeal the classification of their positions if they believe that the classification is in error. OHRM staff members will advise employees of the procedures to follow in filing a classification appeal. Classification appeals are addressed in POPPS Chapter 511.B.

11. EFFECT ON OTHER DOCUMENTS. This Chapter supersedes POPPS Chapter 511.A, dated September 9, 1991, which incorporated by reference SECR 6-13 issued March 28, 1989.

12. RECORDS MAINTENANCE. OHRM maintains the original copies of all active PDs. Abolished PDs may be obtained through the OA & C Branch. Current OPM Position Classification Standards are maintained in the OA & C Branch.

13. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch.


Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management
April 29, 1993
Date

Attachment:

1. FES Format Headings

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, DC 20549

POPPS 6-511.B
April 29, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 511.B

POSITION CLASSIFICATION APPEALS

Section 1. Introduction

1-1. PURPOSE AND SCOPE. This Chapter describes policies and procedures for the submission of position classification appeals and applies to all employees, except Administrative Law Judges and members of the Senior Executive Service. Any General Schedule or Federal Wage System employee has the right to appeal the classification of his or her position at any time unless otherwise noted in this Chapter. Section 3 deals with appeals by employees assigned to positions that are GS or GM. Section 4 deals with appeals involving lithographic and wage grade employees.

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Attachment

A-1. Where to Submit OPM Appeals

Section 2. Policy and General Information

2-1. POLICY. The Securities and Exchange Commission (SEC), through the Office of Human Resources Management (OHRM), will respond to classification appeals and requests for information from employees fairly and promptly, in accordance with the Federal classification requirements and the procedures outlined herein.

2-2. AUTHORITIES. Section 3 implements 5 U.S.C. 5103, 5107 and 5112; 5 CFR Part 511; and Federal Personnel Manual (FPM) Chapter 511, subchapter 6. Section 4 implements 5 U.S.C. 5346; 5 CFR Part 532; and FPM Supplement 532-1, subchapter S-7.

2-3. DEFINITIONS.

A. Classification action. The decision concerning the pay plan, occupational series, grade, and job title of a position.

B. Personnel action. The action taken to place an employee in a position or remove an employee from a position (e.g., by appointment, promotion, reassignment, demotion, or separation).

C. Classification appeal. A written request by an employee to review the classification of his or her position. An appeal may also be filed by the SEC to the Office of Personnel Management (OPM) regarding a position.

D. Classification certificate. A final OPM decision regarding the classification of a position (e.g., pay plan, occupational series, and grade) which is binding on the agency. A certificate is normally issued as a result of an appeal filed by an employee or an employee's agency. A certificate may also be issued as a result of OPM's review of a position, such as by way of an OPM Personnel Management Evaluation.

E. Formal appeal. An appeal to OPM.

F. Internal appeal. An appeal within the SEC.

G. Employee representative. A person chosen by the employee and designated in writing to represent him or her in the appeal process. The representative cannot be a supervisor having line or staff authority over the employee, nor any official who has classification authority over the position. The selection must not result in a potential conflict of interest or position, or interfere with the priority needs of or result in unreasonable cost to the U.S. Government. A representative may offer any information believed relevant to the appeal, but is not entitled to be present during a desk audit or other fact-finding session conducted by OHRM or OPM.

H. Position Description (PD). This document is the official description of management's assignment of duties, responsibilities, and supervisory relationships to a position.

2-4. RESPONSIBILITIES. OHRM has primary responsibility for ensuring that classification appeals are processed in a proper and timely manner. The Occupational Analysis and Compensation Branch in OHRM has immediate oversight responsibility for the appeal program, as delegated by the Associate Executive Director, OHRM.

2-5. CONTENTS OF A FORMAL APPEAL. A classification appeal must be in writing and contain complete information about the position. As a minimum, the appeal should include:^{1/}

^{1/} When the SEC forwards an employee's appeal to OPM, it is required by OPM to furnish the following information, as well as other related information specified in FPM Chapter 511, Appendix E.

- A. The employee's name, mailing address, and office telephone number.
- B. The employing agency and the exact location of the employee's position within the agency (e.g., division, branch, section, unit) and the full mailing address for that organizational location.
- C. Employee's current position title, pay plan, occupational series, and grade.
- D. The requested position title, pay plan, occupational series, and grade.
- E. A copy of the official PD, if available, signed and dated by the appellant's current first-line supervisor, along with a statement concerning its accuracy. If the employee believes the PD is not accurate, the employee must provide his or her own description of the work currently being performed and show what steps have been taken to have the official PD changed.
- F. The reason why the employee believes the position is erroneously classified. The employee should refer to OPM position classification standards to support his or her appeal and should state specific points of disagreement with the SEC's evaluation. The employee also may include a statement of facts which he or she thinks may affect the final classification decision.^{2/}
- G. The name, address, and business telephone number of the employee's representative, if any.

Section 3. Appeal Procedures for GS/GM Employees

3-1. GENERAL. General Schedule employees (GS or GM) may appeal directly to OPM without submitting an appeal to the SEC. However, they are encouraged to seek internal resolution of their classification issue before going to OPM.

3-2. COVERAGE.

- A. Matters that can be appealed by GS/GM employees are:
 - 1. Pay system (that is, whether the position should be placed into or excluded from the General Schedule);
 - 2. Occupation (that is, the occupational series in which the position is placed);

^{2/} Employees are encouraged to become familiar with the specific OPM classification standards used in classifying their positions and to refer to these standards when preparing their appeal. The classification standards are located in OHRM. The servicing classification specialist will help employees find and work with the standards.

3. Grade; and
4. Position title.

B. Matters that may not be appealed include:

1. The duties assigned to a position by management;
2. The accuracy of the employee's PD, although this issue may be grieved under POPPS Chapter 771.A, SEC Grievance Procedures;
3. The adequacy or accuracy of OPM classification standards, although an employee may contend that the specific standard(s) used is (are) not applicable;
4. A classification appeal decision (certificate) previously issued by OPM, unless there has been a subsequent change in major duties or in the governing classification standard(s);^{3/}
5. The accuracy, consistency, or use of agency supplemental classification guides;
6. Coverage under the Performance Management and Recognition System (PMRS), although this may be grievable based on the accuracy of the PD and the actual duties assigned;
7. An assignment or detail out of the scope of normally performed duties outlined in the official PD;
8. A proposed classification action;
9. Comparison of an employee's job with other positions rather than classification standards published by OPM; and
10. The classification of a position to which an employee is detailed or temporarily promoted. However, an employee serving under an OPM-approved term promotion (normally two to four years) may appeal under the procedures in this Chapter.

3-3. CORRECTING AN INACCURATE PD.

A. When an employee is dissatisfied with the classification of his or her position, the employee should first discuss the matter with his or her immediate supervisor, keeping in mind that management has the right to assign work. If the

^{3/} Also see Section 5-2 regarding reconsideration of an appeal by OPM.

dissatisfaction involves a technical classification issue, he or she should consult the servicing position classification specialist from OHRM.

B. If the employee and the supervisor agree that the PD is not accurate and current, the supervisor should prepare a revised PD (see POPPS Chapter 511.A for applicable procedures) and send it to OHRM to initiate a position review.

C. A position classification specialist will review the revised PD and all appropriate information and determine a proper title, series, and grade for the position.

D. OHRM will notify the employee of the results of the review and implement the revised PD according to existing personnel rules and regulations. If the implementation of the revised PD would result in:

1. **Loss in grade.** The employee will be notified in writing. This notification will describe the employee's appeal rights and time limits to file an appeal in order to establish potential entitlement to retroactive corrective action.

2. **Increase in grade.** The employee and supervisor will be notified that a Standard Form 52 (SF-52), Request for Personnel Action, is necessary to promote the employee.

3. **Change in title, pay plan, and/or series.** The employee will be notified in writing. This notification will describe the employee's appeal rights and time limits to file an appeal in order to establish potential entitlement to retroactive corrective action.

3-4. INFORMAL APPEAL. If a supervisor and employee agree that the current PD is accurate but the employee remains dissatisfied with the classification, the employee may submit a written appeal to the Associate Executive Director, OHRM. Generally, the appeal should contain the same information as requested in Section 2-5, except for SEC mailing addresses.

A. OHRM will obtain any additional information needed to consider the appeal. At a minimum, this will include an interview/audit with the employee and immediate supervisor, but may involve other sources (e.g., managers) having pertinent information.

B. Based upon all relevant information, the Associate Executive Director, OHRM will reconsider the classification and issue a written notice of decision to the employee within 45 calendar days of receipt of the appeal. The notice will specify the basis for the classification decision.

1. **If the decision is favorable to the employee,** an appropriate personnel action will be taken to implement the decision promptly. In no case shall such action be delayed more than 45 days after the decision is made.

2. **If the decision does not grant the requested reclassification**, the employee will be notified in writing and will be given a complete explanation of the rationale for the decision. The employee also will be advised of the right to submit a formal appeal to OPM.

3. **If the employee's position is reclassified to a lower grade**, the employee will be notified in writing and will be given a complete explanation of the rationale for the decision. In order for the employee to preserve the right to retroactive adjustment, a formal appeal normally must be filed within 15 calendar days following:

a. The employee's receipt of written notification of the SEC's classification decision; or

b. The effective date of the action taken as a result of the SEC's classification decision, **whichever is later** (see Section 5-4 on retroactive benefits).

3-5. FORMAL APPEAL TO OPM.

A. A formal appeal must be in writing. It may be filed directly with OPM or through the SEC's Associate Executive Director, OHRM. Filing procedures and the local OPM address for submitting appeals are contained in Section 2-5 and Attachment I, respectively.

B. The Associate Executive Director, OHRM will notify the employee that his or her formal appeal has been received and also will notify the appropriate Division Director or Office Head.

C. If the SEC has no authority to act on the appeal, OHRM will forward the appeal to OPM no later than 60 calendar days after its receipt.

D. If the SEC has the authority to act on the appeal, OHRM will render a decision within 60 calendar days of its receipt.

E. If the SEC decides to grant the employee's appeal and has the authority to effect the classification decision, the necessary personnel action will be taken within 45 calendar days. The appeal will be considered closed even though it was originally directed to OPM.

F. If the SEC's decision is unfavorable, the employee's appeal will be forwarded promptly to OPM, along with a copy of the decision.

G. All persons, including the employee, any employee representative, the supervisor, and OHRM staff, will cooperate fully with OPM by promptly providing

any information requested in connection with the appeal. At its option, OPM may decide the appeal based on documentation provided, or may schedule a desk audit with the employee and a discussion with the employee's first-line supervisor for fact-finding purposes.

H. OPM will notify the employee and the SEC, in writing, of its decision. The effective date for implementing the OPM decision normally will be no later than the beginning of the fourth pay period after the date of the OPM certificate, unless a later date is specified in the certificate.

Section 4. Appeal Procedures for Wage Grade and Lithographic Employees

4-1. GENERAL. OPM regulations require that, even though a wage grade or lithographic employee has an absolute right to appeal to OPM, he or she must first file a classification appeal with his or her agency.

4-2. COVERAGE.

A. Matters that can be appealed by wage grade or lithographic employees are:

1. Pay system (that is, whether the position is excluded from the lithographic or wage grade pay system);
2. Occupation (that is, the occupational series in which the position is placed);
3. Grade; and
4. Position title.

B. Matters that may not be appealed include:

1. The duties assigned to a position by management;
2. The accuracy of the employee's PD, although this issue may be grieved under POPPS Chapter 771.A, SEC Grievance Procedures;
3. The adequacy or accuracy of OPM classification standards, although an employee may contend that the specific standard(s) used is (are) not applicable;

4. A classification appeal decision (certificate) previously issued by OPM, unless there has been a subsequent change in major duties or in the governing position classification standard(s);^{4/}
5. The accuracy, consistency, or use of agency classification guides;
6. An assignment or detail out of the scope of normally performed duties as outlined in the official PD;
7. A proposed classification action;
8. Comparison of an employee's job with other positions rather than classification standards published by OPM;
9. His or her rate of pay or the propriety of a wage schedule rate;
and
10. The classification of a position to which an employee is detailed or temporarily promoted. However, an employee serving under an OPM-approved term promotion (normally two to four years) may appeal under the procedures in this Chapter.

4-3. CORRECTING AN INACCURATE PD.

- A. When an employee is dissatisfied with the classification of his or her position, the employee should first discuss the matter with his or her immediate supervisor, keeping in mind that management has the right to assign work. If the dissatisfaction involves a technical classification issue, he or she should consult the servicing classification specialist from OHRM.
- B. If the employee and the supervisor agree that the PD is not accurate and current, the supervisor should prepare a revised PD (see POPPS Chapter 511.A for applicable procedures) and send it to OHRM to initiate a position review.
- C. A position classification specialist will review the revised PD and all appropriate information and determine a proper title, series, and grade for the position.
- D. OHRM will notify the employee of the results of the review and implement the revised PD according to existing personnel rules and regulations. If the implementation of the revised PD would result in:
 1. Loss in grade. The employee will be notified in writing. This notification will describe the employee's appeal rights and the time limits to file an appeal in order to establish potential entitlement to retroactive corrective action.

^{4/} Also see Section 5-2 regarding reconsideration of an appeal by OPM.

2. Increase in grade. The employee and supervisor will be notified that a Standard Form 52 (SF-52), Request for Personnel Action, is necessary to promote the employee.

3. Change in title, pay plan, and/or series. The employee will be notified in writing. This notification will describe the employee's appeal rights and time limits to file an appeal in order to establish potential entitlement to retroactive corrective action.

4-4. INTERNAL APPEAL. If a supervisor and employee agree that the current position description is accurate but the employee remains dissatisfied with the classification, the employee may submit a written appeal to the Associate Executive Director, OHRM. Generally, the appeal should contain the same information as requested in Section 2-5, except for the SEC mailing addresses.

A. OHRM will obtain any additional information needed to consider the appeal. At a minimum, this will include an interview/audit with the employee and immediate supervisor, but may involve other sources (e.g., managers) having pertinent information. A classification decision will then be rendered within 30 days of the date that the appeal was received in OHRM, and the employee will be notified in writing of the rationale for the decision.

B. If a decision has not been made within 30 days, the appellant may request, in writing, that the Executive Director assume jurisdiction over the appeal. The Executive Director typically will issue a final decision within 30 days of receipt of the employee's request.

C. When a final decision grants an employee's appeal, the effective date for the grade change (or other change favorable to the employee) will be no later than the beginning of the first pay period after the 60th day from the date the appeal was received by the Associate Executive Director, OHRM. A similar time frame applies when a position must be reduced in grade as a result of an appeal.

D. The SEC's written decision rendered by OHRM (or the Executive Director if he or she assumes jurisdiction of the appeal from OHRM) shall advise the employee of his or her appeal rights to OPM should the employee disagree with the decision. The SEC decision will specify the basis for the classification finding.

E. In order to be entitled to retroactive corrective action and any retroactive benefits in a downgrading and/or loss-of-pay action, an employee must appeal to OPM within 15 calendar days following:

1. The employee's receipt of written notification of the SEC's classification decision; or

2. The effective date of the action taken as a result of the SEC's classification decision, **whichever is later** (see Section 5-4 on retroactive benefits).

4-5. EXTERNAL APPEAL TO OPM.

A. Filing the appeal.

1. A wage grade or lithographic employee may file an appeal with OPM only after the SEC has issued a decision on his or her position which resulted from an internal appeal. Filing procedures and the local OPM address for submitting appeals are contained Section 2-5 and Attachments 1, respectively.

2. The appeal must be filed with OPM within 15 calendar days from the date of receipt of the SEC's decision, and must specify the part(s) of the decision with which the employee disagrees. OPM may extend the 15-day limit if the employee can show that he or she was not notified of the limit or that other extenuating circumstances warrant an extension. Also see Section 5-4 regarding retroactive benefits entitlement.

B. Appeal decision.

1. OPM shall base its decision on the documentation of the internal SEC appeal. However, OPM may at its discretion audit or perform other fact-finding measures regarding the position to supplement the existing appeal record. An appellant's representative (if any) is not entitled to be present during a desk audit.

2. OPM will notify the employee and the SEC, in writing, of its decision. The effective date for implementing the OPM decision normally will be no later than the beginning of the fourth pay period after the date of the OPM certificate, unless a later date is specified in the certificate.

Section 5. Provisions Affecting All Appeals

5-1. CANCELLING THE APPEAL.

A. A GS/GM, wage grade or lithographic employee may, at any time, cancel his or her appeal by notifying OPM in writing. Written notification from the employee also would be necessary for cancelling an appeal within the SEC.

B. OPM or the agency may cancel the employee's appeal if he or she does not furnish required information or does not otherwise proceed with the appeal process. A cancelled appeal can be reopened if an employee can demonstrate that his or her delays were due to uncontrollable circumstances. If sufficient information exists about a position, OPM or the SEC may process the appeal in spite of delays in receiving information.

C. Normally, an appeal to the SEC or to OPM will be cancelled if an employee leaves the job unless the employee would be entitled to retroactive benefits, including death benefits.

5-2. RECONSIDERATION BY OPM.

A. An OPM appeal decision is considered final, insofar as it is binding on the SEC. OPM may at its discretion reopen and reconsider a previous appeal decision when it determines such action is justified. Reasons to reconsider a decision might include information provided in writing to OPM that establishes reasonable doubt as to the technical accuracy of OPM's decision or provides material information that was not previously considered.

B. The request for reconsideration must be filed within 45 calendar days of the date of OPM's decision. It should refer specifically to the previous OPM decision and the classification standard(s) to demonstrate possible error in OPM's evaluation of the position.

C. Requests for reconsideration of OPM appeal decisions or appeals of the certification of position(s) made by OPM should be submitted only to OPM's Washington, DC address (see Attachment 1).

5-3. CORRECTING A PREVIOUS DOWNGRADING ACTION. If an OPM decision corrects a previous downgrading or loss-of-pay action, retroactive action will be taken to correct records, grade, and pay to the date when the downgrading or loss-of-pay action initially became effective.

5-4. RETROACTIVE BENEFITS. If a classification action is taken which results in an employee's having a loss in grade or pay and the employee files a timely classification appeal, the employee may be entitled to retroactive corrective action (i.e., restoration of grade) if the classification action is subsequently found to be in error. The following conditions apply to this entitlement:

A. The employee's internal appeal must have been filed within 15 calendar days of the effective date of the grade reduction or within 15 calendar days following receipt of the SEC's written decision, whichever is later. This time limit may be extended by OHRM if the employee can show that he or she was not notified of the time limit or that there were extenuating circumstances.

B. Any subsequent appeal (e.g., to OPM) must have been filed within 15 calendar days of receipt of a decision on the initial appeal within the Commission or within 15 calendar days after the effective date of the Commission's decision, whichever is later. OPM may extend this time limit for the same reasons specified in Section 5-4.A.

C. The employee was not eligible for retained grade or pay when the reduction occurred. An employee not entitled to grade retention may appeal the grade or pay reduction action to the Merit Systems Protection Board (MSPB). Procedures for such an appeal are covered in FPM Chapter 752. However, the appeal to MSPB is appropriate only if the appealed action does not comply with the law; disagreements with technical classification decisions should be addressed under this Chapter.

D. The classification appeal decision must reverse, in whole or in part, the classification action which resulted in loss of grade or loss of pay. The potential restoration of grade cannot be based on duties or responsibilities assigned after the reduction occurred.

5-5. ACCESS TO RECORDS. An employee, the employee's representative, and the agency (in the case of an appeal reaching OPM) are entitled to review all official records maintained by OHRM and by OPM which pertain to his or her appeal. A request to review such records should be forwarded to the Associate Executive Director, OHRM (for SEC-maintained records) or to the OPM office considering the appeal.

5-6. EFFECT ON OTHER EMPLOYEE RIGHTS. The filing of a classification appeal does not necessarily affect any other right afforded an employee (e.g., the right to file an adverse action appeal, or a grievance under the SEC's administrative grievance system (see POPPS Chapter 751.A & .B, Disciplinary Actions and Adverse Actions, and Chapter 771.A, SEC Grievance Procedures). Employees should review those adverse action and grievance regulations and/or consult their servicing personnel specialist in OHRM's Staffing and Employee Relations Branch to determine their rights in a particular situation.

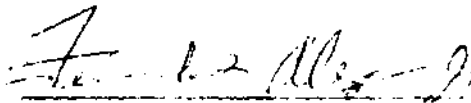
5-7. OPM CLASSIFICATION CONSISTENCY REQUIREMENT. OPM may require an agency, upon receipt of its classification appeal decision, to review the agency classification of identical, similar, and related positions to ensure that these jobs are classified consistently with the OPM appeal decision. OPM requires a report from the agency as to whether it has such positions. If so, the agency must provide OPM with a plan for reviewing the affected jobs. OPM also requires a follow-up report from the agency outlining the actual jobs reviewed and the action the agency has taken to correct misclassified positions (e.g., upgrade, downgrade, series change).

Section 6. Miscellaneous

6-1. EFFECT ON OTHER DOCUMENTS. For Section 3, POPPS Chapter 511.B dated September 9, 1991 and its attachment, SECR 6-12 dated September 6, 1990, are superseded. For Section 4, POPPS Chapter 532.B dated September 9, 1991 and its attachment, SECR 6-20 dated September 7, 1990, are superseded.

6-2. RECORDS MAINTENANCE. OHRM maintains the official job appeal file. The file shall not contain any information that would not otherwise be made available to the employee.

6-3. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch.



Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management

April 29, 1993
Date

ATTACHMENT:

1. Where to submit appeals

POPPS Chapter 511.B, ATTACHMENT 1

WHERE TO SUBMIT OPM APPEALS

If your assigned office
is in:

then send your appeal to OPM at the
appropriate address below:

SEC Headquarters
or Operations
Center

Classification Appeals Office
1900 E Street, N.W.
Washington, D.C. 20415

Boston, New York
or Philadelphia

William J. Green, Jr.
Federal Building
600 Arch Street
Philadelphia, PA 19106-1596

Atlanta or Miami

Richard B. Russell
Federal Building
75 Spring Street, S.W.
Atlanta, GA 30303-3019

Chicago

John C. Kluczynski
Federal Building
230 S. Dearborn Street
Chicago, IL 60604

Fort Worth,
Denver, or Salt Lake

1100 Commerce Street
Dallas, TX 75242

Los Angeles,
San Francisco,
or Seattle

211 Main Street, 7th Floor
San Francisco, CA 94105

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-511.C
September 18, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 511.C

POSITION DESCRIPTION ACCURACY PROGRAM

1. **PURPOSE.** This Chapter establishes guidelines for the implementation and administration of an effective position description accuracy program. For guidance on how to write a position description, please refer to POPPS Chapter 511.A.
2. **POLICY.** The Commission recognizes the position description (PD) as a necessary and useful instrument which contributes to the effective management and sound administration of the position classification program. Therefore, it is the policy of the Commission to maintain current and accurate position descriptions through periodic review by firstline supervisors and position classification specialists. The procedures in this Chapter ensure that, each time a PD is used, the current immediate supervisor has reviewed the duties and responsibilities for accuracy and that the current incumbent receives a PD signed by the supervisor of record.
3. **AUTHORITIES.** Additional guidance may be found in Chapter 511, Subchapter 2 of the Federal Personnel Manual.
4. **RESPONSIBILITIES.**
 - A. The immediate supervisor of the position is required to sign and date the certification statement on the Optional Form 8 (OF-8), which is the cover sheet for all official position descriptions (Attachment). The signature attests that the PD is an accurate statement of the position's major duties and its organizational relationships and that the position is necessary for accomplishing the functions of the organization.
 - B. The Chief of the Occupational Analysis and Compensation (OA & C) Branch, Office of Human Resources Management (OHRM), is responsible for maintaining current and accurate descriptions of assignments. This responsibility is further delegated to the branch staff who review the assigned PDs on a regular and recurring basis.
 - C. Administrative contacts are responsible for maintaining office copies and for assuring that each employee has a copy of his or her current PD, signed by the immediate supervisor.

5. PROCEDURES.

A. Establishing a new or revising an old PD.

1. The initiating office, often with the help of the OA & C Branch, develops a PD that accurately describes the duties and responsibilities of the position.
2. The administrative contact in the initiating office must prepare a new cover sheet OF-8 for the PD and should fill in: the title, series and grade of the position in Block 15e; the organizational title, if any, in Block 16; the agency, division/office, as many subdivisions within the organization as necessary in Block 18; the title only of the immediate supervisor in Block 20a; and the title and signature, if possible, of a senior supervisor in Block 20b. This OF-8 should be submitted to the OA & C Branch with the supporting narrative.
3. When the position description is received in the OA & C Branch, the servicing position classification specialist analyzes the duties and responsibilities to determine correct title, series and grade; then, he or she initials and signs the OF-8, certifying the position classification as required by title 5, U.S.C., in conformance with standards published by OPM.
4. The OA & C Branch retains the original and sends a copy of the classified PD to the initiating office.
5. The administrative contact attaches the PD, with the original signature of the supervisor on the OF-8, to the Standard Form 52 (SF-52), Request for Personnel Action, being submitted to request the personnel action. The complete package is sent through the Office of Comptroller to OHRM.

B. Filling a position with an established PD.


1. The administrative contact makes a copy of the PD on file.
2. The immediate supervisor of the position reads the copy to ensure that the duty statements are accurate and current. If so, the name is typed in Block 20a of the OF-8 and the supervisor signs and dates in the space provided.
3. The administrative contact attaches the PD, with the original signature of the supervisor on the OF-8, to the SF-52 being submitted to request the personnel action. The complete package is sent through the Office of Comptroller to OHRM.
4. The servicing position classification specialist reviews the PD and initials and dates the SF-52 to certify that the title, series, and grade are accurate.

C. Annual Review.

1. Annually at the beginning of the performance rating period, the immediate supervisor reviews each PD and certifies its continuing accuracy on SEC Form 2331, Performance Management Record.

2. If, at any time during this process, a PD is found to be inaccurate, the initiating office prepares and submits a revised description of the position for review by the OA & C Branch.

6. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Occupational Analysis and Compensation Branch.



John Innocenti, Director
Office of Human Resources Management
9/18/92
Date

Attachment: OF-8

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

POPPS Chapter 511.C, Attachment 1

POSITION DESCRIPTION (Please Read Instructions on the Back)										1. Agency Position No.	
2. Reason for Submission		3. Service		4. Employing Office Location		5. Duty Station		6. OPM Certification No.			
<input type="checkbox"/> Reestablishment <input type="checkbox"/> Reestablishment Expiration (Show any positions replaced)		<input type="checkbox"/> New <input type="checkbox"/> Other		<input type="checkbox"/> Main <input type="checkbox"/> Field							
				7. For Letter Standards Act		8. Federal Statement Required		9. Subject to IA Action			
				<input type="checkbox"/> Existing <input type="checkbox"/> New/Modified		<input type="checkbox"/> Existing <input type="checkbox"/> New/Modified		<input type="checkbox"/> Yes <input type="checkbox"/> No			
				10. Position Status		11. Position #		12. Seniority		13. Competitive Level Code	
				<input type="checkbox"/> Competitive <input type="checkbox"/> Exclusive (Specify in Remarks) <input type="checkbox"/> SES (Gen I) <input type="checkbox"/> SES (CR)		<input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input type="checkbox"/> Worker		<input type="checkbox"/> 1—Senior <input type="checkbox"/> 2—Intermediate <input type="checkbox"/> 3—Junior <input type="checkbox"/> 4—Special			
										14. Agency Use	
15. Classified/Graded by		Official Title of Position				Pay Plan		Occupational Code		Grade	
a. U.S. Office of Personnel Management											
b. Department, Agency or Establishment											
c. Second Level Review											
d. First Level Review											
e. Recommended by Supervisor or Working Officer											
16. Organizational Title of Position (if different from official title)						17. Name of Employee (if vacant, specify)					
18. Department, Agency, or Establishment						c. Third Supervisor					
a. First Supervisor						d. Fourth Supervisor					
b. Second Supervisor						e. Fifth Supervisor					
19. Employee Review—This is an accurate description of the major duties and responsibilities of my position.						Signature of Employee (optional)					
20. Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.											
a. Typed Name and Title of Immediate Supervisor						b. Typed Name and Title of Higher-Level Supervisor or Manager (optional)					
Signature						Signature					
Date						Date					
21. Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in accordance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.						22. Position Classification Standards Used in Classifying/Grading Position					
Typed Name and Title of Official Taking Action											
Signature						Information for Employees: The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.					
Date											
23. Personnel Review		Initials		Date		Initials		Date		Initials	
a. Employee (optional)											
b. Supervisor											
c. Classifier											
24. Remarks											

25. Description of Major Duties and Responsibilities (See Attached)

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

General Form 5 (GSA) (Rev. 1-75)

Instructions for Completing Optional Form 5 POSITION DESCRIPTION

In order to comply with the requirements of FPM Chapter 295, subchapter 3, and other provisions of the FPM, agencies must complete the items marked by an asterisk. Agencies may determine what other items are to be used.

- *1. Enter position number used by the agency for control purposes. See FPM Chapter 312, Subchapter 3.
- *2. Check one.
 - "Redescription" means the duties and/or responsibilities of an existing position are being changed.
 - "New" means the position has not previously existed.
 - "Reestablishment" means the position previously existed, but had been cancelled.
 - "Other" covers such things as change in title or occupational series without a change in duties or responsibilities.
 - The "Explanation" section should be used to show the reason if "Other" is checked, as well as any position(s) replaced by position number, title, pay plan, occupational code, and grade.
3. Check one.
 - *4. Enter geographical location by city and State (if position is in a foreign country, by city and country).
 - *5. Enter geographical location if different from that of #4.
 6. To be completed by OPM when certifying positions. (See item 15 for date of OPM certification.) For SES and GS-16/18 positions and equivalent, show the position number used on OPM Form 1390 (e.g., DAES0012).
- *7. Check one to show whether the incumbent is exempt or non-exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act. See FPM Chapter 551.
8. Check box if statement is required. See FPM Chapter 734 for the Executive Personnel Financial Disclosure Report, SF 278. See FPM Chapter 735, Subchapter 4, for the Employment and Financial Interests Statement.
9. Check one to show whether identical Additional positions are permitted. See FPM Chapter 312, Subchapter 4. Agencies may show the number of such positions authorized and/or established after the "Yes" block.
10. Check one. See FPM Chapter 212 for information on the competitive service and FPM Chapter 213 for the excepted service. For a position in the excepted service, enter authority for the exception, e.g., "Schedule A-213.3102(d)" for Attorney positions excepted under Schedule A of the Civil Service Regulations. SES (Gen) stands for a General position in the Senior Executive Service, and SES (CR) stands for a Career Reserved position.
11. Check one.
 - A "Supervisory" position is one that meets the requirements for a supervisory title as set forth in current OPM classification and job-grading guidance. Agencies may designate first-level supervisory positions by placing "1" or "1st" after "Supervisory."
 - A "Managerial" position is one that meets the requirements for such a designation as set forth in current OPM classification guidance.
12. Check one to show whether the position is non-sensitive, non-critical sensitive, critical sensitive, or special sensitive for security purposes. If this is an ADP position, write the letter "C" beside the sensitivity.
13. Enter competitive level code for use in reduction-in-force actions. See FPM Chapter 351.

14. Agencies may use this block for any additional coding requirement.
- *15. Enter classification/job grading action.
 - For "Official Title of Position," see the applicable classification or job grading standard. For positions not covered by a published standard, see the General Introduction to "Position Classification Standards," Section III, for GS positions, or FPM Supplement 512-1, "Job Grading System for Trades and Labor Occupations," Part 1, Section III.
 - For "Pay Plan" code, see FPM Supplement 292-1, "Personnel Data Standards," Book III.
 - For "Occupational Code," see the applicable standard; or, where no standard has been published, see the "Handbook of Occupational Groups and Series of Classes" for GS positions, or FPM Supplement 512-1, Part 3, for trades and labor positions. For all positions in scientific and engineering occupations, enter the two-digit functional classification code in parentheses immediately following the occupational code, e.g., "GS-1310(14)." The codes are listed and discussed in the General Introduction to "Position Classification Standards," Section VI.
16. Enter the organizational, functional, or working title if it differs from the official title.
17. Enter the name of the incumbent. If there is no incumbent, enter "vacancy."
- *18. Enter the organizational location of the position, starting with the name of the department or agency and working down from there.
19. If the position is occupied, have the incumbent read the attached description of duties and responsibilities. The employee's signature is optional.
- *20. This statement normally should be certified by the immediate supervisor of the position. At its option, an agency may also have a higher-level supervisor or manager certify the statement.
- *21. This statement should be certified by the agency official who makes the classification/job grading decision. Depending on agency regulations, this official may be a personnel office representative, or a manager or supervisor delegated classification/job grading authority.
22. Enter the position classification/job grading standard(s) used and the date of issuance, e.g., "MSP and FLS, GS-305, May 1977."
23. Agencies are encouraged to review periodically each established position to determine whether the position is still necessary and, if so, whether the position description is adequate and classification/job grading is proper. See FPM Letter 536-1 (to be incorporated into FPM Chapter 536). This section may be used as part of the review process. The employee's initials are optional. The initials by the supervisor and classifier represent recertifications of the statements in items #20 and #21 respectively.
24. This section may be used by the agency for additional coding requirements or for any appropriate remarks.
- *25. Type the description on plain bond paper and attach to the form. The agency position number should be shown on the attachment. See appropriate instructions for format of the description and for any requirements for evaluation documentation, e.g., "Instructions for the Factor Evaluation System," in the General Introduction to "Position Classification Standards," Section VII.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 531.A
August 26, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 531.A
WITHIN-GRADE INCREASES AND QUALITY STEP INCREASES

1. **PURPOSE.** This notice abolishes the SEC policy and procedures for granting within-grade increases and quality step increases, as previously contained in an attachment to this chapter, SECR 6-11, dated May 29, 1987, which is outdated. In the interim until a new SEC policy and procedural issuance is developed, the relevant law and Office of Personnel Management (OPM) regulations shall govern these decisions.

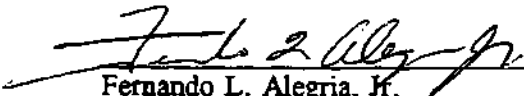
2. **POLICY.**

A. **Procedural Requirements.** The SEC will follow OPM regulations when granting these pay increases. The applicable laws and regulations may be found in:

1. 5 U.S.C. 5335 and 5 CFR Part 531 subpart D for **Within-Grade Increases**.
2. 5 U.S.C. 5336 and 5 CFR Part 531 subpart E for **Quality Step Increases**.

B. **Continuation of Existing Limitations.** Only employees rated outstanding are eligible to receive a quality step increase, which will be in lieu of, but not in addition to, a performance award. A quality step increase may be granted only once within a 52 week period, and employees may not receive a second quality step increase in the same grade and position unless two calendar years have passed since the last quality step increase was granted.

3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Administrative and Personnel Management, Training and Employee Relations Branch.


Fernando L. Alegria, Jr.
Office of Administrative and Personnel Management

8/26/96
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-550.B
March 24, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 550.B

ADVANCES IN PAY FOR NEW HIRES

1. **PURPOSE.** This Chapter establishes SEC policy and procedures for making advances in pay, as authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). It is effective immediately.

2. **POLICY.**

A. The Office of Human Resources Management (OHRM) may authorize an advance in pay covering not more than two pay periods to a newly appointed employee,¹ regardless of tenure. This authority enables the SEC to provide new federal employees in financial need essentially an interest-free loan, which then is paid back over the course of several months through payroll deductions.

B. The authority is appropriate in situations in which a financial need is communicated or recognized, or for other valid reasons. In addition to responding to a direct request or inquiry from a candidate who has been selected for a position, the selecting official or servicing personnel specialist should advise a candidate of the availability of the authority to make an advancement of pay in appropriate situations. These situations include, but are not limited to, those in which the candidate identifies financial concerns generally in the course of the interview, the candidate has recently completed his or her formal education or is just entering the workforce, or the candidate must move or otherwise set up permanent residency in the area. Also, the first offer of employment package for new hires will include a statement on the availability of advances in pay in cases of financial need or for other valid reasons.

C. No commitment for an advance in pay may be made until a written Request/Repayment Agreement for Advances in Pay for New Hires (SEC 2324) is received and approved. The employee must sign the written agreement to repay the amount in accordance with the provisions of this Chapter. By regulation, the payment cannot be made earlier than the date of the employee's appointment nor later than the date the employee receives his or her first paycheck. Normally, the processing of the check for an advance payment takes a minimum of two days and does not begin until the individual has been appointed.

¹ Unlike a recruitment bonus, which by law may be paid to an individual who has received a written offer of employment, an advance in pay may be made only to an employee who has actually received an appointment.

D. The maximum amount to be advanced is based on the rate of pay to which the employee is entitled on the date of appointment (including a special rate, any locality-based comparability payment or interim geographic adjustment, night differential for prevailing rate employees, and annual premium pay for stand-by duty, as applicable). To cover mandatory deductions (e.g., federal tax, state tax, and FICA), only 70% of the pay will be advanced, as described in the formula on the reverse of SEC 2324.

3. **SCOPE.** This authority applies to appointees to any position with a scheduled tour of duty, provided they are entering the federal civilian service for the first time or are returning to federal employment after a break in service of at least 90 days.

4. **AUTHORITIES.** The applicable regulations may be found in 5 U.S.C. 5524a; 5 CFR Part 550 subpart B; and FPM Bulletin 530-66 containing interim OPM regulations effective March 28, 1991.

5. **RESPONSIBILITIES.**

A. The Director, OHRM, directly or as delegated, is responsible for:

1. Approving or disapproving each request for an advance in pay;
2. Determining that the request/repayment agreement is properly executed and complies with agency policy and applicable regulations;
3. Providing recommendations to the Comptroller for approval or disapproval of employees' requests for waivers of repayment of advances; and
4. Monitoring and evaluating the use of this authority to ensure it is applied fairly within the SEC.

B. Servicing personnel specialists are responsible for:

1. Notifying selecting officials and/or candidates of the availability of this authority in appropriate situations, such as those in Section 2. B above;
2. Reviewing each request/repayment agreement for sufficiency and making a recommendation to the Director, OHRM;
3. Ensuring the oath of office is signed prior to the advancement of pay; and
4. Ensuring adequate documentation and record-keeping to fulfill periodic evaluation and reporting requirements.

C. The Office of the Comptroller is responsible for:

- 1. Issuing checks for advances in pay in approved situations;**
- 2. Processing and maintaining records of repayments;**
- 3. Making written determinations to waive recovery of the balance of an employee's advance pay in appropriate circumstances; and**
- 4. Taking appropriate steps to recover debts under established agency procedures.**

6. PROCEDURES.

A. Review and Approval.

1. A candidate selected for a position may submit to OHRM an application form and signed repayment agreement for an advance in pay (SEC 2324) at any time from the date a first offer of employment package is returned until the date of entrance on duty. A copy of this Chapter will be given to the prospective or entering employee with the request/repayment form.

2. The Director, OHRM, or subordinate with delegated authority, will approve or disapprove the request and notify the employee. If the notification is oral, it will be confirmed in writing.

3. Each approved request will be forwarded, after completion of the oath of office at the time of appointment, to the Office of the Comptroller for processing of the payment. The payroll copy of the appointment SF 50, the original request/repayment agreement, and any other necessary documentation will accompany the request.

4. The Office of the Comptroller will issue the check to the employee, normally through the appropriate administrative contact.

B. Repayment of Advances in Pay.

1. The employee will repay the advance by installments through normal payroll deductions, according to the number of pay periods specified in the repayment agreement. The repayment period may not exceed 13 pay periods from the date of appointment.² The employee may prepay, through personal check or money order, all or part of the remaining balance of an advance in pay at any time before payments are due. Payments should be made to the order of "Securities and Exchange Commission" and be forwarded directly to the Office of the Comptroller.

² Unless the recovery is made under 5 CFR Part 550, subpart K.

2. If the employee leaves the agency for any reason, including a transfer to another federal agency, the remaining balance is due in full and arrangements for repayment must be completed prior to exit clearance. The amount may be paid during the exit clearance process (as specified in Section 6. B. 1 above) or written instructions may be submitted to the Office of the Comptroller to have the balance deducted from the final paycheck, as long as the balance does not exceed the net paycheck.

3. Should full payment not be received, any amount still owed by the employee will be recovered under normal agency debt collection procedures and in accordance with 5 U.S.C. 5514 and 5 CFR Part 550, subpart K. In hardship situations, an employee may submit a written request for a waiver to the Director, OHRM.

4. If the employee's request is supported in writing by the Director, OHRM, the Comptroller may waive, in whole or in part, the right of recovery of an employee's debt under this regulation. The Comptroller must make a written determination that recovery would be against equity and good conscience or against the public interest.

C. OHRM Records.

1. Each request for an advance in pay will be logged in by the Staffing and Employee Relations Branch immediately after its approval or disapproval. The servicing personnel specialist shall annotate the SF 52 for the employee's appointment to show that an advance in pay was granted. The use of this authority will be recorded in the automated personnel system.

2. Within the OHRM subject matter files, a file for each approved request will be maintained chronologically by date of entrance on duty and employee name for a period of three years. The file shall contain a copy of the Request/Repayment Agreement (SEC 2324), copy of the SF 50, and any additional documentation.

3. A separate file of disapproved requests will be maintained.

4. Statistics on the use of advances in pay will be compiled from the log and automated personnel system as needed for program evaluation and reporting.

8. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Staffing and Employee Relations Branch, in conjunction with the Office of the Comptroller.


John Innocenti, Director
Office of Human Resources Management

3/24/92
Date

Attachment:

1. **SEC 2324 - Request/Repayment Agreement for Advances in Pay for New Hires**

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

REQUEST/REPAYMENT AGREEMENT FOR ADVANCES IN PAY FOR NEW HIRES

(See instructions on reverse before completing)

Applicant's Name: _____

Position Selected for: _____
(Title, Organizational unit)

Pay Plan, Series, Grade: _____ Projected Annual Salary: _____

Requested Advance in Pay (identify the amount needed, from \$100 up to the maximum): _____

Justification of Need (continue on reverse if additional space needed):

Repayment Agreement:

I hereby agree to repay the Securities and Exchange Commission, through payroll deduction for _____ pay periods (up to a maximum of 13), \$_____ in pay that I request be advanced to me. I am aware that approximately \$_____ will be deducted from each paycheck.

I acknowledge that I have received and read a copy of Chapter 550.B of the Personnel Operating Policies and Procedures Manual concerning Advances in Pay for New Hires. I also understand that I may prepay the monies due the SEC at any time before the scheduled payments.

Should I leave the SEC prior to repayment of this advance, I understand that the remaining balance will become due in full. I will repay the remaining balance prior to my departure. I fully understand that these monies are recoverable from me as a debt due the United States Government.

Candidate's Signature

Date

Review by Servicing Personnel Specialist:

____ Computation ____ Justification ____ Execution of Agreement

Recommendation/comments:

Personnel Specialist's Signature

Date

Deciding Official's Action:

____ Approve ____ Disapprove ____ Modify \$_____

Comments:

Signature, Director, OHRM (or as delegated)

Date

Date Request Rec'd Date PS Rev'd Decis. Decis. Date Actual Appointment Date Date Forw'd to Comp.

SEC 2324 (3/92)

INSTRUCTIONS FOR COMPLETING REQUEST FOR PAY ADVANCE

1. Determine the amount that you need to request, up to the maximum. To compute the maximum amount that can be requested, divide the annual salary by 13, multiply the result by .70 (the remaining .30 is used to cover mandatory deductions), and round to the nearest ten dollars.

EXAMPLE. A new employee requests approval to receive a \$1,000 advance in pay.

$$\begin{array}{rcl} \text{Annual salary:} & \$26,026 & \\ \hline & 13 & \\ \hline & & = \$2,002 \times .70 = \$1,401.40 \text{ rounded to } \$1,400 \end{array}$$

In this example, the amount needed, \$1,000, is less than the maximum.

2. Determine how much you will have taken out of each paycheck by dividing the amount requested by the number of pay periods in which you wish to pay it back, up to a maximum of 13 (any uneven excess amount will be deducted from the first paycheck):

$$\begin{array}{rcl} \text{Each payment:} & \$1,000 & \\ \hline & 10 & \\ \hline & & = \$100 \text{ deduction per pay check} \end{array}$$

Continuation of Justification (if additional space needed):

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-551.A
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 551.A

**PAY ADMINISTRATION UNDER THE
FAIR LABOR STANDARDS ACT**

1. **PURPOSE.** This document establishes policies and procedures for administering the Fair Labor Standards Act (FLSA) and determining coverage under the Act. The Act sets minimum standards for wages and overtime entitlements, and identifies exemptions from coverage under certain provisions for certain groups of employees, primarily those in executive, administrative, and professional positions. Attached is a copy of the SECM 6-19, dated August 16, 1989, which remains in effect until superseded by a revision to this chapter. This chapter will be reviewed, and revised if necessary, within the next year.
2. **EFFECTS ON OTHER DOCUMENTS.** The attachment to this chapter is incorporated by reference into this policy.
3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Occupational Analysis and Compensation Branch.



John Innocenti, Director
Office of Human Resources Management

9/9/91

Date

Attachment:
SECM 6-19, dated August 16, 1989

SECURITIES AND EXCHANGE COMMISSION
Office of Personnel
Washington, D.C. 20549

SECR 6-19

Aug 16, 1989

Personnel

FAIR LABOR STANDARDS ACT (FLSA)

This regulation establishes procedures for administering the Fair Labor Standards Act (FLSA) and for determining which positions are exempt from or covered under the law. It also provides a method for filing a complaint concerning a violation of the law. It implements the Fair Labor Standards Act of 1938, as amended, 5 CFR Part 551, and FPM Bulletins 551-18 and 551-21. This regulation applies to all Commission employees and activities.

1. **General Information.** The FLSA provides that nonexempt employees be compensated for all hours worked in excess of their regularly scheduled tour of duty. Under the Act, a nonexempt employee cannot perform voluntary overtime and management cannot allow an employee to work before or after an employee's scheduled tour of duty without compensation. (See paragraphs 4, 5, and 6 for information on employee exemption criteria).

2. **General Principles Governing Exemptions.** In all exemption determinations the Commission shall observe the principles that:

a. Exemption criteria shall be narrowly construed to apply to those employees who are clearly within the terms and spirit of the exemption.

b. The burden of proof rests with the Commission if asserting exemption.

c. All employees who clearly meet the criteria for exemption must be exempted.

NOTE: When a position is evaluated to determine its proper title, series, and grade; the position classification specialist must also determine, using OPM guidelines, whether or not the position (and incumbent) will be exempt or nonexempt. Once a determination has been made, it's shown on the employee's position description, SF 50-B, Notification of Personnel Action, and SEC Form 707, Earning and Leave Statement. Generally, clerical and secretarial positions (which are nonsupervisory) are nonexempt from coverage as

Supersedes SECR 6-19, Aug 24, 1988
OPR: PD/Christopher B. Kubelick
Approved by: James C. Foster
Editor: Rogell W. Burkett
DISTRIBUTION: B

are trainee professional, administrative and technical positions at GS-7 and below. The determination of whether the position is exempt or nonexempt is made on the basis of the duties and responsibilities assigned the incumbent's position and not solely on the basis of the title or grade of the position.

3. Exemption of General Schedule Employees:

a. Any employee classified at GS-4 or below shall be nonexempt.

b. Any employee classified at GS-5 and above shall be exempt only if the employee is an executive, administrative, or professional employee as defined in paragraphs 4, 5, and 6.

4. Executive Exemption Criteria. An executive employee is a supervisor, foreman, or manager who manages a recognized organizational unit with a continuing function and who regularly directs the work of at least three subordinate employees (excluding support employees) and who meets all the following criteria:

a. The employee's primary duty consists of management or supervision. This primary duty is met if the employee:

(1) Has authority to select or remove, and advance in pay and promote, or make any other status changes of subordinate employees, or has authority to suggest and recommend such actions.

(2) Customarily and regularly exercises discretion and independent judgment in such activities as work planning and organization; work assignment, direction, review, and evaluation; and other aspects of management of subordinates, including personnel administration.

b. In addition to the primary duty criterion that applies to all employees, foreman level supervisors in the Federal Wage System (or the equivalent in other wage systems) and employees classified at GS-5 or GS-6 (or the equivalent in other white collar pay systems) must spend 80 percent or more of the work time in a representative work week on supervisory and closely related work.

5. Administrative Exemption Criteria. An administrative employee is an advisor, assistant, or representative of management, or a specialist in a management or general business function or supporting service, who meets all of the following criteria:

SECR 6-19, Aug 16, 1989

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a. The employee's primary duty consists of work that:

(1) Significantly affects the formulation or execution of management policies or programs; or

(2) Involves general management or business functions or supporting services of substantial importance to the organization serviced; or

(3) Involves substantial participation in the executive or administrative functions of a management official.

b. The employee performs office or other predominantly non-manual work which is:

(1) Intellectual and varied in nature; or

(2) Of a specialized or technical nature that requires considerable special training, experience, and knowledge.

c. The employee must frequently exercise discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

d. In addition to the primary duty criterion that applies to all employees, General Schedule employees classified at GS-5 or GS-6 must spend 80 percent or more of the work time in a representative work week on administrative functions and work that is an essential part of those functions.

6. Professional Exemption Criteria. A professional employee is an employee who meets all of the following criteria.

a. The employee's primary duty consists of:

(1) Work that requires knowledge in a field of science or learning customarily and characteristically acquired through education or training that meets the requirements for a bachelor's or higher degree, with major study in or pertinent to the specialized field as distinguished from general education; or is performing work, comparable to that performed by professional employees, on the basis of specialized education or training and experience which has provided both theoretical and practical knowledge of the specialty, including knowledge of related disciplines and of new developments in the field; or

(2) Work in a recognized field of artistic endeavor that is original or creative in nature (as distinguished from work which can be produced by a person endowed with general manual or intellectual ability and training) and the result of which depends on the invention, imagination, or talent of the employee.

SECR 6-19, Aug 16, 1989

b. The employee's work is predominantly intellectual and varied in nature, requiring creative, analytical, valiative, or interpretative thought process for satisfactory performance.

c. The employee frequently exercises discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

d. In addition to the primary duty criterion that applies to all employees, General Schedule employees classified at GS-5 or GS-6, must spend 80 percent or more of the work time in a representative work week in professional functions and work that is an essential part of those functions.

7. Complaint System.

a. Complaints to the Commission. When an employee feels that certain provisions of the FLSA have been violated, the employee should first discuss the matter with his or her supervisor and then, if the matter is not resolved, with the appropriate staff official as follows:

(1) Complaints about compensation should be discussed with the Office of the Comptroller; and

(2) Other complaints, including those involving a determination that a job is exempt or nonexempt, should be discussed with a position classification specialist.

b. Complaints to the Office of Personnel Management. When violations of the FLSA cannot be resolved locally, employees may file their complaint with the OPM in their locality. (See attachment 1.) Notwithstanding, OPM will request a written report from the complainant's organization enabling them to investigate the complaint. Employees will be given the opportunity to review and rebut, in writing, the Commission's written report or presentation. The OPM will determine if an on-site investigation is necessary while conducting the investigation, which may include review of time and attendance records and any other pertinent documentation. Sworn statements and/or affidavits will be obtained, if necessary. Actions involving compliance by the Commission will be issued by OPM if violations have been uncovered. All effected employees will be notified. Requests to reopen FLSA complaints may be directed to OPM who may, at its discretion, reopen and consider the case. Requests of this nature, may be made by either the employee, a representative of the employee, or the Commission. Such a request must include a detailed explanation, with supporting documentation, as to why the case should be reopened.

SECR 6-19, Aug 16, 1989

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c. **Action in U.S. District Court.** An employee may bring action in a U.S. District Court if dissatisfied with an OPM determination. The employee may also go directly to court if he or she desires, by passing the procedures described in subparagraphs a and b.

d. **Confidentiality Treatment.** The Commission and OPM will maintain confidentiality for complainants unless it is impossible to do so under the circumstances. Every reasonable effort, however, will be made to preserve confidentiality.

e. **Freedom From Reprisal.** The Act protects employees who exercise their rights by filing FLSA complaints from discrimination or reprisal.

f. **Time Limits on Filing Complaints.** An FLSA complaint generally must be filed with OPM within one year of the alleged violation. **Disputes on Pay Computation.** When a dispute solely concerns the accuracy of the computation of monies due an employee, the employee has the option of presenting that claim directly to the General Accounting Office for final determination of monies due. The claim letter should include a statement such as:

"The Commission and I agree on the number of hours of overtime that I have worked and that I am non-exempt. Nevertheless, the Commission is not computing correctly the amount of money due me..."

8. **Negotiated Agreements.** When there are negotiated agreements in effect that differ from the requirements set forth in this regulation, the negotiated agreement will be the controlling medium during the term of the agreement, unless there is a clear and unmistakable waiver present in the negotiated agreement that would authorize provisions in this regulation to be adopted. Negotiated agreements will be consistent with the intent of the FLSA, as amended.

9. **Forms Implemented:**

a. SEC Form 707.

b. SF 50-B.



RICHARD J. KANYAN, Director
Office of Administrative Services

1 Attachment
Where to Submit
Complaints, Table 1

TABLE 1		
Where to submit complaints		
R U L E	A	B
	If your assigned office is in	then forward your complaint to the appropriate Office of Personnel Management address
1	The Headquarters	Classification Appeals Office 1900 E Street, N.W. Washington, D.C. 20415
2	Boston, New York or Philadelphia	William J. Green, Jr. Federal Building 600 Arch Street Philadelphia, PA 19106-1596
3	Atlanta or Miami	Richard B. Russell Federal Building 75 Spring Street, S.W. Atlanta, GA 30303-3019
4	Chicago	John C. Kluczynski Federal Building 230 S. Dearborn Street Chicago, IL 60604
5	Fort Worth, Hous- ton, Denver or Salt Lake	1100 Commerce Street Dallas, TX 75242
6	Los Angeles, San Francisco or Seattle	211 Main Street, 7th Floor San Francisco, CA 94105

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-572.A
April 28, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 572.A

PAYMENT OF PRE-APPOINTMENT INTERVIEW EXPENSES

1. PURPOSE. This Chapter establishes SEC policy and procedures for the payment of pre-appointment interview travel expenses, as authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). Prior to FEPCA, the payment of interview expenses was limited to Senior Executive Service (SES) candidates, which was permitted by statute, and to certain categories of employees established by Comptroller General decisions. FEPCA expanded the authority to give agencies the discretion whether or not to pay interview expenses for any position. This Chapter supersedes a March 11, 1991 policy memorandum and is effective immediately.

2. POLICY.

A. The Associate Executive Director, Office of Human Resources Management (OHRM) may authorize, on a trip-by-trip basis, the payment of interview travel expenses for candidates. A written request and justification must be submitted by, or approved through, the applicable Division Director, Office Head, or Regional Administrator. Costs for the interview travel are borne by the requesting office, out of its established travel budget, and are limited to those allowed by the Federal Travel Regulation (FTR) at 41 CFR Chapters 301-304.

B. The authority may be used only in situations in which:

- 1.** A preliminary interview already has been held, either face-to-face, by telephone, or by one or more other SEC employees (this could have been in another location such as at a recruitment visit or job fair);
- 2.** The candidate is in serious contention for the position (i.e., one of the top candidates); and
- 3.** There is a need for further discussions prior to the final selection decision whether to offer employment.

C. No commitment for payment of pre-appointment interview expenses may be made until a written request is received and approved. The requesting division, office, or region must provide the candidate with completed travel orders, blank claim forms, and standard written instructions informing him or her of Government travel policies, his or her liability for unused tickets or vouchers, and generally allowable expenses.

3. SCOPE. This Chapter applies to candidates for any position.

4. AUTHORITIES. The applicable regulations may be found in 5 U.S.C. 5723; 5 CFR Part 572; and 41 CFR parts 301-304.

5. RESPONSIBILITIES.

A. The Associate Executive Director, OHRM, is responsible for:

1. Determining that the request complies with agency policy and applicable regulations;

2. Approving or disapproving each request for payment of pre-appointment interview expenses; and

3. Monitoring and evaluating the use of this authority to ensure it is applied fairly within the SEC.

B. Servicing personnel specialists, Staffing and Employee Relations Branch, are responsible for:

1. Advising selecting officials of this authority in appropriate situations;

2. Reviewing each request for sufficiency and making a recommendation to the Associate Executive Director, OHRM;

3. Preparing the approved/disapproved package for return to the requesting office; and

4. Ensuring adequate documentation and record-keeping to fulfill periodic human resources evaluation and FEPCA reporting requirements.

C. The Office of the Comptroller is responsible for:

1. Developing and issuing an information packet and instructions about Federal travel procedures for use by candidates approved for pre-appointment interview travel;

2. Advising travel coordinators on technical and procedural issues regarding the coverage of the FTR;

3. Reviewing travel vouchers and issuing checks in approved situations; and

4. Authorizing requests related to special travel circumstances (e.g., premium class travel for candidates with disabilities, etc.).

D. Managers and supervisors are responsible for:

1. Obtaining authorization to pay pre-appointment interview expenses prior to making any commitments to candidates;

2. Communicating written authorization and information to candidates about the limitations and conditions of their approved travel; and

3. Ensuring their division, office or region complies with the procedures in this Chapter.

E. Designated travel coordinators are responsible for:

1. Making travel arrangements for the candidate through GSA designated travel agents, and ensuring use of the Federal Government's contract carriers;

2. Providing candidates with established written instructions about Federal travel procedures;

3. Issuing travel orders and blank claim forms; and

4. Assisting candidates for whom interview expenses are approved in completing travel vouchers and understanding allowable expenses.

F. Candidates for whom pre-appointment interview expenses are to be paid are responsible for:

1. Exercising the same care in incurring expenses that a prudent person would exercise if traveling on personal business;

2. Complying with the information and instructions provided by the agency about FTR requirements; and

3. Submitting accurate and timely travel vouchers supported by receipts.

6. ALLOWABLE EXPENSES AND PRACTICES.

A. Agency discretion. The payment of travel expenses to candidates is discretionary, not an entitlement of prospective candidates for positions.

1. The SEC may elect to pay both common carrier costs and subsistence expenses, or only the subsistence expenses or only the common carrier costs relating to the pre-employment interview. However, if electing to pay only subsistence or only common carrier transportation costs, the SEC must pay the full amount to which a Government employee would be entitled for those expenses authorized.

2. A decision in any one case to approve expenses does not require the SEC to make a like decision in connection with future vacancies, or with respect to similar or identical positions. Each request must be decided on a case-by-case basis on its own merits and taking into consideration the availability of funds at the time of the request.

B. Allowable expenses.

1. The SEC generally may pay to, or on behalf of, a candidate the same travel expenses to which a Government employee traveling on official business outside of the local commuting area would be entitled, except for:

a. The use of communication services (telephone, fax, etc.) not directly related to making the travel arrangements; and

b. The hire of a room other than for overnight stay.

2. Use of a privately owned vehicle for travel in lieu of common carrier would have to be specifically authorized.¹

3. **All expenses must be related directly to the requirements to travel for the interview.** Agencies are prohibited from authorizing pre-employment interview expenses for the purpose of helping to defray relocation expenses that are not allowable (e.g., for a house-hunting trip).

C. Payment of transportation expenses by common carrier. The SEC will make the common carrier (e.g., air, train) transportation arrangements and provide the candidate with the tickets, or, if that is not possible, may authorize the candidate to obtain tickets from a travel agency under contract to the Government. The candidate is accountable for all tickets issued to him or her. Should the candidate need to exchange a ticket for one of lesser value, the refund is to be made directly to

¹ Other than between home/office and common carrier terminal, which is the traveler's discretion in lieu of taxicab (the FTR authorized mode).

the SEC's Office of the Comptroller. If the ticket, or a portion thereof, is unused, it must be returned to the SEC immediately so that the agency may obtain the refund.

D. Other authorized expenses. The candidate must pay for all other authorized expenses (e.g., taxis, meals, hotel room, etc. as applicable) which will be reimbursed after submission and approval of a travel voucher. A candidate may not be issued a travel advance or Government-paid travelers checks, nor be authorized to use an individual employee's Government-issued charge card.

7. PROCEDURES FOR REVIEW AND APPROVAL.

A. The Division Director, Office Head, or Regional Administrator will submit a memorandum requesting approval and containing a written justification to the Associate Executive Director, OHRM. The memorandum shall include:

1. The name and location of the candidate;
2. The position and grade of the vacancy involved;
3. Brief justification statement that describes the recruitment efforts and results, and the particular attributes or circumstances of this candidate which merit payment of interview expenses;²
4. Specific provisions and/or conditions about the travel expenses to be authorized (this is a separate listing which is incorporated by copy into the official travel authorization);
5. If payment is not requested for both common carrier and subsistence expenses for which a Government employee would be entitled, an explanation of the particular expenses covered by the request, including the justification;³ and
6. Estimated total costs and management's certification that funds are available to pay for these expenses out of the requesting office's normal travel budget.

B. The Associate Executive Director, OHRM will approve or disapprove the request by signing and dating the decision on the incoming memorandum or through a separate memorandum if any explanation is required.

² This should include a clear statement that a face-to-face interview is necessary to decide between one or more top candidates and that a preliminary interview has been held.

³ For example, if a candidate is interviewing in two separate offices of the SEC, the offices could split the categories of expenses, or if an office's travel budget is limited, candidates could be offered only one category of expenses.

D. The original request will be returned to the requesting office for further processing, in accordance with normal travel procedures, with copies retained by OHRM and sent to the Office of the Comptroller. OHRM also will provide the division, office or region with a copy of the Office of the Comptroller's prepared information packet about federal travel regulations which is to be sent to the candidate.

E. After receiving OHRM approval, the requesting office shall prepare the "Request for and Authorization of Official Travel" (SEC 450).⁴ The request/authorization must state that the travel is for a pre-appointment interview and include as an attachment the list of provisions and/or conditions identified in Section 7.A.4.

F. The requesting office also shall notify the candidate that pre-appointment interview expenses have been approved, and will send him or her a copy of the travel authorization (SEC 450), travel packet, the transportation ticket, and blank Travel Voucher (Standard Form 1012). The name and phone number of the appropriate travel coordinator should be given to the candidate at the same time.

G. If a candidate for whom travel expenses have been approved withdraws from consideration or declines an interview, the requesting office must cancel the request in FFS (or send the paper cancellation to the Office of the Comptroller if not on FFS) and must notify the servicing personnel specialist, by sending a paper copy of the travel request cancellation. The requesting office also shall immediately take steps to collect any unused ticket issued to the candidate or cancel any ticket ordered through a travel agency.

8. CLAIMS FOR REIMBURSEMENT.

A. Maintenance of receipts and records. All candidates authorized for travel must maintain a record of all expenses and collect receipts for expenses wherever possible (see SECHDBK 17-1, On the Go with the SEC, for a discussion of required receipts). These are to be maintained until all reimbursement claims are settled.

B. Preparation and submission of travel vouchers. Candidates must complete and submit the SF-1012 **within five business days** of completion of travel, to the SEC official with whom the interview was held. The form may be typed or handwritten (printed legibly) in ink and must contain the candidate's original signature; all original receipts are to be attached. The requesting office's travel coordinator should provide guidance and assistance to the candidate in completing the form. Candidates should retain a copy of their full submission.

⁴ Either through the Federal Financial System (FFS) or in paper, according to the requesting office's normal procedures. The requesting office may need to contact the Office of the Comptroller to ensure the candidate's name and address have been added to FFS.

C. Vouchers will be reviewed internally following the same procedures used for employee travel. Approving officials must review all claimed expenditures to ensure they were authorized in advance and are related to the travel requirements for an interview.

9. OHRM RECORDS.

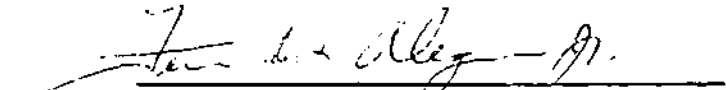
A. Each request for a payment of pre-appointment interview expenses will be logged in by the Staffing and Employee Relations Branch immediately after its approval or disapproval. At the same time, the request will be assigned a log number by fiscal year (e.g., 93-1), annotated in ink in the top right-hand corner.

B. Within the OHRM subject matter files, a copy of each approved request will be maintained by log number in a file for each fiscal year. Files will be maintained for a period not to exceed three years (i.e., the current plus two previous fiscal years), and will be made available to OPM upon request.

C. Statistics on the use of the pre-employment interview expense authority will be compiled from the log and files as needed for program evaluation and reporting.

10. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes a Personnel Office memorandum dated March 11, 1991, which established the SEC's interim policy with respect to payment of travel expenses for new appointees and for candidate interviews. For more information on the SEC's travel regulations and procedures, consult the SEC Travel Handbook issued by the Office of the Comptroller.

11. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Staffing and Employee Relations Branch, in conjunction with the Office of the Comptroller.


Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Human Resources Management

April 28, 1993
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-575.A
July 20, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 575.A

RECRUITMENT BONUSES

1. **PURPOSE.** This Chapter sets forth the SEC policy and procedures for paying recruitment bonuses, as authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). It supersedes the March 23, 1992 interim policy and amends the length of service agreement and certain other technical provisions to reflect final OPM regulations. Recruitment bonuses generally may be paid only to newly appointed employees to the federal government or to employees returning after a one year break in service.

2. **POLICY.**

A. The Executive Director may authorize the payment of a recruitment bonus of up to 10 percent of annual basic pay¹ to a newly appointed employee or an individual to whom a written offer of employment has been made by the agency, provided it has been determined that, in the absence of such a bonus, difficulty would be encountered in filling the position with a high quality candidate. In exceptional cases where the recommended bonus exceeds the 10% level up to the 25% maximum payable under FEPCA, the Executive Director will forward the request with a recommendation for the Chairman's decision. Selective and judicious use of this authority should enhance the SEC's ability to compete with other government and non-government employers for top quality candidates, within budgetary constraints.

B. In determining whether a recruitment bonus should be paid and the amount to be paid, the recommending official should base the written justification on one or more of the following factors that were considered, as applicable to the particular case (OPM requires consideration of factors one through five, shown with an asterisk):

* 1. Special qualifications needed for the position and displayed by the candidate;

* 2. If the position is not unique, the success of recent efforts to recruit high quality candidates for similar positions, including narrative examples

¹ Subject to the aggregate limitation on pay imposed by FEPCA. Under 5 U.S.C. 5307, the aggregate sum of basic pay, allowances, differentials, bonuses, awards, and other similar cash payments made under title 5 received by a covered employee may not exceed the rate payable for level 1 of the Executive Schedule within a calendar year. See FPM Bulletin 530-66.

and/or indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;

- * 3. Recent turnover in similar positions;
- * 4. Labor market factors that may affect the SEC's ability to recruit high quality internal or external candidates for similar positions now or in the future (may include factors such as salary ranges of comparable positions, scarcity of skills, and emerging technology);
- * 5. The practicality of using the superior qualifications appointment provided by 5 U.S.C. 5333 and 531.203(b) alone or in combination with a recruitment bonus (identify any other pay incentives offered or considered, and prior salary history);
- 6. Positive and negative impacts on the morale of current employees;
- 7. Relative attractiveness of the duty station, including cost of living, remoteness, and community amenities;
- 8. Urgency to fill the position;
- 9. Agency affirmative employment goals; and
- 10. Other special or unique needs for the individual's service.

C. Each bonus paid shall be based on the written justification as well as the written determination that, in the absence of such a bonus, the SEC would encounter difficulty in filling the position with a high quality candidate. The decision to pay a bonus shall be made before the employee actually enters on duty in the position for which he or she was recruited. The determination that a recruitment bonus may be paid when filling a position may be made before or after the recruitment activity and selection takes place. Any decision to pay a bonus shall be made on a case-by-case basis for each employee.

D. Before a recruitment bonus may be paid, the employee must sign a written service agreement to complete 12 months of employment in the agency.

E. A recruitment bonus may be used in conjunction with both special rates for an occupational group and above minimum rates for special qualifications, as authorized under FEPCA.² In deciding whether to recommend a recruitment bonus, an appointment above the minimum rate, or both, hiring officials should consider the

² See also POPPS Chapter 338.A for the policy on Appointments Above the Minimum Grade Based on Superior Qualifications.

relative costs to the agency of each, as well as other potential recruitment or pay initiatives.³

3. SCOPE. This authority applies to candidates at any GS, GM, or SES level in the competitive or excepted service, provided that they are entering the federal civilian service for the first time, are returning to federal employment after a break in service of at least one year, or are accepting a permanent position within one year after termination of employment under the cooperative education work-study program, stay-in-school program, law clerk trainee program, or temporary summer program for students.⁴

4. AUTHORITIES. The applicable regulations may be found in 5 U.S.C. 5753; 5 CFR Part 575; and FPM Letter 296-113, describing CPDF and SF 50 documentation requirements.

5. RESPONSIBILITIES.

A. The Executive Director is responsible for approving or disapproving requests for recruitment bonuses of up to 10% of basic pay and for making recommendations of approval/disapproval to the Chairman for bonuses exceeding 10% up to the legal maximum of 25% of basic pay.

B. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM) is responsible for:

1. Providing the Executive Director with recommendations regarding requests within the limits set by this policy and agency-wide FEPCA budgetary allowances;

2. Determining that the service agreement is properly executed and complies with agency policy and applicable regulations; and

3. Monitoring budgetary expenditures and evaluating the use of this authority to ensure it is applied fairly and judiciously within the SEC.

C. Servicing personnel specialists are responsible for:

1. Reviewing managers' recommendations for sufficiency and, as

³ Such as travel and transportation expenses for new appointees. First consideration should be given to a recruitment bonus in lieu of travel and transportation expenses, but in truly exceptional cases, both may be approved. Because the amount of money involved in paying travel and transportation expenses is not under the control of the agency and relates to individual circumstances rather than the relative importance of filling a position with a particular candidate, such expenses should normally be the last to be considered.

⁴ OPM regulations should be consulted if there is a need to determine coverage for other types of positions or for special circumstances.

necessary, negotiating with managers on reasonable compensation packages to recommend to the Associate Executive Director, OAPM;

2. Obtaining certification of funds availability within the FEPCA-related budget allocation; and

3. Ensuring adequate documentation and record-keeping to allow reconstruction of the action taken in each case.

D. Hiring officials are responsible for:

1. Submitting requests for payment of recruitment bonuses in appropriate situations to OAPM; and

2. Providing justification and documentation with the request that shows full compliance with this policy.

E. The Comptroller is responsible for:

1. Providing an annual FEPCA budget to OAPM to be used, among other things, for costs of Recruitment Bonuses;⁵ and

2. Paying approved recruitment bonuses, subject to deductions.

6. PROCEDURES.

A. Review and Approval.

1. The recommending official will submit a written justification on SEC 2298 (see Attachment 1) to the appropriate reviewing official (if any). Each request to pay a recruitment bonus, including the amount of such bonus, shall be reviewed by a higher level official in the chain of command than the official who made the initial recommendation, unless the initiating official is a Division Director, Office Head, Regional Administrator, or higher level official.

2. The package then will be submitted to the Associate Executive Director, OAPM for review and a recommendation for approval or disapproval will be forwarded to the Executive Director. After a decision by the Executive Director or Chairman, the package will be returned to OAPM.

3. Offers to pay recruitment bonuses may not be made to any candidate until after formal approval is obtained. Then, oral offers may be made. Written offers to pay a recruitment bonus normally will be sent by OAPM with either

⁵ The FEPCA budget also covers relocation bonuses, first year costs of retention allowances, and certain FEPCA-related travel and transportation expenses.

the first or second offer package, depending on the timing of the approval and the progress of the selection process.

B. Service Agreement.

1. Before a recruitment or relocation bonus may be paid, the employee must sign a written service agreement (see Attachment 2, SEC 2299) to complete 12 months of employment in the agency, as required in Section 2. D.

2. Service under one service agreement will run concurrently with service under any other simultaneous or subsequent service agreements in effect.

C. Payment of Bonuses. Recruitment bonuses are paid as a lump sum and are subject to applicable deductions. Bonuses normally will be included in the first paycheck.

D. Repayment of Bonuses.

1. An employee who fails to complete the period of employment established under a service agreement shall be indebted to the federal government and will be required to repay the recruitment or relocation bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment with the appointing agency (or successor agency in the event of a transfer of function) completed by the employee under the service agreement. Repayment does not apply when the employee is involuntarily separated (i.e., a separation initiated by the agency against the employee's will and without his or her consent for reasons other than cause on charges of misconduct or delinquency).

2. Amounts owed by an employee will be recovered under normal agency procedures by the Office of the Comptroller, in accordance with 5 U.S.C. 5514 and 5 CFR Part 550.

3. The Comptroller may waive, in whole or in part, the right of recovery of an employee's debt under this regulation, provided that the Associate Executive Director, OAPM supports the request for a waiver in writing. The request for a waiver may originate with either the employee or a management official. The Comptroller must make a written determination that recovery would be against equity and good conscience or against the public interest.

E. OAPM Records.

1. Each request for payment of a recruitment bonus will be logged in by the Classification and Staffing Branch immediately after its approval or disapproval. The servicing personnel specialist shall annotate the SF 52 to provide all information required to process the action and shall attach the original service agreement.

2. After the SF 50 is prepared, the employee's original service agreement will be annotated with the actual appointment date and completion of service agreement date and will be filed on the left hand side of the Official Personnel Folder. (The agreement may be purged after completion of the specified service time.) Copies of the annotated service agreement will be attached to the employee's and originating office's copies of the SF 50.

3. Within the OAPM subject matter files, a file for each approved request will be maintained chronologically by date of entrance on duty and employee name for a period of **three years** (the maximum length of the service agreements). The file shall contain: SEC 2298, with the requesting organization's written justification attached; copy of the candidate's application, including any supplements; a copy of the completed service agreement; and any additional documentation. A copy of the SF 50 will be added after the candidate enters on duty.

4. A separate file of disapproved actions will be maintained.

5. Budgetary records will be maintained on various FEPCA authorities by the Classification and Staffing Branch, or as assigned by the Associate Executive Director, OAPM, for on-going tracking of budget obligations and expenditures.

7. EVALUATION REPORTS

A. By January 1 of each year, the Office of Administrative and Personnel Management will prepare a written report for the record on agency-wide use of recruitment bonuses during the previous fiscal year. Each report will include the number of employees to whom a recruitment bonus was offered during the fiscal year; the percentage of salary offered; the dollar amount of bonuses; the number of employees who accepted the offer of a recruitment bonus; and an evaluation of the overall effect of the payment of recruitment bonuses on the ability of the agency to fill key positions with high quality candidates. The report also will include any benefits the recruitment bonus authority has had on achieving the agency's affirmative employment goals.

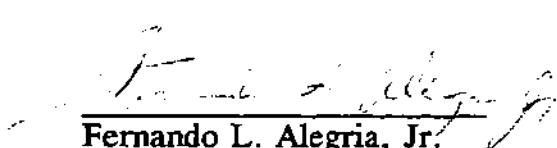
B. Upon request, the reports and recruitment bonus files will be made available for review to OPM, as well as to GAO, in conjunction with their oversight authorities.

8. EFFECTS ON OTHER DOCUMENTS. POPPS Chapter 575.A dated March 23, 1992 is superseded.

POPPS, O-575-A July 20, 1993

7

9. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and
Personnel Management, Classification and Staffing Branch.


Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Administrative and Personnel Management

July 20, 1993
Date

Attachments:

1. SEC 2298 - Recommendation and Approval of Recruitment Bonus
2. SEC 2299 - Sample Recruitment Bonus Agreement

SECURITIES AND EXCHANGE COMMISSION

RECOMMENDATION AND APPROVAL OF RECRUITMENT BONUS

(See instructions on reverse before completing)

1. Name of Employee/Candidate: _____
2. Position Title: _____
3. Pay Plan, Grade, Step, Salary: _____
4. Organization: _____
5. Percentage of Basic Pay Recommended: _____ % Bonus Amount: \$ _____
6. Justification: (see attached)

Signature of Recommending Official

Date

Signature of Reviewing Official (if needed)

Date

Signature of Associate Executive Director, OAPM
(review and certification of funds availability)

Date

Signature of Executive Director

Date

Signature of Chairman (if over 10%)

Date

INSTRUCTIONS FOR RECRUITMENT BONUS RECOMMENDATION

The recommending official is responsible for completing this form and submitting it to the appropriate officials for review, as necessary, and approval.

- Item 5. The maximum percentage allowable under law is 25% of basic pay.
The SEC's policy is that bonuses may be approved by the Executive Director up to 10% of basic pay, subject to funding availability and adequate justification.
Dollar amount for payment may be rounded up or down to an even hundred.
- Item 6. The justification must contain the certification that absent a bonus, the agency would have difficulty in filling the position with a high quality candidate. As applicable to the case, address the following criteria in the justification, with particular consideration given to factors 1 through 5 (*):
- * (1) Special qualifications needed for the position and displayed by the candidate.
 - * (2) If the position is not unique, the success of recent efforts to recruit high quality candidates for similar positions, including narrative examples and/or indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions.
 - * (3) Recent turnover in similar positions.
 - * (4) Labor market factors that may affect the ability of the agency to recruit high quality internal or external candidates for similar positions now or in the future (may include factors as salary ranges of comparable positions, scarcity of skills, emerging technology, etc.).
 - * (5) The practicality of using the superior qualifications appointment provided by 5 U.S.C. 5333 and 531.203(b) alone or in combination with a recruitment bonus. Identify any other pay incentives offered and prior salary history.
 - (6) Positive and negative impacts on the morale of current employees.
 - (7) Relative attractiveness of the duty station in such terms as cost of living, remoteness, community amenities, etc.
 - (8) Urgency to fill the position.
 - (9) Agency affirmative employment goals.
 - (10) Other special or unique needs for the individual's service.

Additional guidance may be found in POPPS Chapter 575.A. The Office of Administrative and Personnel Management is available to provide interpretation and assistance.

* *OPM mandates consideration of these factors, as appropriate.*

SECURITIES AND EXCHANGE COMMISSION RECRUITMENT BONUS SERVICE AGREEMENT

I, _____, hereby agree to remain in the employment of the Securities and Exchange Commission ("SEC") for the period of twelve (12) months, beginning on the date of my appointment to the position of (specify position, title, grade, series, and location) _____

_____, unless I am separated for reasons beyond my control and which are acceptable to the above-named agency.

The amount of the recruitment bonus I will be receiving under this agreement is \$ _____. I agree that if I do not remain with the SEC for the above specified period, I will repay to the agency the recruitment bonus on a pro rata basis. The amount to be repaid shall be determined by providing credit for each full month of employment completed under this agreement. I understand that under such circumstances these monies are recoverable from me as a debt due the United States Government.

Employee's Signature

Date

Signature of Agency Representative
(Division Director, Office Head, or Regional Administrator)

Date

To be completed by OAPM after the employee enters on duty:

Appointment date: _____

Service agreement completion date: _____

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-575.B
July 20, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 575.B

RELOCATION BONUSES

1. PURPOSE.

A. This Chapter sets forth SEC policy and procedures for paying relocation bonuses, as authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). It supersedes the March 23, 1992 interim policy and amends the length of service agreement, as well as certain other technical provisions to reflect final OPM regulations.

B. Relocation bonuses may be paid only to **current** federal employees appointed without a break in service who must relocate from one agency to another, or from one part of an agency to another, in a different commuting area.¹ The appointment must be without time limitation or for a period of at least two years. This authority and employment situation are distinct from the payment of recruitment bonuses to newly appointed employees to the federal government or employees returning after a one year break in service.

2. POLICY.

A. The Executive Director may authorize the payment of a relocation bonus of up to 10 percent of annual basic pay² to an employee who must relocate without a break in service to accept a position in a different commuting area, provided there has been a written determination that, in the absence of such a bonus, difficulty would be encountered in filling the position with a high quality candidate. In exceptional cases where the recommended bonus exceeds the 10% level up to the 25% maximum payable under FEPCA, the Executive Director will forward the request with a recommendation for the Chairman's decision. Selective and judicious use of this authority, within budget constraints, should enhance the SEC's ability to

¹ A commuting area is the geographic area that normally is considered one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities where people live and reasonably can be expected to travel back and forth daily to work.

² Subject to the aggregate limitation on pay imposed by FEPCA. Under 5 U.S.C. 5307, the aggregate sum of basic pay, allowances, differentials, bonuses, awards, and other similar cash payments made under title 5 received by a covered employee may not exceed the rate payable for level I of the Executive Schedule within a calendar year. See FPM Bulletin 530-66. Basic pay is the rate of pay fixed by law or administrative action, or the employee's basic pay under pay retention, before deductions and exclusive of additional pay of any kind such as locality pay, interim geographic adjustments, or special pay adjustments for law enforcement officers.

attract and/or retain top quality candidates within the Commission or federal government service who are located in different geographical areas.

B. The written justification for a recommendation to pay a relocation bonus and the amount to be paid will be based on one or more of the following factors, as applicable to the particular candidate (OPM regulations require consideration of factors one through four, shown with an asterisk, to the extent they are applicable):

- * 1. Special qualifications needed for the position and displayed by the candidate;
- * 2. If the position is not unique, the success of recent efforts to recruit high quality candidates for similar positions, including narrative examples and/or indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
- * 3. Recent turnover in similar positions;
- * 4. Labor market factors that may affect the SEC's ability to recruit high quality internal or external candidates for similar positions now or in the future (may include factors such as salary ranges of comparable positions, scarcity of skills, and emerging technology);
- 5. Positive and negative impacts on the morale of current employees;
- 6. Relative attractiveness of the duty station (e.g., cost of living, remoteness, and community amenities);
- 7. Urgency to fill the position;
- 8. Agency affirmative employment goals; and
- 9. Other special or unique needs for the individual's service.

C. Any decision to pay a relocation bonus shall be made on a case-by-case basis for each employee,³ and is intended to give the selecting officials some added flexibility to offer an attractive compensation package during negotiations with the preferred candidate. However, groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future may be identified in advance as likely targets for payment of relocation bonuses. A decision to pay a relocation bonus is separate and distinct from a decision to pay relocation or moving expenses,

³ OPM may grant certain exceptions to the case-by-case basis to authorize an agency head to authorize relocation bonuses to groups of employees for a limited period of time to promote mobility or when a function is transferred to another commuting area. See 5 CFR 575.204(d).

and receiving one does not entitle an employee or prospective employee to receive the other. Only in exceptional circumstances will the Commission consider payment of both a relocation bonus and relocation (or moving) expenses.

D. The decision to pay a bonus shall be made before the employee actually enters the position to which he or she is to be relocated.

E. Before a relocation bonus may be paid, the employee must sign a written service agreement to complete 12 months of employment with the agency at the new duty station.

F. Before an approved relocation bonus may be paid, the employee must establish a residence in the new commuting area (e.g., rent an apartment or relocate the family to the new area).

G. In rare circumstances, a relocation bonus may be paid to a current federal employee who is still serving under a service agreement in connection with receipt of a recruitment bonus. This may be done only if the possibility of relocation was not anticipated at the time the employee received the recruitment bonus in connection with his or her initial appointment.

H. A relocation bonus may be paid to an employee who is already receiving a special salary rate and/or a retention allowance.

3. SCOPE. This authority applies to current federal government employees at any GS, GM, or SES level in the competitive or excepted service, who are not (will not be) serving under an appointment with a time limit of less than two years.

4. AUTHORITIES. The applicable regulations may be found in 5 U.S.C. 5753; 5 CFR Part 575; and FPM Letter 296-113, describing CPDF and SF 50 documentation requirements.

5. RESPONSIBILITIES.

A. The Executive Director is responsible for approving or disapproving requests for relocation bonuses of up to 10% of basic pay and for making recommendations of approval/disapproval to the Chairman for bonuses exceeding 10%, up to the legal maximum of 25% of basic pay.

B. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM) is responsible for:

1. Providing the Executive Director with recommendations regarding requests within the limits set by this policy and agency-wide FEPCA budgetary allowances;

2. Determining that the service agreement is properly executed and complies with agency policy and applicable regulations;

3. Monitoring budgetary expenditures within the established annual budget for FEPCA-related expenditures; and

4. Evaluating the use of this authority to ensure it is applied fairly and judiciously within the SEC.

C. Servicing personnel specialists are responsible for:

1. Reviewing managers' recommendations for sufficiency and, as necessary, negotiating with managers on reasonable compensation packages to recommend to the Associate Executive Director, OAPM;

2. Obtaining certification of funds availability within the FEPCA-related budget allocation; and

3. Ensuring adequate documentation and record-keeping to allow reconstruction of the action taken in each case.

D. Managers are responsible for:

1. Submitting requests for payment of relocation bonuses in appropriate situations to OAPM; and

2. Providing justification and documentation with the request that shows full compliance with this policy.

E. The Comptroller is responsible for:

1. Providing an annual FEPCA budget to OAPM to be used, among other things, for costs of relocation bonuses;⁴ and

2. Paying approved relocation bonuses, subject to deductions.

6. PROCEDURES.

A. Review and Approval.

1. The recommending official will submit a written justification on SEC 2320 (see Attachment 1) to the appropriate reviewing official (if any). Each request to pay a relocation bonus, including the amount of such bonus, shall be

⁴ The FEPCA budget also covers recruitment bonuses, first year costs of retention allowances, and certain FEPCA-related travel and transportation expenses.

reviewed by a higher level official in the chain of command than the official who made the initial recommendation, unless the initiating official is a Division Director, Office Head, Regional Administrator, or higher level official.

2. The package then will be submitted to the Associate Executive Director, OAPM for review and a recommendation for approval or disapproval will be forwarded to the Executive Director. After a decision by the Executive Director or Chairman, the package will be returned to OAPM.

3. Offers to pay relocation bonuses may not be made to any candidate for relocation until OAPM has notified the recommending official of formal approval of the bonus. Then, oral offers may be made. A written offer to pay a relocation bonus will be sent by OAPM following the approval, except in a case in which the candidate had refused an oral offer of both the position and the relocation bonus.

B. Service Agreement.

1. Before a relocation bonus may be paid, the employee must sign a written service agreement (see Attachment 2, SEC 2319) to complete 12 months of employment in the agency at the new location, as required in Section 2. D.

2. Service under one service agreement will run concurrently with service under any other simultaneous or subsequent service agreements in effect.

C. Payment of Bonuses. Relocation bonuses are paid as a lump sum, and are subject to applicable deductions. The bonus normally will be included in the first paycheck after processing for a current employee being relocated to another commuting area, or in the first paycheck of an employee transferring from another agency in a different commuting area, as long as residence has been established.

D. Repayment of Bonuses.

1. An employee who fails to complete the period of employment established under a service agreement shall be indebted to the federal government and will be required to repay the relocation bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment with the appointing agency (or successor agency in the event of a transfer of function) completed by the employee under the service agreement.

2. Repayment does not apply when the employee is involuntarily separated (i.e., a separation initiated by the agency against the employee's will and without his or her consent for reasons other than cause on charges of misconduct or delinquency). If an employee is separated because he or she declines to accept reassignment outside of the commuting area, the separation is considered involuntary (as long as the employee's position description does not contain any provision

requiring geographic mobility and there is no other written mobility agreement in effect).

3. Repayment is not required when an employee is promoted to another position within the Commission, whether in the same or different commuting area. Also, repayment is not required when an employee is relocated at the direction of agency management.

4. Amounts owed by an employee will be recovered under normal agency procedures by the Office of the Comptroller, in accordance with 5 U.S.C. 5514 and 5 CFR Part 550.

5. The Comptroller may waive, in whole or in part, the right of recovery of an employee's debt under this regulation, provided that the Associate Executive Director, OAPM supports the request for a waiver in writing. The request for a waiver may originate with either the employee or a management official. The Comptroller must make a written determination that recovery would be against equity and good conscience or against the public interest.

E. OAPM Records.

1. Each request for payment of a relocation bonus will be logged in within the Classification and Staffing Branch immediately after its approval or disapproval. The servicing personnel specialist shall annotate the SF 52 to provide all information required to process the action and shall attach the original service agreement.

2. After the SF 50 is prepared, the employee's original service agreement will be annotated with the actual transfer or relocation date and completion of service agreement date and will be filed on the left hand side of the Official Personnel Folder. (The agreement may be purged after completion of the specified service time.) Copies of the annotated service agreement will be attached to the employee's and originating office's copies of the SF 50.

3. Within the OAPM subject matter files, a file for each approved request will be maintained chronologically by relocation date and employee name for a period of three years. The file shall contain: SEC 2320, with the requesting organization's written justification attached; copy of the employee's application, including any supplements; a copy of the completed service agreement (SEC 2319); and any additional documentation. A copy of the SF 50 will be added after the employee assumes the assignment at the new duty station.

4. A separate file of disapproved actions will be maintained.

² In these situations, the existing service agreement remains in effect until the remaining time is served.

5. Budgetary records will be maintained on various FEPCA authorities by the Classification and Staffing Branch, or as assigned by the Associate Executive Director, OAPM, for on-going tracking of budget obligations and expenditures.

7. EVALUATION REPORTS.

A. By January 1 of each year, OAPM will prepare a written report for the record on agency-wide use of relocation bonuses during the previous fiscal year. The report will include the number of employees to whom a relocation bonus was offered during the fiscal year; the percentage of salary offered; the dollar amount of bonuses; the number of employees who accepted an offer of a relocation bonus; and an evaluation of the overall effect of the payment of relocation bonuses on the ability of the agency to fill key positions with high quality candidates and foster mobility of high quality employees within the agency. The report also will include any benefits the relocation bonus authority has had on achieving the agency's affirmative employment goals.

B. Upon request, the annual reports and relocation bonus files will be made available for review to OPM, as well as to GAO, in conjunction with their oversight authorities.

8. EFFECTS ON OTHER DOCUMENTS. POPPS Chapter 575.B dated March 23, 1992 is superseded.

9. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management, Classification and Staffing Branch.



Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Administrative and Personnel Management

July 20, 1993
Date

Attachments:

1. SEC 2320 (7-93) - Recommendation and Approval of Relocation Bonus
2. SEC 2319 (7-93) - Sample Relocation Bonus Agreement

SECURITIES AND EXCHANGE COMMISSION

RECOMMENDATION AND APPROVAL OF RELOCATION BONUS

(See instructions on reverse before completing)

1. Name of Employee/Candidate: _____
2. Position Title: _____
3. Pay Plan, Grade, Step, Salary: _____
4. Organization: _____
5. Percentage of Basic Pay Recommended: _____ % Bonus Amount: \$ _____
6. Justification: (see attached)

Signature of Recommending Official

Date

Signature of Reviewing Official (if needed)

Date

Signature of Associate Executive Director, OAPM
(review and certification of funds availability)

Date

Signature of Executive Director

Date

Signature of Chairman (if bonus exceeds 10%)

Date

INSTRUCTIONS FOR RELOCATION BONUS RECOMMENDATION

The recommending official is responsible for completing this form and submitting it to the appropriate officials for review, as necessary, and approval.

Item 5. The maximum percentage allowable under law is 25% of basic pay. **The SEC's interim policy is that bonuses may be approved up to 10% of basic pay by the Executive Director. Above that percentage, the approval of the Chairman is required. Approval is subject to funding availability and adequate justification. Dollar amount for payment may be rounded up or down to an even hundred.**

Item 6. The justification must contain the certification that absent a bonus, the agency would have difficulty in filling the position with a high quality candidate. As applicable to the case, address the following criteria in the justification, with particular consideration to factors 1 through 4 (*):

- * (1) Special qualifications needed for the position and displayed by the candidate.
- * (2) If the position is not unique, the success of recent efforts to recruit high quality candidates for similar positions, including narrative examples and/or indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions.
- * (3) Recent turnover in similar positions.
- * (4) Labor market factors that may affect the ability of the agency to recruit high quality internal or external candidates for similar positions now or in the future (may include factors such as salary ranges of comparable positions, scarcity of skills, and emerging technology).
- (5) Positive and negative impacts on the morale of current employees.
- (6) Relative attractiveness of the duty station (e.g., cost of living, remoteness, and community amenities).
- (7) Urgency to fill the position.
- (8) Agency affirmative employment goals.
- (9) Other special or unique needs for the individual's service.

Additional guidance may be found in POPPS Chapter 575.B. The Office of Administrative and Personnel Management is available to provide interpretation and assistance.

- * OPM mandates consideration of these factors, as appropriate.

SECURITIES AND EXCHANGE COMMISSION RELOCATION BONUS SERVICE AGREEMENT

I, _____, hereby agree to remain in the employment of the Securities and Exchange Commission ("SEC") for the period of twelve (12) months, beginning on the date of my appointment to the position of (specify position, title, grade, series, and location) _____

_____. I will remain at the same duty location for that period, unless I am transferred within the Commission, or separated involuntarily as described in POPPS Manual Chapter 6-575.B, Section 6 D.

The amount of the relocation bonus I will be receiving under this agreement is \$_____. I agree that if I do not remain with the SEC at this duty station for the above specified period, I will repay to the agency the relocation bonus on a pro rata basis. The amount to be repaid shall be determined by providing credit for each full month of employment completed under this agreement. I understand that under such circumstances these monies are recoverable from me as a debt due the United States Government.

Employee's Signature

Date

Signature of Agency Representative
(Division Director, Office Head, or Regional Administrator)

Date

To be completed by OAPM after the employee enters the position to which relocated:

Appointment date: _____

Service agreement completion date: _____

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 575.C
August 27, 1996

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 575.C
RETENTION ALLOWANCES

1. **PURPOSE.** This Chapter establishes the SEC policy and procedures for paying retention allowances, as authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). It supersedes the March 20, 1992 interim policy. A retention allowance is an on-going payment added to basic pay that is intended to provide a special monetary incentive to enable an agency to retain the services of a specific employee.

2. **SCOPE.** This authority applies to current SEC employees at any GS, GM, or SES level in the competitive or excepted service who are not serving under an appointment with a time limit.

3. **AUTHORITIES.** 5 U.S.C. 5754 and 5 CFR Part 575.

4. **POLICY.**

A. Payment of a retention allowance is appropriate only in an unusual situation in which an employee with exceptionally high or unique qualifications, or who meets a special need within the agency, is deemed likely to leave the Federal Government (i.e., the executive, legislative, or judicial branches), and where retention of the employee is considered to be essential.

B. To be eligible, the employee must have completed any service agreement related to a recruitment or relocation bonus and completed one year of continuous service with the SEC.

C. Any decision to pay a retention allowance must be made on a case-by-case basis for each employee and may not be used as a remedy for pay comparability problems within an occupational grouping or organizational unit.

D. Management must submit a written request that explains that, in the absence of such an allowance, the employee would be likely to leave the Federal Government.¹ The written justification must be based on the following factors as applicable to the particular case (factors with an asterisk must be addressed):

* 1. The adverse impact that the employee's departure would have on the SEC's ability to carry out an activity or perform a function that is essential to its mission;

¹ The payment of a retention allowance is not necessarily predicated on another job offer, but rather on the likelihood of the employee's leaving if an allowance is not paid and the impact that such a departure would have on Commission operations.

* 2. The degree of success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee for positions similar to the position held by the employee;

* 3. The availability of candidates for employment who, with minimal training or disruption of service, could perform the full range of duties and responsibilities assigned;

4. Other factors that may affect the SEC's ability to replace employees who possess specialized or critical knowledge, skills, and abilities now or in the near future (may include factors such as costs or time to train a replacement, salary ranges of comparable positions, scarcity of skills, and emerging technology);

5. Positive and negative impacts on the morale of current employees; and

6. Other special or unique needs for the individual's service.

E. The Executive Director may authorize the payment of a retention allowance of up to 10% of annual basic pay, or may recommend approval to the Chairman of an allowance of up to 25% of basic pay, in order to retain an unusually valuable employee. As a general rule, an allowance will not exceed 10%.

F. Since retention allowances are paid on a continuing basis, each determination to pay an allowance must be reviewed at least annually to determine whether the payment is still warranted, and the determination shall be certified in writing by the approving official. A retention allowance may be continued as long as the conditions supporting the original decision still exist (See section 7). A retention allowance is automatically terminated when the employee is promoted.

G. If an employee who is receiving a retention allowance is transferred to another location, a relocation bonus may be paid in appropriate situations (see POPPS 575.B). The new service agreement for the relocation bonus does not preclude continuation of a retention allowance. However, the need for continuing a retention allowance must be reviewed to determine if the circumstances warrant such an allowance.

5. RESPONSIBILITIES.

A. The Chairman is responsible for approving or disapproving requests for retention allowances exceeding 10%, up to the maximum of 25% of basic pay authorized under FEPCA.

B. The Executive Director is responsible for approving or disapproving requests for retention allowances of up to 10% of basic pay and for making recommendations of approval/disapproval to the Chairman for bonuses exceeding 10%, up to the 25% maximum.

C. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM), is responsible for:

1. Providing the Executive Director with recommendations regarding approval or disapproval of requests for retention allowances, within the authorization limit set by this policy and the availability of agency funds. This includes ensuring that the amount of allowance payable does not result in total annual pay in excess of Level 1 of the Executive Schedule within a calendar year (5 U.S.C. 5307);

2. Determining that the written documentation meets all applicable regulations and policy guidelines;

3. Ensuring adequate documentation and record-keeping to allow reconstruction of the action taken in each case and to facilitate the annual review process;

4. Ensuring that such allowances are reviewed annually and either recertified (with or without a modification of amount) or terminated;

5. Reviewing retention allowance payment amounts when changes in other continuing payments occur and taking appropriate action to assure that the annualized total of the continuing payments will not exceed Level 1 of the Executive Schedule; and

6. Evaluating the use of this authority to ensure it is applied fairly and judiciously within the SEC.

D. Managers are responsible for:

1. Submitting requests for retention allowances to OAPM in accordance with this policy;

2. Notifying OAPM promptly of any changes in circumstances that affect the continued need for payment of a retention allowance or the amount thereof; and

3. Completing annual or event-driven recertification requests as appropriate to recommend continuing, modifying, or terminating the retention allowance.

E. The Comptroller is responsible for:

1. Providing an annual FEPCA budget to OAPM for retention allowances and other FEPCA-related bonuses and expenses; and

2. Processing payroll actions to pay retention allowances, subject to deductions.

6. PROCEDURES.

A. The recommending official will complete a request for retention allowance on SEC 2321 (see Attachment 1), along with a written justification (see section 4.D). However, in general, divisions and offices shall be restricted to no more than one qualified employee on a retention

allowance at a given time. Exceptions can be made by the Executive Director and the Chairman on a case-by-case basis.

B. The recommending official's request for a retention allowance should be based on the estimated salary that the employee reasonably might be able to earn in a private sector position, subject to the following eligibility and approval levels:

Percentage of Proposed Retention Allowance	Eligible Employees	Approval
Up to 10% of basic pay	Any employee who meets the criteria	Approval by Executive Director
Above 10% but less than 20%	SES Members and senior staff, GS-13 and above who meet the criteria	Recommendation by Executive Director and approval by Chairman
20% to 25%	SES Members and GS-15 employees who meet the criteria	Recommendation by Executive Director and approval by Chairman

C. Each request to pay a retention allowance, including the percentage of basic pay, shall be reviewed by a higher level official unless the initiating official is a Division Director, Office Head, or Regional Director. If approved, the complete package will be submitted to OAPM for compliance review and obtaining the necessary approval(s) from the Executive Director or Chairman.

D. A Personnel Action, SF 50, shall be prepared to document all approved determinations to pay a retention allowance. The effective date for the retention allowance shall be the beginning of the first pay period following approval of the allowance. Copies of the decision package, including a copy of the SF 50, will be forwarded to the initiating office and to the Office of the Comptroller for payroll purposes.

7. REDUCTION OR TERMINATION OF RETENTION ALLOWANCES.

A. A retention allowance may be reduced or terminated when:

1. An increase (e.g., annual pay adjustment, geographic adjustment, or change in any special salary rates) would result in a total continuing payment in excess of Level I of the Executive Schedule;
2. A lesser amount (or no allowance) would be sufficient to retain the employee within the Federal Government;
3. The original need for the employee's services has diminished to the extent that the original payment is no longer warranted;

4. Labor market factors make recruitment of candidates with similar qualifications as the employee reasonably likely; or

5. Budgetary considerations make continuation of the payment (either at the original level or at all) difficult.

B. The reduction or termination of a retention allowance is not grievable or appealable. However, this does not lessen any employee's rights or remedies in connection with prohibited personnel practices (see 5 U.S.C. chapter 12, subchapter II, and 5 U.S.C. 2302(d)).


C. Any change or termination of a retention allowance shall be documented in writing on a new SEC 2321, and an SF 50 will be generated.

8. OAPM RECORDS.

A. After the SF 50 is prepared, a copy of the original request will be filed on the left side of the Official Personnel Folder, and copies also will be attached to the originating office's copies of the SF 50.

B. A file for each approved request will be maintained chronologically by approval date and employee name for a period of three years after termination of a retention allowance. The file shall contain a copy of: the SF 50; SEC 2321 with the requesting organization's written justification attached; and any additional documentation. Each year, a copy of the recertification will be added and the file brought forward to the new determination date. Similarly, a change in amount or termination of the retention allowance will be added to the file and the file will be brought forward to the new date.

9. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management, Classification and Staffing Branch.


Fernando L. Alegria, Jr.
Office of Administrative and Personnel Management

8/27/96
Date

Attachment: SEC 2321 - Request and Justification for Payment of New or Continuing Retention Allowance

**SECURITIES AND EXCHANGE COMMISSION
REQUEST AND JUSTIFICATION FOR ACTION
IN NEW OR CONTINUING RETENTION ALLOWANCE**

☐ New Request
☐ Annual Review
☐ Change in
circumstances

1. Name of Employee: _____
2. Position Title: _____
3. Organization: _____
4. Pay Plan, Grade, Step: _____
5. Basic Pay per annum (without interim geographic adjustment): _____
6. Percentage of Basic Pay Recommended: _____ Annualized Amount: _____
7. If continuing retention allowance,
 - a. Current percentage of basic pay approved for retention allowance:
_____ % Proposed Effective Date: _____
 - b. Recommendation: ☐ Continue current percentage;
☐ Modify as per #6 above
☐ Discontinue
8. Justification: ☐ see attached ☐ described below

Signature of Recommending Official

Date

Signature of Reviewing Official (if needed) Date

Signature of Associate Executive Director, OAPM

Date

Signature of Executive Director

Date

Signature of Chairman (if over 10%)

Date

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 599.A
March 31, 1994

Chapter 599.A

LAW ENFORCEMENT AVAILABILITY PAY (INTERIM POLICY)

1. **PURPOSE.** This establishes SEC policy on the payment of law enforcement availability pay under 5 U.S.C. 5545a.
2. **POLICY.** The Securities and Exchange Commission will pay availability pay to those employees who are eligible and available to work an average of 2 hours unscheduled duty per regular work day. The Securities and Exchange Commission and the eligible employees will also certify that the employees will meet the substantial hours requirement in the 5 Code of Federal Regulations 550.183.
3. **SCOPE.** This applies to all SEC employees who are assigned to General Schedule (GS) Criminal Investigator GS-1811 positions and are covered as Law Enforcement Officer for Civil Service Retirement purposes (Title 5, United State Code, Section 8331 (20)). Criminal Investigators, GS-1811 positions in the SEC are not considered rigorous and thus employees covered by the Federal Employees Retirement System are not covered as Law Enforcement Officers (Title 5, United States Code, Section 8401 (17)(A)(ii)).
4. **AUTHORITIES.** This POPPS is based on and must be read in combination with 5 U.S.C. 5545a (section 633 of Public Law 103-329, September 30, 1994) and 5 CFR, part 550, subpart A (Federal Register, December 23, 1994.)
5. **DEFINITIONS.**
 - A. Available hours are hours that are not part of a criminal investigator's basic 40-hour workweek. They are hours where the criminal investigator is considered to be in availability status.
 - B. Availability Pay is the sole compensation for irregular and occasional overtime work (i.e. overtime hours not scheduled in advance of an employee's administrative workweek), and is also the sole compensation for any overtime work on any day containing part of the employee's basic 40 hour work week (regardless of how those hours are scheduled).
 - C. Availability Status is time at work or on field assignment.
 - D. A Criminal Investigator is an employee officially assigned to a position properly classified in the GS-1811 Criminal Investigating Series under the Position Classification Standards issued by the U.S. Office of Personnel Management.
 - E. A Law Enforcement Officer is an employee covered for retirement purposes under Title 5, United State Code, Section 8331 (20) or Title 5, United States Code, Section 8401 (17)(A)(ii).

F. An Eligible Criminal Investigator is an employee who meets the criteria for both Law Enforcement Officer and Criminal Investigator as defined above.

G. Regular work day is an eight hour day within the employee's 40 hour work week.

6. RESPONSIBILITIES.

A. Associate Executive Director, Office of Administrative and Personnel Management or his/her designee is responsible for:

1. Overseeing the implementation of availability pay;
2. Determining employee eligibility and benefits coverage including:
 - a. severance pay;
 - b. retirement deductions and benefits;
 - c. life insurance premiums and benefits;
 - d. Thrift Savings Plan contributions;
 - e. workers' compensation benefits;
 - f. continuing pay of a supervisor receiving a supervisory differential;
 - g. advances in pay; and
 - f. lump sum payments for accrued annual leave.
3. Checking eligibility for and setting pay to equal 25 percent of the criminal investigator's rate of basic pay (including special salary rates, locality pay, interim geographic adjustments (IGAs), special pay adjustments for law enforcement officers (LEOs), and retained pay.) OAPM also is responsible for determining initially if availability pay is within established limitations and for maintaining appropriate documentation.

B. Associate Executive Director, Office of the Comptroller or his/her designee is responsible for:

1. Paying availability pay for hours for which an eligible criminal investigator receives basic pay. Availability pay is subject to:
 - a. the biweekly limitation on premium pay (5 U.S.C. 5547(c) as well as the calculation of the aggregate limitation on pay (5 U.S.C. 5307);
 - b. garnishment for child support and alimony (5 CFR part 581);
 - c. commercial garnishment (5 CFR part 582).

2. Monitoring other payments. A criminal investigator who receives availability pay may not receive:

a. overtime, night differential, or hazardous duty differential pay under title 5, United States Code, for unscheduled duty hours;

b. overtime pay under section 7 of the Fair Labor Standards Act of 1938, as amended (FLSA); or

c. annual premium pay for administratively uncontrollable overtime (AUO) work or regularly scheduled standby duty.

C. Under delegations of responsibility from the Chairman, management officials who oversee organizations with eligible Criminal Investigators:

1. Must annually certify in writing that the criminal investigator will average 2 available hours per regular work day during the next 12 months, using the appropriate certification in attachment 1.

2. May suspend availability pay in writing under adverse action procedures, as provided by 5 U.S.C. 7513(b), if a criminal investigator fails to average the required 2 available hours per regular work day for the period since the last certification, or is expected to fail to average 2 available hours per work day during the next 12 months.

3. May grant a criminal investigator's voluntary written request to be excused from availability pay and the requirement to average at least 2 available hours per regular workday. Such a request will be granted only due to a personal or family hardship, and must be for a specified time period (which may be extended). OAPM will discontinue availability pay upon receipt of a written waiver request.

4. Will resume payment when the criminal investigator has demonstrated that he or she is likely to average the required 2 available hours per work day over the next 12 months. Management may make this determination before the end of the period specified under paragraph 3 above.

D. Eligible Criminal Investigators:

1. Must annually certify in writing that they will average at least 2 available hours per regular work day during the next 12 months, using the appropriate certification in attachment 1.

2. May request in writing to be excused from availability pay and the requirement to average at least 2 available hours per regular workday, based on personal or family hardship, and must be for a specified time period (which may be extended).

3. May appeal in writing management's decision to suspend availability pay under adverse action procedures, as provided by 5 U.S.C. 7513(b).

8. OAPM RECORDS. OAPM must:

A. Maintain a file of all annual certifications by calendar year until one month

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POPPS 6-599.A MARCH 31, 1994

after the next annual certification is completed.

B. Maintain the original certification as part of the adverse action file, when a criminal investigator appeals a decertification under paragraph 6.C.2.

9. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Administrative and Personnel Management, Classification and Staffing Branch.



Fernando L. Alegria, Jr., Associate Executive Director
Office of Administrative and Personnel Management

March 31, 1995
Date

Attachment:

1. Certification of Available Hours

ATTACHMENT TO POPPS 6-599.A

MARCH 31, 1995

Certification of Available Hours

This certifies that, over the course of the last 12 months, the undersigned criminal investigators averaged at least 2 available hours (as defined in POPPS 599.A) per regular workday. We understand that failing to average at least 2 available hours per regular workday may result in an overpayment.

We understand that as a condition of continuing eligibility for availability pay under 5 U.S.C. 5545a, we will be required, over the course of the next 12 months, to average at least 2 available hours per regular workday.

Management signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

Investigator signature and date: _____

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management

POPPS 6-610.A
January 20, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 610.A

ALTERNATE WORK SCHEDULES

1. **PURPOSE.** This chapter establishes SEC policies and procedures for administering the Alternate Work Schedule (AWS) program.
2. **POLICY.** The AWS concept, as described in this policy, is available to employees to the extent that its use does not compromise the efficiency and effectiveness of SEC mission accomplishment and office operations, and does not otherwise increase costs, reduce productivity, or diminish the level of service to the public. The SEC's AWS program includes the use of flexitour and credit hours. All divisions and offices are authorized to implement flexitour (a pre-approved established eight hour work schedule Mondays through Fridays, with hours that vary from the official business hours) within the framework of this policy in order to meet their particular program needs while considering employees' needs and preferences.¹ In addition, with prior supervisory approval, employees may be permitted to work and use up to six hours of credit hours within the same pay period to accommodate personal and/or family needs on an occasional basis.
3. **SCOPE.**
 - A. All SEC employees (except Presidential appointees, who are subject to different regulations) may apply for alternate work hours within the framework of this policy.² It is management's prerogative and responsibility to make decisions as to the extent employees may participate.
 - B. Employee participation in AWS is a privilege, not a right. An employee's performance must be at least fully successful in order to be considered for a flexitour schedule, and must remain at least fully successful in order to be permitted to remain on an alternate schedule. Employees who are undergoing initial orientation or intensive on-the-job training may be restricted from working a flexitour schedule during the period of the orientation or training, if it would interfere with progress, result in a reduction of necessary supervision, or have other identifiable negative effects.

¹ Accordingly, the 15% cap on the number of employees permitted to work alternate schedules is lifted, and offices no longer need to submit annual requests for flexitour approval to the Office of Administrative and Personnel Management.

² For those operations that have been authorized to offer a 5-4-9 compressed work schedule to supplement the flexitour to enhance service to the public, reduce costs, or promote other business reasons, see POPPS Chapter 610.C. The provisions of Chapter 610.A do not apply to employees working on compressed schedules.

4. **AUTHORITIES.** The laws and regulations with which agencies adopting AWS must comply are: Public Law 99-196; Public Law 97-221; 5 USC Chapter 61, Subchapter II; 5 CFR Part 610; and FPM Supplement 990-2, book 620.

5. **RESPONSIBILITIES.**

A. The Executive Director. The Executive Director, under guidance from the Chairman, is responsible for establishing overall AWS policy; monitoring the impact of AWS programs on agency mission accomplishment; and determining the continuance, discontinuance, or modification of AWS program parameters.

B. The Associate Executive Director for Administrative and Personnel Management. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM) is responsible for issuing specific operating policy and procedures to implement the decisions and parameters established by the Chairman and Executive Director. The Associate Executive Director and his/her staff provide advice, guidance, and technical assistance to managers and employees on AWS program operation; and conduct evaluations for the Executive Director to determine program impact.

C. Division Directors, Office Heads, and Regional Directors. Division Directors, Office Heads, Regional Directors, and District Administrators are responsible for implementing AWS within their organizations while assuring accomplishment of mission and operating office needs. They also are responsible for the overall management of work, time and attendance of subordinate staff, and adequate office coverage during official business hours. Divisions and offices should determine the level of approval for employees' flexitour schedules within their own organizations.

D. Managers and Supervisors. Managers and supervisors are responsible for: determining the numbers and types of staff needed during official business hours to fulfill the unit's work requirements; approving, modifying, or disapproving employee requests for flexitour schedules or use of credit hours; monitoring time and attendance and certifying the accuracy of records; scheduling meetings within designated core hours or at times that accommodate approved employee schedules wherever possible; providing reasonable advance notice of schedule changes; and taking appropriate actions to resolve problems in day-to-day program implementation.

E. Employees. Employees who work alternate schedules are responsible for complying with the requirements for: obtaining prior written approval for alternate schedules, leave requests, the use of credit hours, and compensatory time or overtime; documenting and accounting for their work hours; and planning and managing their workload efficiently. They are also responsible for making arrangements to modify their schedules temporarily to accommodate occasional, necessary work-related requirements, such as training, travel, on-site examinations, or important meetings (where schedule conflicts exist).

6. FLEXITOUR.

A. Permanent Work Schedules Permitted.

1. Employees may request approval to work a flexitour work schedule in which there is an established daily starting time within a flexible band of up to two hours before the office's official business hours.³ The flexitour schedule requested by full-time staff must have 40 hours per week, eight contiguous hours per day plus a lunch period for five days per week, Monday through Friday. Managers should determine an employee's part-time work schedule in consultation with the employee.

2. Requested arrival times need not be the same every day of the week. Requested arrival and departure times must fall on the hour or on any 15-minute increment (e.g., 8:15, 8:30, 8:45) within the two-hour flexible band permitted. After approval, this becomes the employee's fixed permanent schedule, until a change in work hours is requested and approved by the approving management official. This should not occur more than three times per year. No action is needed to stay on a basic schedule conforming to the SEC's official business hours.

3. Employees on temporary duty, such as details and training programs, may need to adjust their schedules to assume the normal schedule of that activity. All management-directed changes to employee permanent schedules or employee requests for permanent changes to their schedules require a minimum of one pay period notice.

B. Core and Flexible Hours. For SEC headquarters, the minimum core hours during which all full-time employees will be scheduled to work are 10:30 a.m. to 3:30 p.m. Monday through Friday (for normal day shift). Flexible hours are from 7:00 a.m. to 10:30 a.m. and from 3:30 p.m. to 7:00 p.m. Regional and district offices' core hours similarly are geared to the offices' official business hours.

7. CREDIT HOURS.

A. With advance authorization by the immediate supervisor, employees may accommodate appointments or other personal needs through the use of credit hours. This allows employees to make up a certain amount of time without charge to leave within the pay period, as long as the temporary work schedule changes do not adversely affect project deadlines, office coverage, or other work-related requirements. The supervisor must ensure that specific work assignments are given for the rescheduled time and that work results are fully acceptable. The credit hour provision is intended to be used in special, necessary circumstances and generally is not intended to be used each pay period.

³ Official business hours are the designated hours of availability to the public, during which all divisions and offices are expected to provide adequate office coverage. SEC headquarters' official business hours are 9:00 a.m. to 5:30 p.m. Regional and district offices have designated business hours that may vary from headquarters' hours; these are published in the SEC Telephone Directory.

B. The maximum number of credit hours per pay period that a supervisor can authorize a full-time employee to use and earn is six (6) hours.⁴ This amount will be prorated for part-time employees. Under agency policy, credit hours may not be accumulated (*i.e.*, they may not be carried over after the end of a pay period). Therefore, supervisors may only authorize employees to earn credit hours that will be used for an absence within the same pay period. Supervisors may authorize employees to earn credit hours on normal workdays or on weekends, but employees may not earn more than two credit hours on any regularly scheduled workday.

C. All credit hour arrangements and their approvals must be documented in writing on SEC 2387, Application to Use/Earn Credit Hours (see Attachment 1). Any use of credit hours that was not offset by earning the same number of hours within the pay period shall be charged to the appropriate category of leave (annual, sick, or leave without pay). Agency policies and procedures for earning and using compensatory time do not change under AWS (see POPPS Chapter 630.B).

D. Supervisors should make determinations to grant credit hour schedule modifications one pay period at a time, in order to take current workload and availability of other employees into consideration and to maintain parity among employees who make such requests if not all can be accommodated.⁵

E. Lunch time may not be skipped to shorten the workday or to lessen use of leave that is taken outside of the normal period in which lunch is scheduled.

8. **TIME ACCOUNTING.** Chronological (serial) sign-in/sign-out sheets must be used to record the times of arrival and departure for all employees on flexible schedules in a unit. The sign-in/sign-out requirement also applies when employees earn credit hours under section 7 above. Employees must sign the log personally when they record the time of arrival (*i.e.*, actually beginning to work) and time of departure.

9. MODIFYING OR TERMINATING FLEXTOUR.

A. Individual employee participation in a flexitour schedule may be terminated because of a need to provide office coverage, an adverse impact on the efficiency of unit operations, a degradation in employee performance to below the fully successful level, or an employee's non-adherence to agency policy or required procedures. The employee must receive a written explanation for its termination and a notice period of at least two weeks, during which time the employee may respond to the reasons cited.⁶

⁴ Beginning with the 1995 leave year, leave can be earned and used in one-half hour increments. This also applies to credit hours.

⁵ Such temporary modifications to schedules may be approved for set blocks of time when the reason supporting the schedule modification is in the best interests of the Federal Government (*e.g.*, for an academic course that leads to improved job skills/performance).

⁶ An employee whose request has been denied, substantially modified, or terminated may be eligible to pursue the matter through the SEC's internal grievance procedure (see POPPS Chapter 771.A).

POPPS 6-610.A January 20, 1995

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B. An employee whose flexitour schedule is terminated for non-adherence to policy or procedures may not reapply for a period of six months and also could be subject to disciplinary action if circumstances warrant.

10. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

1/20/95
Date

Attachment: SEC 2387, Application to Use/Earn Credit Hours

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Attachment to POPPS Chapter 610.A

SEC 2387, Application to Use/Earn Credit Hours

APPLICATION TO USE/EARN CREDIT HOURS

(Under the Alternate Work Schedules Policy, POPPS Chapter 610.A)

Please complete form after reading Privacy Act Statement on reverse.

NAME:						SOCIAL SECURITY NUMBER:		PAY PERIOD:	
DIVISION/OFFICE:			REMARKS:						
Date	From	USE AM PM	To	AM PM	Hours	Date*	EARN Est. Hours	Act. Hours	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
_____	_____	____	_____	____	_____	_____	_____	_____	
Total (not to exceed 6 hrs per pay period for full-time employees; pro-rated for part-time)						_____	_____	_____	
Employee's Signature							Date: (Month, Day, Year)		

OFFICIAL ACTION ON APPLICATION

<input type="checkbox"/> Approved	Signature: _____	Date: (Month, Day, Year)
<input type="checkbox"/> Disapproved		

Credit Hours must be used within the pay period they are earned.

*Supervisor may specify times when credit hours are to be earned.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management

POPPS 6-610.B
January 20, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 610.B

ALTERNATE OR FLEXIBLE WORK LOCATIONS

1. **PURPOSE.** This chapter establishes SEC policies and procedures for administering temporary work-at-home arrangements and authorizes one-year experimental flexiplace pilot programs.
2. **POLICY.** The SEC permits temporary, short-term work-at-home arrangements within the parameters outlined herein. In addition, the Executive Director may authorize a limited number of pilot projects to test the feasibility of flexiplace in appropriate situations. Flexiplace, also known as flexible workplace or telecommuting, refers to paid employment performed on a regularly scheduled basis at an alternate worksite for a part of the work week. Alternate or flexible work location arrangements represent voluntary and cooperative agreements between managers and employees and must be consistent with agency mission requirements.
3. **SCOPE.** This chapter applies to all SEC employees who meet the criteria outlined in this document.
4. **TEMPORARY WORK-AT-HOME ARRANGEMENTS.** There are two types of work-at-home arrangements¹ that may be authorized in appropriate situations, as described below.
 - A. Ad Hoc or Occasional Basis.
 1. A supervisor may permit an employee to perform paid work at his or her home, in connection with a particular project for up to two days if the supervisor believes that assignment to the alternate worksite will enable the employee to complete the assignment with fewer distractions than if the employee were working at the normal worksite (e.g., office, examination site). This authority is intended to be used only on an occasional basis.
 2. The supervisor must establish the results expected on the project during that time and follow up to review the work performed off-site. Prior to the employee working at home, the supervisor must obtain the concurrence of the employee's second-level supervisor, unless the immediate supervisor is a Division Director, Office Director, Regional Director, or District Administrator. Offices and Divisions may establish a higher level of approval if desired. Completion of a temporary work-at-home agreement is not necessary under this type of arrangement.

¹ If appropriate due to exceptional circumstances, this authority also may apply to alternate locations other than the employee's home.

3. Upon return, the employee must certify to the supervisor in writing (via memorandum or e-mail message) that he or she worked the specified scheduled number of hours while off-site.

B. Work-at-Home as a Temporary Accommodation. A Division Director, Office Director, Regional Director, or District Administrator (with the approval of the Regional Director) may request authorization from the Associate Executive Director, Office of Administrative and Personnel Management (OAPM), for an employee to work-at-home for a more extended and/or continuous period of time where the agency needs the continued services of the employee. This authority may be used to maintain an employee in a productive work arrangement in situations where the employee otherwise would be on approved leave, so as to accommodate an employee's temporary medical condition. It also may be used where the employee needs to care for a family member in a medical situation such as those that qualify under the Family and Medical Leave Act, as long as the care-giving situation is not of a duration and frequency so as to be incompatible with the efficient accomplishment of duties and the official work schedule. The maximum length of time per authorization is 160 hours.

1. In the memorandum of request, the requesting official must certify that:

a. The work is of significant importance to the Commission (provide a brief description);

b. The employee is the only person who can perform the work without having to familiarize or train another employee, which would delay progress; and

c. The employee agrees to sign a temporary work-at-home agreement (see Attachment 1).

2. Approval will be based on the following criteria:

a. A decision to approve the request would primarily benefit the agency by assuring mission accomplishment;

b. The circumstances of the situation that require absence from the official work site would not interfere with the efficient accomplishment of duties and adherence to the official work schedule; and

c. The employee is able to continue to perform the primary functions of his or her position away from the SEC worksite and would be doing largely what he or she would have been doing during that time if working on-site. It must be recognized that there are certain duties that clearly cannot be performed if the employee is not physically located at the normal worksite. This authority is not appropriate for use if working from home would create fundamental changes to, or prevent performance of, any critical duties of the position as determined by management.

5. FLEXIPLACE PILOT PROJECT.

A. Flexiplace pilot projects may be proposed by Division Directors, Office Directors, Regional Directors, or District Administrators (with the approval of the Regional Director) for all or part of their organizations. Flexiplace may use one or both of the following locations:

1. Employees' homes, in space specifically set aside as an office work area; and/or
2. Satellite facilities close to employees' residences, in office space owned or leased by one or more agencies.

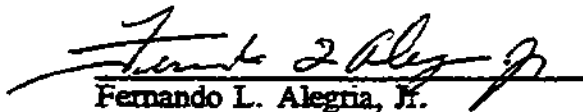
B. Flexiplace pilot projects should involve a limited number of employees. A flexiplace pilot plan must first be developed in conjunction with OAPM. The plan should cover the types of positions to be included, work schedules and locations, performance issues, time and attendance issues, facilities issues, telecommunications and equipment issues, security issues, and required orientation to and evaluation of the pilot. Each employee participating in a pilot project will be required to sign a flexiplace agreement (which will be developed specifically for the pilot) and adhere to the provisions outlined in the pilot operating plan.

C. Participation in flexiplace is voluntary for both employees and their supervisors. Supervisors and employees electing to participate agree to remain in the program for a minimum of 90 calendar days; thereafter, during the one-year pilot, either party may terminate the program with two weeks notice, unless the parties agree to a shorter notice period.

D. Attachment 2 provides general selection criteria for participants in a flexiplace pilot program, which may be amended in a specific pilot operating plan for a project.

E. The pilot flexiplace plans must be submitted through appropriate supervisory channels to OAPM. The plans will be evaluated by an executive committee, and a recommendation for approval, approval with modifications, or disapproval will be forwarded to the Executive Director for a final decision.

6. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

1/20/95
Date

Attachments:

1. Temporary Work-at-Home Agreement
2. Flexiplace Pilot Participant Criteria

Attachment 1 to POPPS 610.B

TEMPORARY WORK-AT-HOME AGREEMENT

The following constitutes an agreement between:

("Employee")

and

U.S. Securities and Exchange
Commission ("Agency")

with respect to the attached request dated _____ to authorize the
employee to temporarily work at home.

1. The employee and the agency agree that this temporary work-at-home arrangement:
 - a. is a voluntary and cooperative arrangement, not an entitlement;
 - b. is temporary (i.e., not to exceed 160 hours); and
 - c. can be terminated at any time by either the agency or the employee.
2. The employee and the agency agree to adhere to federal laws and regulations concerning flexiplace.
3. The employee's official work schedule is _____ hours per pay period, and hours in pay status under this agreement may not exceed that number. No overtime or compensatory time will be granted for work performed at home. The employee will certify at the end of each pay period the number of hours worked each day during that pay period, and will submit leave slips for all approved periods of leave as soon as practical.
4. The employee's official tour of duty will be flexible, provided that the employee will be available for telephone consultation from _____ a.m. to _____ p.m. on all scheduled work days, unless an exception is approved in advance by the supervisor.
5. The employee's official duty station is 450 5th Street, N.W., Washington, D.C. or _____ . The alternate duty station is:

All pay, special salary rates, leave, and travel entitlements will be based on the employee's official duty station.
6. The employee's timekeeper will record his or her time and attendance as performing official duties at the official duty station.
7. The employee will be in a pay status while working at his or her residence.
8. The employee agrees to maintain appropriate child or elder care arrangements during work hours to ensure adherence to the work schedule without disruptions.

Work-At-Home Agreement for _____
Page 2

9. The employee will apply approved safeguards to protect agency records from unauthorized disclosure or damage and will comply with all applicable requirements set forth in the Privacy Act of 1974.
10. The employee and supervisor agree to promptly complete and submit an evaluation of the arrangement to OAPM following completion of the work-at-home arrangement.
11. The employee agrees to use his or her own available equipment, phone lines, and utilities without reimbursement by, or liability to, the agency. The agency agrees to furnish the following for temporary use^{1/}:

12. The agreement is only valid between _____ and
_____.

Employee

Date

Immediate Supervisor

Date

Division Director, Office Head, or Regional Director

Date

Associate Executive Director, OAPM

Date

^{1/} Agency equipment is normally limited to a laptop computer, if required, but other equipment may be supplied if readily available. The employee will assume responsibility for the equipment the same as if he or she were using SEC equipment on travel or at other off-site locations.

Attachment 2 to POPPS 610.B

**General Selection Criteria
for Flexiplace Pilot Participants**

1. Identifying the Position

- Work activities are portable and can be performed effectively outside the office (e.g., reading, writing, research, processing).
- Job tasks are easily quantifiable or primarily project-oriented.
- Contact with other employees and external customers is predictable.
- Technology needed to perform the job off-site is currently available.
- Security of data, including sensitive and Privacy Act material, can be adequately assured. **NO CLASSIFIED MATERIAL CAN BE TAKEN OFF-SITE.**
- Face-to-face contact with co-workers, other employees and agencies, and the public can be adequately readjusted to allow for telephone communications and/or times that the employee is at the conventional office.
- Access needs to reference materials can be grouped and scheduled when employee is at the office.
- Travel can begin and end from the home or alternate office.

2. Identifying the Employee

- The employee is highly motivated and has demonstrated self-starter characteristics, good time management skills, and dependability.
- The employee can function independently and can deal with isolation from co-workers for a portion of the work week.
- The employee is experienced in the job, has a full understanding of the organization, and has the necessary knowledge to work at home or at an alternate work site without frequent or close supervision. (The employee may not be a probationary employee or have significant performance weaknesses.)
- The employee's overall performance evaluations demonstrate consistently solid performance.
- The employee satisfies adequate home work station requirements, including necessary equipment (the SEC may provide limited equipment if needed), privacy, security, and lack of interruptions.
- The employee is able to maintain appropriate dependent care arrangements during work hours, since studies have shown that work at home and child or elder care are generally incompatible.

3. **Identifying the Supervisor**

- The supervisor volunteers and believes that flexiplace is appropriate for the targeted position(s).
- The supervisor is willing to experiment and work through any difficulties or obstacles that may occur.
- The supervisor is comfortable with evaluating work performance by its results and without direct observation.
- The supervisor is able to clearly define tasks and expectations and generally is effective in communications.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management

POPPS 6-610.C
January 20, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 610.C

COMPRESSED WORK SCHEDULES

1. **PURPOSE.** This chapter establishes SEC policies and procedures for administering authorized compressed work schedule programs.

2. **POLICY.** The SEC permits compressed work schedules only in certain limited circumstances where such use has been approved by the Executive Director to enhance customer service, reduce overtime or other costs, and/or increase operational efficiency and effectiveness.

3. **SCOPE.**

A. The Executive Director has authorized 5-4-9 compressed work schedule plans submitted by offices with organizational units at the SEC Operations Center and Annex in Alexandria, Virginia and within the Facilities and Printing Branches of the Office of Administrative and Personnel Management (OAPM). This chapter applies to employees within those organizational units who are on compressed schedules. Employees who are on flexitour schedules (a pre-approved established eight hour work schedule Mondays through Fridays, with hours that vary from the official business hours) or continuing to work official business hours should refer to POPPS Chapter 610.A, Alternate Work Schedules.

B. This chapter also provides the requirements for divisions and offices that wish to submit a plan proposing to work 5-4-9 schedules where such authority, if approved, would result in better service or productivity and/or reduced costs.

4. **AUTHORITIES.** The laws and regulations with which agencies must comply are: Public Law 99-196; Public Law 97-221; 5 USC Chapter 61, Subchapter II; 5 CFR Part 610; and FPM Supplement 990-2, book 620.

5. **COMPRESSED WORK SCHEDULES.**

A. Compressed 5-4-9 Schedules. Authorized offices may offer 5-4-9 compressed work schedules in combination with or in lieu of flexitour schedules. In those offices, employees may request a fixed, non-flexible schedule that includes nine work days each biweekly pay period, and one day off. Eight of the work days are required to be nine hours plus lunch period and one is eight hours plus lunch period. The 5-4-9 schedule is the only compressed work schedule permitted.

B. Parameters for Approving Compressed Schedules. Depending on its mission needs, an office may: establish consistent arrival and departure times for all participants; require attendance during all official business hours with the remaining hour used to provide varying scheduled arrivals; or allow employees to request set work hours within a range of hours similar to those comprising the flexible bands for flexitour schedules. In scheduling

employees' designated days off, an office must ensure adequate coverage with no less than 75% of its staff scheduled for each regular work day.

C. Use of Credit Hours Not Permitted. Employees on compressed work schedules may not earn or use credit hours, as described in POPPS Chapter 610.A. However, approved compensatory time may be earned and used in accordance with established policy (see POPPS Chapter 630.B). Occasional temporary substitutions of non-scheduled work days for scheduled days may be made at the request of the supervisor for a valid work-related reason, or at the request of the employee with prior supervisory approval. Such substitutions may not be made: (1) to exchange non-working days with scheduled work days that are contiguous to holidays; or (2) during periods of traditionally heavy leave usage, such as around the end of the year holiday period.

D. Annual and Sick Leave. The maximum amount of leave taken for a particular day is the number of work hours scheduled for that day.

E. Holidays and "In-Lieu" Days.

1. "In-lieu" days are those days off that are scheduled instead of a holiday, or rescheduled to change the normal day off to another day when the employee must attend a conference, training course, external meeting, or other significant event that is impractical to reschedule. "In-lieu" days (except for holidays which are determined by regulation) must be worked out in advance, normally before the beginning of the pay period in which the "in-lieu" day falls, to provide as much notice as possible. There is no "in-lieu" day granted when administrative leave is approved because of adverse weather conditions or other emergency conditions on an employee's non-work day.

2. Employees on a 5-4-9 schedule are paid for the same number of hours on a holiday as they are normally scheduled to work (i.e., 8 or 9 hours); the work schedule may not be adjusted during a pay period containing a holiday for the purpose of receiving 9 hours for the holiday.

3. If a regularly scheduled federal holiday falls on an employee's non-work day, the legal public holiday must be taken on the work day immediately before the regular weekly non-work day. One-time federal holidays created by Executive Order or other temporary authority, depending on the specific language, may or may not create the right to an "in-lieu" day. In those instances, employees will be provided separate instructions.

F. Scheduling Expectations. Employees approved to work 5-4-9 schedules are expected to schedule personal appointments on their non-work day whenever possible to minimize short-term absences (e.g., several hours' duration) during their compressed work week.

G. Administrative Leave. When an employee is excused from work for a full day due to emergency situations or other reasons (court leave, military leave, etc.), the amount of leave to be granted is based on that employee's regularly scheduled hours for that day. Employees who are not scheduled to work on that day are not entitled to any administrative leave.

H. Time Accounting.

1. Chronological (serial) sign-in/sign-out sheets must be used to record the times of arrival and departure for all employees on compressed schedules, unless an alternative procedure for use agency-wide or upon specific request has been approved by the Office of the Comptroller, in consultation with OAPM. All requests for an exception to the time accounting procedures must be submitted through supervisory channels for approval and be accompanied by a written justification. Employees must sign the log personally at the time of arrival (i.e., actually beginning to work) and time of departure.

2. The supervisor will review approved work schedules, leave slips, overtime forms (SEC 1749), and sign-in/out logs when certifying the accuracy of time and attendance records. Leave usage and earning of overtime and compensatory hours will be in accordance with applicable established policy.

6. **REQUESTS FOR 5-4-9 COMPRESSED SCHEDULE AUTHORITY.**

A. Submission of Compressed Work Schedule Plans. An office requesting to offer any compressed schedules must submit a plan outlining the justification for implementing 5-4-9 schedules within the organization and the parameters of the proposed program to the Associate Executive Director, OAPM. The plan, signed by the Office Head, must contain at least the following:¹

1. Organizational units and components covered by the plan;
2. Specific compressed schedules permitted or required, as well as options for flexible schedules;
3. Prohibitions or exclusions of positions or groups of positions from participation, with a brief justification of each;
4. Limitations or conditions imposed beyond those specified in this policy, with a brief justification of each, or requested exceptions to any provisions of this policy; and
5. Methods and criteria for program evaluation, as well as the designated management official to administer and evaluate the program.

B. Review of Compressed Work Schedule Plans.

1. Each proposed plan will be reviewed by the Associate Executive Director, OAPM for technical and compliance issues and forwarded to the Executive Director for approval, approval with modifications, or disapproval.

2. If approved, the original plan will be maintained in OAPM, and copies will be sent to the requesting office and to the Comptroller's Office. Upon initial implementation, the Office Head shall send OAPM a summary of the numbers of employees who will work compressed, flexitour, and official business hour schedules.

¹ Contact OAPM for a sample plan and supplementary materials.

7. **PROGRAM EVALUATION AND REPORTS.**

A. Program Review.

1. Approximately three months prior to the end of the first year of operation, heads of offices must evaluate their compressed schedule programs in accordance with their plan criteria to determine the positive and negative impacts on factors such as productivity, employee job satisfaction, service to the public or its customers, and operating costs. Based on the results of the evaluation, they must decide whether to recommend continuation, modification, or termination of programs within their organizations. If the recommendation is to modify the plan, the modifications should be submitted for approval.

2. Results of the evaluation of the first year's program and the office's recommendations for any changes to the plan shall be submitted to the Executive Director 60 days prior to the expiration of the plan. The Executive Director and Associate Executive Director, OAPM will review these findings, conduct any supplemental evaluations deemed necessary, recommend any revisions to agency policy or procedures, and make a decision as to whether to accept the office's recommendations.

3. In subsequent years, office compressed work schedule programs should be evaluated periodically. Only proposed changes to an office's basic plan need to be submitted to the Associate Executive Director, OAPM.

4. The Executive Director or Associate Executive Director, OAPM will conduct periodic independent program evaluations as necessary for overall program management. In addition, other reports may be necessary to respond to special requests from oversight agencies, such as the Office of Personnel Management or General Accounting Office, or from members of Congress.

B. Modifying or Terminating Program Participation.

1. Compressed work schedule programs may be terminated or substantially modified, with the Associate Executive Director's concurrence and one month's notice to employees, in response to: documented program evaluations; significant non-compliance with plan provisions and agency requirements, including time and attendance and payroll records; or management determinations that the compressed schedules have caused:

- a. Substantial disruption in carrying out office functions;
- b. Increases in the cost of operations, other than reasonable administrative costs;
- c. Reductions in productivity; or
- d. Diminished level of service to the public or other external constituencies.

2. Individual employee participation in a compressed schedule may be terminated because of a need to provide office coverage, adverse impact on efficiency of unit operations, degradation in employee performance to below the fully successful level, or employee violation of plan provisions. The employee must receive a written explanation for

the schedule termination and a notice period of at least two weeks, during which time the employee may respond to the reasons cited. An employee whose participation is terminated for non-adherence to the plan provisions may not reapply for a period of six months, and he or she also could be subject to disciplinary action if circumstances warrant.

3. An employee whose request has been denied, substantially modified, or terminated (or whose position specifically has been excluded from participation in a unit's plan if inconsistent with the treatment of similar positions) may pursue the matter through the SEC's internal grievance procedure (see POPPS Chapter 771.A). The SEC's policy and management decisions on the parameters of an office's plan, coverage requirements, and participation limits for groups of positions are not grievable.

8. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Administrative and Personnel Management.



Fernando L. Alegria, Jr.
Associate Executive Director
Office of Administrative and Personnel Management

1/20/95
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 630.B
January 17, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 630. B

COMPENSATORY TIME

1. **PURPOSE.** This chapter sets forth the SEC's policies and procedures for approving and using compensatory time.

2. **BACKGROUND.**

A. The SEC's comprehensive policy on leave administration is contained in section 630 of the SEC Manual of Administrative Regulations. Detailed instructions for implementing those regulations are contained in the Time and Attendance Handbook, SECHDBK 15-1, issued by the Office of the Comptroller. This POPPS chapter is issued to update the portion of the 1977 leave administration regulations dealing with compensatory time only.

B. Since the 1977 leave administration regulations were written, the SEC's staffing pattern and grading structure have been modified significantly. The prior policy prohibited the granting of overtime or compensatory time, other than for religious observances, for professionals and administrative staff above grade GS-13. At that time, the GM distinction did not exist and all persons above GS-13 were supervisors, managers or executives. In contrast, the SEC now has a significant number of non-supervisory employees at the GS/GM-14 or GS/GM-15 grade level. Under the language in the 1977 regulations, those persons would be precluded from earning overtime or compensatory time, while their GS-13 colleagues working with them on the same urgent projects could earn compensatory time.

C. This policy issuance corrects that inequity and also extends the granting of compensatory time to GM-14 or GM-15 supervisors and managers as well as to GS-14 or GS-15 staff persons.

3. **SCOPE.** This chapter applies to all employees who are exempt from the Fair Labor Standards Act (FLSA) and employees who are covered by the FLSA (that is non-exempt employees) when the non-exempt employee specifically requests compensatory time in lieu of overtime.¹ Unless the non-exempt employee requests

¹ Each employee's status as "exempt" (E) from FLSA provisions or "non-exempt" (N) (i.e. covered by FLSA provisions) is shown on the employee's bi-weekly Earning and Leave Statement in the block marked "FLSA". Generally, employees in GS-1 through GS-8 positions (most administrative support and clerical positions) are non-exempt. The FLSA provides certain protections, requirements, and restrictions on work schedules and compensation for covered employees. See also POPPS Chapter 551.A.

compensatory time in lieu of overtime, the non-exempt employee must be paid overtime rather than given compensatory time. SES members are excluded from earning premium pay (5 U.S.C. 5541(2)(xvi)) but are eligible to earn and use compensatory time for religious purposes (62 Comp. Gen. 589).

4. POLICY.

A. General Policy.

1. Employees occupying professional or supervisory positions are expected to have a sufficient interest in completing their work assignments on a timely basis or in keeping their workload reasonably current by performing voluntary work outside of regular work hours, on their own initiative, whenever it is necessary. Accordingly, as a general rule, overtime work will not be ordered or approved for professional, administrative and technical employees in grades GS-9 to GS/GM-15, where the only reasons for such overtime is to perform continuing regular work assignments.

2. Ordered overtime work for employees in grades GS-9 to GS/GM-15 must be for a specific work project where the supervisor has determined that time is of the essence and it must be completed by a specific deadline.

B. Compensatory Time vs. Overtime Pay.

1. Professional Employees. All employees in grades GS-11 to GS/GM-15 will be expected to take compensatory time off in lieu of paid overtime when they are ordered to work overtime.² The only exception to this policy is when those employees are ordered to work on a holiday because the agency mission requires program staffing (e.g. Market Regulation staff who must be present on Columbus Day because the Markets are open even though the SEC is closed for the federal holiday). In this situation, the agency is required to pay those persons holiday premium pay for work performed during the employee's normal tour of duty, and any work performed outside the employee's normal tour of duty is subject to the basic overtime or compensatory time entitlements described in this chapter. Any employee performing work on a holiday is entitled to pay for at least two hours of work, even if his or her actual period of work was less than two hours.

² See paragraph 10 for guidance on scheduling overtime work for the purpose of accumulating compensatory time to be used for observance of religious holidays.

³ 5 U.S.C. 5543 gives the head of each agency the authority to require that an employee be granted compensatory time equal to the amount of time spent in overtime work instead of being paid for the work under 5 U.S.C. 5542. The overtime hourly rate is limited to one and one-half times the hourly rate of a GS-10 step 1.

2. **GS-8 to GS-10 Exempt Employees.** Employees in grades GS-8 to GS-10 who are not covered by the FLSA may elect to receive compensatory time off or overtime pay when the supervisor orders them to work in excess of 40 hours in an administrative work week,⁴ or in excess of their normal tour of duty.

3. **Non-Exempt Employees.** Employees covered by the FLSA must be paid overtime, unless they specifically request compensatory time, when ordered to work overtime or allowed to work more than 40 hours in an administrative work week or in excess of eight hours in a day.⁵ This paragraph does not supersede the more detailed overtime regulations set forth in SECHDBK 15-1. See that handbook for additional guidance on this issue.

5. **AUTHORITIES.** 5 U.S.C. 5541-5550 and 29 U.S.C. 201-219.

6. **APPROVAL AND DOCUMENTATION.**

A. Division Directors, Office Heads, and Regional Administrators have the authority to approve compensatory time. That authority may be further delegated to such management or supervisory officials under their jurisdiction as they deem appropriate. Such redelegation must be in writing and should indicate positions rather than merely naming individuals. Therefore, the redelegated authority is retained with the position even when there is a change of supervisory persons because of turnover or staff movement. A copy of the written redelegation or subsequent changes shall be submitted to the Office of the Comptroller.

B. Compensatory time or overtime for exempt employees is only appropriate where a supervisor affirmatively orders the exempt employee to work beyond the normal work hours for a specific work project where the supervisor has determined that time is of the essence and the work must be completed by a specific deadline. Compensatory time must be ordered and approved before an employee actually works the additional hours and performs the specified work. Approved compensatory time must be fully documented on form SEC 1749 before the end of the pay period in which the compensatory time is worked. Work voluntarily performed is not compensable as overtime or compensatory time.⁶

7. **RECORD KEEPING.** For instructions on proper recording of compensatory time in official time and attendance recording systems, follow the directions contained in the Time and Attendance Handbook, SECHDBK 15-1.

⁴ An administrative workweek is a period of seven consecutive calendar days within which the basic workweek is scheduled.

⁵ If an employee's normal tour of duty is longer than 8 hours per day, he or she must work beyond his or her normal duty hours to be eligible for overtime pay.

⁶ All voluntary work should be recorded as donated hours on the employee's weekly STATS submission.

8. LIMITATIONS ON ACCRUING COMPENSATORY TIME.

A. Bi-Weekly Pay Period Accrual Limitations.

1. There are restrictions on the amount of overtime pay and/or compensatory time that an employee may earn during any single bi-weekly pay period. Statute (5 U.S.C. 5547) limits an employee's aggregate bi-weekly base pay plus premium pay, including compensatory time, to the maximum bi-weekly basic pay rate of a GS-15. The maximum is the same for both GS and GM employees. The bi-weekly limitation does not apply to compensatory time earned for religious purposes. See also paragraph 10.

2. If the employee uses the compensatory time as it is earned so that the carry over balance from one pay period to the next never exceeds 40 hours, the approval of the Division Director, Office Head, Regional Administrator, or his/her designee is all that is required.

3. In unusual cases, the Division Director, Office Head, or Regional Administrator may request, from the Office of the Comptroller, an exception to the 40 hour limit. With the approval of the Comptroller's Office, the maximum accumulation may be raised to 80 hours of compensatory time to carry over from one pay period to the next. Supervisors who want to request such an exception should make that request in writing through their Division Director, Office Head, or Regional Administrator. Documentation of approval to exceed the 40 hour pay period accrual limitation must be attached to the employee's form SEC 699 (Time and Attendance Record).

B. Leave Year Accrual Limitations.

1. The number of compensatory hours an employee is allowed to earn in a single leave year is normally limited to 60 hours.

2. In unusual circumstances (e.g. a heavy litigation case load), the Division Director, Office Head, or Regional Administrator may approve up to a maximum of 120 hours of compensatory time earned for an employee in one leave year, as long as approval for any balance that exceeds 40 hours at the end of any pay period is first obtained from the Office of the Comptroller. Documentation of approval to exceed the 60 hour leave year accrual limitation must be attached to the employee's form SEC 699 (Time and Attendance Record).

⁷ A schedule of the number of compensatory hours that can be earned bi-weekly at different pay levels is updated annually and distributed by the Office of the Comptroller as an attachment to the SEC Time and Attendance Manual. The current schedule of earnings limitations is reprinted as Attachment 1 to this chapter. Each employee is subject to this statutory limitation whether or not a current schedule has been made available.

9. LIMITATIONS ON USING COMPENSATORY TIME.

A. **Scheduling Compensatory Time vs. Annual Leave.** An employee must use compensatory time before charging absences to annual leave, except when the employee has annual leave that would be forfeited and it is pay period 18 or later in the leave year.

B. **Carry Over and Forfeiture.** All compensatory time earned and used will be applied on a first-in/first-out (FIFO) basis. Compensatory time earned in one leave year should be used during that same leave year if at all possible, but it may be carried over into the following leave year. If not used during the carry over leave year, it must be used before the end of the second pay period in the second carry over year. Compensatory time not used by the end of the second pay period of the second carry over year will be forfeited, without exception.

10. COMPENSATORY TIME FOR RELIGIOUS PURPOSES.

A. **Advance compensatory time for religious purposes** is granted as a general policy of the SEC. Such time must be requested in writing, approved in advance and documented on form SEC 1749 (Request for Overtime and Approval). The approved request must be maintained with the employee's Time and Attendance records and a copy of that approval must be forwarded to the Office of Human Resources Management.

B. **Managers and supervisors must ensure that compensatory time off** has been earned within a reasonable amount of time either in advance or after the observation of the scheduled religious activity. At the time employees earn compensatory time for a religious observance, they must specify the holiday for which the time will be used. Compensatory time worked for religious purposes may involve routine work and need not meet the usual criteria for approving compensatory time.

C. **Compensatory time for religious purposes is not subject to the aggregate bi-weekly pay cap limitation.** Therefore, compensatory time for religious purposes is considered a separate balance, distinct from compensatory time ordered for work on time sensitive projects. However, each employee's combined bi-weekly accumulation of compensatory time is limited to 40 hours, unless approved in advance by the Comptroller's Office as described in section 8.A.3. of this POPPS chapter. There are no leave year accrual limitations on compensatory time for religious purposes.

11. EFFECTS ON OTHER DOCUMENTS.

A. This chapter supersedes Sections 630.17-19, dated February 14, 1977, of the Manual of Administrative Regulations, Vol. II.

B. It should be read in conjunction with:

1. Time and Attendance Handbook, SECHDBK 15-1
2. Manual of Administrative Regulations

12. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Employee Development and Performance Management Branch in consultation with the Office of the Comptroller.


John Innocenti, Director
Office of Human Resources Management

1/17/92
Date

Attachment:

1. Compensatory Time Earned Maximum Credit in a Bi-weekly Pay Period

POPPS 630.B April 15, 1999

Attachment 1 [Reprint] Effective January 3, 1999 for the 1999 Leave Year

SECHDBK 15-1, Attachment 19, March 18, 1999

A19-1

GENERAL INCREASE OF 3.10%

**COMPENSATORY TIME EARNED MAXIMUM CREDIT
IN A BI-WEEKLY PAY PERIOD**

Pursuant to the Federal Employees Pay Act of 1945, as amended, additional salary (night pay differential, overtime pay, and compensation for holiday work) provided by the Act may be paid only to the extent that it does not cause the aggregate compensation for a bi-weekly pay period to exceed the rate of \$97,201.00 per annum or \$3,725.60 per bi-weekly pay period. No premium payments or compensatory time off may be granted to employees whose rate of basic compensation equals or exceeds \$97,201.00.

Under Title 5 U.S.C. 5550a, Congress provided a mechanism whereby all employees can earn and use compensatory time for the fulfillment of their religious obligations without being forced to lose pay or use annual leave. Compensatory time off for religious observances is not premium pay under Title 5, U.S.C. and is not subject to the aggregate salary limitations described in this attachment.

There follows a table which may be used as a guide by timekeepers in reporting compensatory time worked. In crediting compensatory time, consideration must also be given to mandatory holiday pay or overtime pay, if any, which would increase the bi-weekly rate for that period in excess of the maximum allowable cannot be approved.

Grade-Step	Annual Salary	Bi-Weekly Rate	Maximum Compensatory Hours That May Be Credited in a Pay Period
GS-15 (9)	94,709	3,630.40	2
(8)	92,217	3,535.20	4
(7)	89,725	3,439.20	6
(6)	87,233	3,344.00	9
(5)	84,741	3,248.00	11
(4)	82,249	3,152.80	14
(3)	79,757	3,057.60	17
(2)	77,265	2,961.60	20
(1)	74,773	2,866.40	23

SECHDBK 15-1, Attachment 19, March 18, 1999

A19-1

Grade-Step	Annual Salary	Bi-Weekly Rate	Maximum Compensatory Hours That May Be Credited in a Pay Period
GS-14 (10)	82,638	3,168.00	14
(9)	80,519	3,086.40	16
(8)	78,400	3,005.60	19
(7)	76,281	2,924.00	21
(6)	74,162	2,843.20	24
(5)	72,043	2,761.60	27
(4)	69,924	2,680.00	31
(3)	67,805	2,599.20	34
(2)	65,686	2,517.60	38
(1)	63,567	2,436.80	42
GS-13 (10)	69,930	2,680.80	31
(9)	68,137	2,612.00	34
(8)	66,344	2,543.20	37
(7)	64,551	2,474.40	40
(6)	62,758	2,405.60	43
(5)	60,965	2,336.80	47
(4)	59,172	2,268.00	51
(3)	57,379	2,199.20	55
(2)	55,586	2,130.40	59
(1)	53,793	2,062.40	64
GS-12 (10)	58,808	2,254.40	52
(9)	57,300	2,196.80	55
(8)	55,792	2,138.40	59
(7)	54,284	2,080.80	63
(6)	52,776	2,023.20	67
(5)	51,268	1,965.60	71
(4)	49,760	1,907.20	76
GS-11 (10)	49,066	1,880.80	78

1/Compensatory leave balance at any time cannot exceed 40 hours.
Any exception must be approved by the Office of the Comptroller
prior to work being performed, and if approved, cannot exceed
the bi-weekly maximum allowable hours as shown.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 630.C
June 28, 1995

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 630.C

VOLUNTARY LEAVE TRANSFER PROGRAM

1. **PURPOSE.** This chapter sets forth the policy and procedures for the Voluntary Leave Transfer Program, which assists employees who need leave because of a medical emergency. It supersedes POPPS Chapter 630.C dated July 16, 1992, and its attachments, and contains new statutory and regulatory requirements, as well as operational changes.
2. **POLICY.** SEC employees who have exhausted their accrued leave balances may apply for donated annual leave because of a medical emergency, or may donate *unused accrued annual leave* to SEC employees or other eligible federal employees who have a medical emergency, in accordance with the requirements of this chapter.
3. **AUTHORITIES.** Public Law 103-103, Federal Employees Leave Sharing Amendments Act of 1993, dated October 8, 1993; 5 CFR Part 630, Subpart I (final regulations effective January 30, 1995).
4. **SCOPE.** This chapter applies to all SEC employees (except presidential appointees) who are entitled to accrue leave under 5 U.S.C. 6301(2), including both full-time and part-time employees.
5. **DEFINITIONS.**
 - A. **Available paid leave.** Accrued or accumulated annual or sick leave. Available paid leave does not include annual or sick leave advanced to an employee.
 - B. **Family member.** The following relatives of the employee: (1) spouse, and parents of the spouse; (2) children, including adopted children, and spouses of children or adopted children; (3) parents; (4) brothers and sisters and their spouses; and (5) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
 - C. **Leave donor.** An employee whose voluntary written request for transfer of annual leave to the annual leave account of an approved leave recipient has been approved by his or her employing agency.

D. **Leave recipient.** 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.

E. **Medical emergency.** A medical condition of an employee or a family member of an employee that is likely to require the 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.

F. **Paid leave status.** The administrative status of an employee while using accrued or accumulated annual or sick leave.

G. **Transferred leave status.** The administrative status of an employee while using transferred leave under this program.

6. LEAVE RECIPIENT APPLICATION AND APPROVAL PROCEDURES.

A. An employee must complete all items on SEC 2391, Application to Become a Leave Transfer Recipient (Attachment 1) and submit the package to the Employee Relations and Development Branch of OAPM. If an employee is not capable of applying to become a leave recipient due to the medical emergency, a personal representative may make written application on the employee's behalf.

B. The following items must be submitted with the application:

1. A doctor's statement briefly describing the nature, severity, and the anticipated duration of the medical emergency. If the medical emergency is recurring, the doctor's statement should address the approximate frequency that the medical emergency will affect the potential leave recipient; and

2. A copy of the employee's earning and leave statement, or a printout from the Electronic Time and Attendance System showing his or her current leave balances. All available paid leave must be used before an employee may receive donated leave.¹

C. OAPM shall review the potential leave recipient's application and accompanying information to determine that the potential leave recipient has been affected by a "medical emergency." If OAPM requires that a potential leave recipient obtain certification from two or more sources, the Agency shall ensure, either by direct payment to

¹ An employee whose medical emergency is based on his or her own medical situation must have used all accrued annual and sick leave. An employee whose medical emergency is based on the illness or disability of a family member must have used all accrued annual leave as well as the maximum amount of sick leave permissible for him or her under the Family Friendly Leave Act of 1994.

the expert involved or by reimbursement, that the potential leave recipient is not required to pay for the expenses associated with obtaining certification from more than one source.

D. Before approving an application, OAPM shall determine whether the absence from duty without available paid leave is likely to result in a substantial loss of income. This determination is based solely on whether the absence from duty without available paid leave is (or is expected to be) at least 24 hours (or, in the case of a part-time employee or an employee with an uncommon tour-of-duty, at least 30 percent of the average number of hours of work in the employee's bi-weekly scheduled tour-of-duty).

E. OAPM shall notify the employee (or the personal representative who made application on behalf of the leave recipient) within 10 working days (excluding legal public holidays) after the date the application was received of the approval or denial of the application, or of the need for additional medical documentation. This normally will be done via a copy of the application form.

F. An employee may apply retroactively to become a leave recipient within 60 days of the employee's return to duty following his/her absence due to the medical emergency. Once the employee returns to duty, only the advanced leave or leave without pay that actually was used, if it totalled at least 24 hours, is eligible to be replaced by donated leave.

G. If approved, a copy of the application form will be given to the Office of the Comptroller for verifying and adjusting the leave account of the recipient.

H. With recipients' authorization, the names of approved leave recipients will be posted on the Voluntary Leave Transfer Program electronic bulletin board, as well as posted in paper form in areas without ready access to the e-mail system². If a recipient's administrative contact wishes to circulate a separate memorandum on behalf of the recipient (with the employee's approval), the memorandum must first be cleared by OAPM.

I. Approved leave recipients must follow normal procedures for requesting and obtaining approval for leave from their supervisors. OAPM shall monitor the status of the leave recipient's medical emergency to ensure that the leave recipient continues to be affected by the medical emergency and may request additional medical documentation if necessary at any time.

7. TERMINATION OF MEDICAL EMERGENCY.

A. The leave recipient must promptly inform OAPM in writing of the date he or she returns to duty and identify him/her self in one of the three following situations:

² Employees who do not wish to have their names published will be responsible for soliciting donations from other federal employees on their own.

1. The medical emergency has ended and there is no need for transferred leave; or
 2. The medical emergency has ended, but the employee has a current negative leave balance (from advanced annual or sick leave) or has several hours of leave without pay (LWOP). The employee must state how many hours he/she is in need of and attach a current earning and leave statement or time and attendance printout documenting the situation. He or she will be allowed to continue as an approved leave recipient for up to 90 days after returning to duty, in order to have an opportunity to receive additional donated leave to eliminate his/her indebtedness to the Agency; or
 3. The medical emergency has not ended, but is on-going due to a terminal or long-term illness. The memorandum must describe the circumstances and be supported by medical documentation (supplemental to the original documentation). The employee may be authorized to remain as an approved leave recipient during intermittent absences. OAPM may at any time request an updated or current report from the employee's physician, to determine if the employee is still affected by a medical emergency, but the employee must furnish medical documentation every six months to remain eligible for donated leave. In an on-going medical emergency, the employee must first use any available accrued leave. Only hours of advanced leave or leave without pay may be replaced by donated leave.
- B. The medical emergency is deemed to be terminated, and no more donated leave may be transferred, as of the earliest of the following:
1. The date of the employee's separation from federal service;
 2. The end of the pay period following the SEC's receipt of notification from the Office of Personnel Management that the employee's disability retirement application has been approved;
 3. The end of the pay period following the employee's return to duty date, if the medical emergency has ended and the employee does not have LWOP or negative leave balances; or
 4. The end of the pay period following written notification that the agency has made a determination that the medical emergency has ended, following an advance notice and an opportunity for the employee (or, if appropriate, the personal representative) to respond orally or in writing. For example, this may occur: upon the employee's receipt of adequate donated leave to cancel any indebtedness of leave and/or LWOP; after a maximum of 90 days after the employee's return to duty; or because of inadequate medical documentation of a continued medical emergency.

8. SEC DONOR APPLICATION AND APPROVAL PROCEDURES.

A. An SEC employee may donate *unused, accrued annual leave* to another SEC employee by completing all items on SEC 2330, Request To Donate Annual Leave To An SEC Leave Recipient (Attachment 2), and forward the completed form to the Employee Relations and Development Branch of OAPM.

B. OAPM shall review and approve/disapprove all donations. If a donation is **disapproved**, the donor will be notified in writing by the Employee Relations and Development Branch of OAPM.

C. If the donation is **approved**, the Office of the Comptroller will be responsible for notifying the donor of this approval by sending a copy of the form back to the donor. The Office of the Comptroller will also be responsible for: 1) verifying and transferring the annual leave in both the donor's and recipient's accounts, as appropriate; and 2) notifying by standard memorandum the recipient and the timekeepers of the adjustments made in the Electronic Time and Attendance System.

9. INTERAGENCY DONOR APPLICATIONS FROM SEC EMPLOYEES.

A. An SEC employee may donate *unused, accrued annual leave* to an employee of another federal agency. The SEC donor must complete all items on SEC 2392, Interagency Donation of Annual Leave (Attachment 3) and forward the form to the Employee Relations and Development Branch of OAPM.

B. OAPM shall call the other agency to verify if the recipient is an approved leave recipient. If so, the employing agency will be asked to mail or fax a copy of the recipient's approval form.

C. OAPM shall review and approve/disapprove all donations. If a donation is **disapproved**, the donor will be notified in writing by the Employee Relations and Development Branch of OAPM.

D. If the donation is **approved**, the Office of the Comptroller will be responsible for notifying the donor of this approval by sending a copy of the form back to the donor. The Office of the Comptroller will also be responsible for: 1) verifying and making the adjustment to the donor's leave account; 2) notifying the donor's timekeeper in writing of the adjustments made to the donor's leave account, and 3) notifying the leave recipient's employing agency orally and in writing of the amount of annual leave to be credited to the leave recipient's annual leave account³ by faxing or mailing a copy of the approved form.

³ Should the donating employee receive information from the recipient that the leave was not posted to the recipient's account because authorization was not received from the SEC, the donor should contact the SEC Office of the Comptroller to resolve the problem.

10. INTERAGENCY DONATIONS TO SEC EMPLOYEES. The SEC shall accept the transfer of annual leave from employees of other federal agencies, following the same procedures as processing SEC donor applications.

11. LIMITATIONS ON DONATION OF ANNUAL LEAVE.

A. In any one leave year, a leave donor may not donate more than a total of one-half of the amount of annual leave he or she would be entitled to accrue during the entire leave year in which the donation is made. This limitation may be waived when one family member requests to donate to another family member or for other unusual circumstances.

B. In the case of a leave donor who is projected to have annual leave that otherwise would be subject to forfeiture (i.e., use or lose) 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 remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.⁴

C. Limitations on the donation of "use or lose" leave may be waived by the Associated Executive Director of OAPM on a case-by-case basis based on unusual circumstances and shall be documented in writing.

12. USE OF TRANSFERRED ANNUAL LEAVE.

A. All leave (i.e., annual, sick or compensatory) accrued prior to the date of the application to become a leave recipient must be exhausted before any transferred annual leave can be used.

B. A leave recipient may use transferred leave to eliminate leave without pay (LWOP) or advanced annual or sick leave for the period of the medical emergency only.

C. The SEC shall not transfer annual leave to the leave donor's immediate supervisor.

⁴ For example, if there are 40 hours remaining in the leave year, and the employee has exactly 40 hours of "use or lose" leave and is SCHEDULED to be off 16 hours, then the employee may ONLY donate 24 hours. As another example, if there are 40 hours left in the leave year, and the employee has 56 hours of UNSCHEDULED "use or lose" leave, then that employee may ONLY donate 40 hours. The other 16 hours will be lost.

13. ACCRUAL OF ANNUAL AND SICK LEAVE.

A. While leave recipients are in a transferred leave status, annual and sick leave shall accrue to the credit of the employee at the same rate as if the employee were in a normal paid leave status.

B. The maximum amounts of annual and sick leave that may be accrued by an employee while in a transferred leave status in connection with any particular medical emergency *may not exceed 40 hours each* (or in the case of a part-time employee or an employee with an uncommon tour-of-duty, the average number of hours of work in the employee's weekly scheduled tour-of-duty). "Set aside" leave accounts are forfeited if the employee leaves federal service.

C. Annual and sick leave shall be credited to separate "set aside" accounts and shall become available for use:

1. At the beginning of the pay period following the termination of the medical emergency; or

2. If the employee's medical emergency has not terminated, once the employee has exhausted all leave donations. However, "set aside" leave used for this purpose still counts against the 40-hour maximums established under section 13.B.

14. TRANSFER TO ANOTHER FEDERAL AGENCY. If a current leave recipient transfers to another federal agency without a break in service, he or she must complete Standard Form 1150-A, Transfer of Leave Records for Leave Recipient Covered By the Voluntary Leave Transfer Program. This form will be attached to the SF 1150, Record of Leave Data, and will be forwarded to the agency to which the employee is transferring.

15. RESTORATION OF TRANSFERRED ANNUAL LEAVE.

A. Any transferred but unused annual leave in the recipient's account when the leave recipient's personal emergency terminates shall be restored to the annual leave account(s) of the donor(s) to the extent administratively feasible. However, if the leave donor retires from federal service, dies, or is otherwise separated from federal service before the date unused transferred annual leave can be restored, the employing agency of the leave recipient shall not restore the unused transferred annual leave.

B. The amount of unused transferred annual leave to be restored to each leave donor shall be determined as specified by 5 CFR 630.911.

16. PROHIBITION OF COERCION. An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right or choice such employee may have with respect

to donating, receiving, or using annual leave under this program. The phrase "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (e.g., an appointment, promotion or compensation) or effecting or threatening to effect any reprisal (e.g., deprivation of appointment, promotion or compensation).

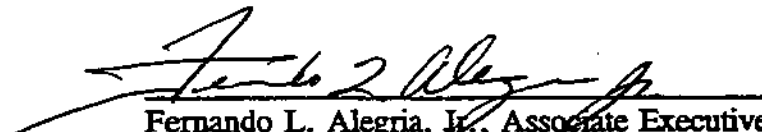
17. RECORDS AND REPORTS.

A. OAPM shall maintain records concerning the administration of the program and may be required by the Office of Personnel Management (OPM) to report information needed to evaluate the effectiveness of the program.

B. OAPM shall maintain the following information:

1. The numbers of applications approved for medical emergencies affecting an employee and for emergencies affecting an employee's family member.
2. The grade and pay level of each leave recipient and leave donor, the gender of each recipient, and the total amount of transferred annual leave used by each leave recipient.
3. The total amount of transferred annual leave contributed by each leave donor, the name of the leave recipient(s) to receive the transferred annual leave, and the amount contributed to each leave recipient.

18. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Administrative and Personnel Management, Employee Relations and Development Branch, in coordination with the Office of the Comptroller, Payroll Office.


Fernando L. Alegria, Jr., Associate Executive Director
Office of Administrative and Personnel Management

6/28/95
Date

Attachments

1. SEC 2391, Application to Become a Leave Transfer Recipient
2. SEC 2330, Request to Donate Annual Leave To An SEC Leave Recipient
3. SEC 2392, Interagency Donation of Annual Leave

APPLICATION TO BECOME A LEAVE TRANSFER RECIPIENT

Use this form to apply as a leave recipient. Attach to this form a printout of your current leave balances, a doctor's statement briefly describing the nature and severity of the medical emergency and anticipated duration of the condition. After completing this form, forward to the Office of Administrative and Personnel Management. Approval as a leave recipient does not guarantee that leave will be donated. Donors designate the recipient of their leave.

SECTION I. TO BE COMPLETED BY THE APPLICANT OR DESIGNEE

1. Name (Last, First, Middle Initial)

2. Social Security No.

3. Name of DIV/OFC

4. Position Title, Pay Plan, Grade/Level

5. Individual affected by medical emergency ☐ Employee ☐ Employee's Family Member

6. Date Medical Emergency
Began

7. Date Medical Emergency Ended (or anticipated
date)

8. Estimated number of
donated hours needed?

9. Please indicate how you prefer donated annual leave to be applied, by numbering the following in order of preference.

☐ Against Advanced Sick Leave ☐ Against Advance Annual Leave ☐ Against LWOP

10. ☐ I authorize ☐ I DO NOT authorize the Securities and Exchange Commission to publish my name (e.g., in the SEC Employee News or LAN Bulletin Board) for the purpose of soliciting donations for me.

11. I certify that I have been affected by the medical emergency described in the attachment since the date indicated above; I have or will have exhausted all annual leave and any available sick leave that could otherwise be used as of the date indicated above; and I expect to be absent from duty without paid leave at least 24 hours because of this medical emergency.

☐ Applicant ☐ Designee

SIGNATURE OF APPLICANT OR DESIGNEE:

DATE:

12. Name/telephone number of applicant's Timekeeper

SECTION II. TO BE COMPLETED BY AGENCY

13. Your application has been ☐ approved ☐ disapproved (if disapproved, see attached memorandum) by the Office of Administrative and Personnel Management.

DECIDING OFFICIAL'S SIGNATURE:

DATE:

14. ☐ Office of the Comptroller's copy for verifying and adjusting leave account of recipient.

PRIVACY ACT STATEMENT. This program is voluntary; however, solicitation of this information is authorized by P.L. 103-103 (October 8, 1993). The information furnished will be used to identify records properly associated with the leave transfer. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court when the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the request to participate in the Voluntary Leave Transfer Program.

INTERAGENCY DONATION OF ANNUAL LEAVE

Use this form to donate unused, accrued annual leave to an approved leave transfer recipient of ANOTHER Federal agency. After completing this form, forward to the Office of Administrative and Personnel Management.

SECTION I. INFORMATION ABOUT SEC DONOR

1. Name (Last, First, Middle Initial)		2. DIV/OFC
3. Social Security Number	4. Position Title, Pay Plan, Grade/Pay Level	
5. Timekeeper's Name/Telephone Number		6. # of Hours to transfer

7. **AUTHORIZATION STATEMENT.** I request that annual leave be transferred to the leave account of an approved leave recipient of another Federal agency. As of the date indicated, I have enough annual leave in my account to cover this amount. I understand that if I am projected to forfeit leave during this leave year, the amount of leave I am transferring may not exceed the number of hours remaining in the leave year for which I am scheduled to work. The amount of leave I am transferring also is not more than half the hours I will earn this year.

I have not been directly or indirectly intimidated, threatened or coerced, or promised any benefit by any federal employee in connection with this leave transfer.

SIGNATURE OF DONOR:

DATE:

SECTION II. INFORMATION ABOUT LEAVE RECIPIENT AND OTHER AGENCY

8. Name of Recipient	9. Name and mailing address of other Agency	
10. Name of Leave Transfer Coordinator	11. TEL No.	12. FAX No.

SECTION III. TO BE COMPLETED BY SEC OFFICIALS

13. Your donation has been ☐ approved ☐ disapproved (if disapproved, see attached memorandum) by the Office of Administrative and Personnel Management.

DECIDING OFFICIAL'S SIGNATURE:

DATE:

14. This leave donation was received by the above named recipient. The adjustment to the donor's leave account was made in the pay period indicated below by the SEC's Office of the Comptroller.

_____ Pay Period _____ Name of payroll official.

PRIVACY ACT STATEMENT. This program is voluntary; however, solicitation of this information is authorized by the Federal Employee Leave Sharing Amendments Act of 1993 (P.L. 103-103 October 8, 1993). The information furnished will be used to identify records properly associated with the leave donation. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court when the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the SSN, as well as other data, is voluntary, but failure to do so may delay or prevent action on the request to donate leave.

REQUEST TO DONATE ANNUAL LEAVE TO AN SEC LEAVE RECIPIENT

Use this form to donate unused, accrued annual leave to an approved SEC leave transfer recipient. If you wish to donate to more than one recipient, please complete a separate form for each person. After completing this form, forward to the Office of Administrative and Personnel Management.

SECTION I. TO BE COMPLETED BY LEAVE DONOR

1. Name (Last, First, Middle Initial)		2. DIV/OFC
3. Social Security Number	4. Position Title, Pay Plan, Grade/Pay Level	
5. Number of hours donating	6. NAME OF RECIPIENT	
7. Name/Telephone of Donor's Timekeeper		

8. **AUTHORIZATION STATEMENT.** I request that annual leave be transferred to the leave account of an approved leave recipient. **THIS RECIPIENT IS NOT MY IMMEDIATE SUPERVISOR.** As of the date indicated, I have enough annual leave in my account to cover this amount. I understand that if I am projected to forfeit leave during this leave year, the amount of leave I am transferring may not exceed the number of hours remaining in the leave year for which I am scheduled to work. The amount of leave I am transferring also is not more than half the hours I will earn this year.

I understand that my decision to transfer leave is not revocable. If a sufficient balance of unused leave remains after the recipient's medical emergency has terminated, I can elect to have a pro-rated share returned to me during either the current leave year or the following leave year, or I can elect to donate my prorated share to another leave recipient. However, to do so, I must remain employed by a Federal agency and be subject to chapter 63 of title 5, U.S.C. on the date the recipient's medical emergency terminates.

I have not been directly or indirectly intimidated, threatened or coerced, or promised any benefit by any employee for the purpose of donating or using leave.

☐ Check here if you wish to remain anonymous.)

SIGNATURE OF DONOR:

DATE:

SECTION II. TO BE COMPLETED BY AGENCY

9. Your donation has been ☐ approved ☐ disapproved (if disapproved, see attached memorandum) by the Office of Administrative and Personnel Management.

DECIDING OFFICIAL'S SIGNATURE:

DATE:

10. This leave donation was received by the above named recipient. The adjustment to the donor's leave account was made in the pay period indicated below by the Office of the Comptroller.

____ Pay Period _____ Name of payroll official.

PRIVACY ACT STATEMENT. This program is voluntary; however, solicitation of this information is authorized by the Federal Employee Leave Sharing Amendments Act of 1993 (P.L. 103-103 October 8, 1993). The information furnished will be used to identify records properly associated with the leave donation. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court when the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the SSN, as well as other data, is voluntary, but failure to do so may delay or prevent action on the request to donate leave.

Section F Chapter 4

Administrative Leave and Official Time

Overview

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- 1. Introduction** This chapter establishes SEC policy regarding the appropriate uses of administrative leave, defined as the absence from duty without loss of pay or charge to leave. This chapter also discusses situations in which "official time" is granted, that is, where the employee still is considered to be on duty but is not performing regular work assignments.
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In this chapter This chapter contains the following topics.

<i>Topic</i>	<i>See Page F-4-</i>
Policy	2
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Supersession: Replaces old MAR section 630.32 - 630.42 (1970's)

Authorities: 5 U.S.C. 6321-6327 and 5 CFR Part 630

Contact: Employee Relations Specialists, Employee Relations and Development Branch
Office of Administrative and Personnel Management

Policy

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

2. Policy statement

The SEC's policy is to grant administrative leave to employees for **brief periods of time** where the use is determined to be:

- in the interests of the agency; and
- consistent with guidance from the U.S. Office of Personnel Management (OPM) and decisions of the Comptroller General and Merit Systems Protection Board (MSPB).

The approving authority depends on whether the administrative leave is for a group of employees or for an individual employee, the reason for which the administrative leave is approved, and in some cases whether the employees are located in the regions or in headquarters.

3. Individual situations

Leave-approving officials (normally immediate supervisors) and other officials within the employee's chain of command may approve administrative leave within the limits specified in paragraph 6 of this policy.

Beyond those limits or for other reasons, the appropriate Division Director or Office Head must submit a written request and obtain written approval from the Associate Executive Director, OAPM, or the Executive Director.

4. Group dismissals or closure of facilities

A. For local area emergency situations (such as hazardous weather or civil disturbances), the SEC shall comply with decisions made by:

- OPM in the Washington metropolitan area; and
- the local Federal Executive Board in a field (regional or district) office location, unless special circumstances exist and the dismissal/closure is approved by the Associate Executive Director, OAPM or Executive Director.

Annually, OAPM will require that Division Directors, Office Heads, and Regional Directors designate emergency personnel and will issue procedural instructions as a reminder to employees.

B. For other valid reasons (such as specific building conditions), approval of administrative leave depends on the location and length of time as follows:

Location	Length	Approval level
Headquarters	Any length	Associate Executive Director, OAPM or Executive Director
Field locations	Up to one workday	Regional Director or District Administrator
	More than one workday	Associate Executive Director, OAPM or Executive Director

Coverage

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

5. Who is covered?

This policy applies to employees at any GS or wage grade or SES level in the competitive or excepted service, except for Presidential appointees, who do not earn/use leave.

Approval Of Administrative Leave for Individuals

6. Case-By-Case Approval within an Organizational Unit

Use the table below to determine when managers within organizational units may approve administrative leave for individual employees on a case-by-case basis.

Purpose	Criteria and Limitations	Approval
1. Registration and Voting	<p>Sufficient time to permit the employee to begin work 3 hours after the polls open or leave work 3 hours before polls close, whichever results in the least amount of administrative leave. Some adjustments may be made for extenuating circumstances.</p> <p>If an employee's polling place is beyond the normal commuting area and absentee ballots are not permitted, an employee may be granted the necessary time for travel and voting, up to a maximum of 8 hours, with annual leave/LWOP approved for any reasonable additional time required.</p>	Leave-approving official
2. Blood donation	<p>A total of up to 4 hours for donating blood <u>and</u> recuperating afterwards during the same workday. The administrative leave is not an entitlement and may not be taken at any other time.</p> <p>Additional travel time of up to one hour may be granted to give blood off-site if an employee was not permitted to donate blood during on-site blood drives due to work requirements. Documentation of blood donation is required.</p>	Leave-approving official
3. Brief absences or occasional tardiness	<p>Absences of less than one hour or occasional brief periods of tardiness may be excused for adequate reasons, or may be charged in half-hour increments to the appropriate leave category, including AWOL if unauthorized. If leave is charged, the employee is not required to work during the remainder of the time charged to leave.</p>	Leave-approving official

Continued on next page

Approval Of Administrative Leave for Individuals, Continued

Purpose	Criteria and Limitations	Approval
4. Bone marrow or organ donation	Up to 7 days in a leave year, with appropriate medical documentation.	Leave-approving official
5. Work-related injury	An employee who is injured on the job and requires medical treatment or recuperation time may be granted administrative leave for the remainder of that day only, as necessary. Further absences are processed as continuation of pay or charged to the appropriate leave category.	Leave-approving official
6. Civil Service or Professional examination (e.g., Bar or CPA) where job-related	Approval may be granted on a one-time basis for: <ul style="list-style-type: none"> the actual time of the examination (up to 3 days); and up to 1 day for travel if required to take the exam outside the metropolitan area of the employee's duty station. 	Leave-approving official
7. Bar admission	Up to one day to attend the necessary state bar admission ceremony if bar admission is required as a condition of employment.	Leave-approving official
8. In connection with official travel	Administrative leave up to 4 hours may be granted for: <ul style="list-style-type: none"> portions of travel days, where the travel begins or ends during normal work hours and circumstances make it impractical to come in to the office; or where extensive travel during non-work hours the night before deprives the employee of a normal night's sleep. 	Leave-approving official
9. Change in SEC duty station	Administrative leave may be granted for: <ul style="list-style-type: none"> up to 4 days total for making moving arrangements and packing and unpacking at the old and new duty stations; and travel time between duty stations as authorized under federal travel regulations. 	Division Director or Office Head
10. Civil defense activities or emergency rescue work	Up to 40 hours of administrative leave in a leave year may be granted for employees who participate in federally-recognized state civil defense training activities or in emergency disaster rescue work, with adequate documentation, where not covered by military leave.	Leave-approving official
11. Military funerals	Veterans may be excused for up to 4 hours in a day to participate in military funeral services as pallbearers, members of firing squads, or honor guards, with adequate documentation. Immediate relatives of members of the armed services who die while serving in a combat zone may be excused for up to 3 days for arranging for and attending the funeral, with adequate documentation.	Leave-approving official

Continued on next page

Approval Of Administrative Leave for Individuals, Continued

Purpose	Criteria and Limitations	Approval
12. Court Leave	<p>Court leave is granted, when an employee otherwise is in pay status, for documented service:</p> <ul style="list-style-type: none"> • as a juror; or • as a witness in a non-official capacity on behalf of any party in a judicial proceeding involving the United States, a state, or the District of Columbia (a witness in a proceeding involving 2 private parties does not meet the criteria). <p>Employees representing the SEC are on official duty.</p>	Leave-approving official
13. Interviews and job search activities	<p>Employees participating in job interviews within the SEC are not charged any kind of leave, as long as their absence from the workplace has been cleared in advance with their supervisor.</p> <p>Employees who fall under the SEC's Career Transition Assistance Program are eligible for up to 8 hours of administrative leave per pay period if "surplus" or up to 16 hours per pay period if "displaced" to participate in outplacement services, workload permitting. (See POPPS D-8 (old 330.A)).</p> <p>Other than the above, absence for these purposes is charged to leave unless administrative leave is approved by the Associate Executive Director, OAPM.</p>	Leave-approving official
14. Danger to self, others, or property	<p>An employee may be sent home on administrative leave for the remainder of the workday, and the following workday, if necessary, when deemed to be at risk of injury or danger to persons or property. Management is expected to follow up the administrative leave by initiating appropriate disciplinary action.</p>	Division Director or Office Head, in consultation with OAPM where possible

Continued on next page

Approval Of Administrative Leave for Individuals, Continued

7. Case-By-Case Approval by OAPM/OED.

Use the table below to determine when to submit requests for approval of administrative leave for individual employees to OAPM.

The Division Director or Office Head should only forward requests where he or she concurs. For EEO matters, these requests should be coordinated through the EEO Office prior to submission.

Purpose	Criteria and Limitations	Approval
1. During a formal or informal inquiry (e.g., IG, EEO)	Administrative leave may be granted for very limited periods where it is determined to be in the government's best interests due to the nature of the investigation and alleged actions. Consideration will be given to alternatives such as: <ul style="list-style-type: none"> • allowing the employee to take leave; • charging the employee AWOL or other appropriate leave if the employee is absent from work; or • detailing/reassigning the employee to other duties or to an alternate temporary duty station. 	Associate Executive Director, OAPM (or the Executive Director) *
2. During a notice period for an adverse action	Administrative leave may be approved but only in those rare circumstances where it is determined that the employee's continued presence in the workplace during the notice period <u>clearly</u> poses a threat to the employee or others, produces a risk to government property, or otherwise <u>jeopardizes</u> government interests.	Associate Executive Director, OAPM (or the Executive Director)
3. For other reasons that protect the government's interests	In deserving situations, consistent with applicable caselaw and Comptroller General decisions, administrative leave may be granted BUT only for short periods of time.	Associate Executive Director, OAPM (or the Executive Director) *

* For EEO cases, in consultation with the EEO Director.

Use of Official Time

8. What is Official Time?

Official Time is time authorized for an employee to perform other than his or her normal duties without charge to leave or to excused absence under administrative leave.

Continued on next page

Use of Official Time, Continued

9. When Supervisors May Grant Official Time

Generally, supervisors may authorize a reasonable amount of official time to employees in the following situations:

- SEC-sponsored or approved training, conferences, and other developmental activities during duty hours (except for approved tuition assistance, in which case work hours may be adjusted through schedule changes and/or credit hours if courses overlap duty hours);
- brief visits to the Employee Health Unit for examination or emergency treatment;
- appointments with the Employee Assistance Program;
- preparing and presenting an employee grievance or EEO complaint submission;
- preparing and presenting responses to proposed disciplinary or performance-based actions;
- meeting with personnel staff or with EEO counselors and/or staff for advice on employee rights and benefits or applicable program procedures;
- representing another employee in an appeal, grievance, or EEO process;
- participating as a witness during the EEO process;
- meeting with IG staff, such as to provide testimony or to participate in an audit; and
- internal job interviews.

Documenting Requests and Other Records

10. Documenting Requests

SF 71 leave requests may be used to document most requests for and decisions on administrative leave, but supervisors and managers may request memoranda and supporting documents when needed. No specific paperwork is required for granting official time -- the situation determines whether the approval should be documented in writing.

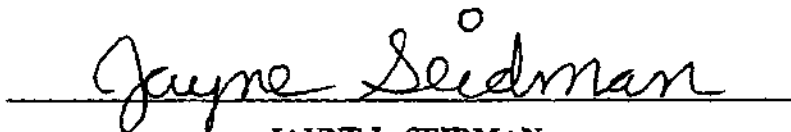
Where OAPM/ED approval is required in individual cases, the request with justifying details and the decision shall be in writing.

11. Other Records

Employees document approved administrative leave on their STATS submissions.

Timekeepers are to follow the applicable record-keeping instructions issued by the Office of the Comptroller.

**Policy
Approved by**



JAYNE L. SEIDMAN

Associate Executive Director

Office of Administrative and Personnel Management

Date: 8/18/98

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

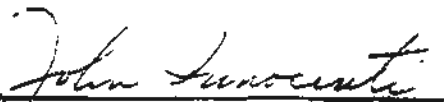
POPPS 6-720.A
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 720.A

AFFIRMATIVE ACTION FOR INDIVIDUALS WITH DISABILITIES

1. **PURPOSE.** This chapter describes the Commission's policies on Affirmative Action for individuals with disabilities, and identifies the responsibilities for program implementation for managers and supervisors, as well as program coordinators. Attached is a copy of SECR 6-15, dated May 17, 1991, which remains in effect until superseded by a revision to this chapter. The chapter will be reviewed and possibly rewritten in POPPS format within the next year.
2. **EFFECTS ON OTHER DOCUMENTS.** The attachment to this chapter is incorporated by reference into this policy. The records maintained on individuals under this chapter are subject to the Privacy Act, which limits access to and establishes accountability procedures for authorized disclosure of personal information.
3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Staffing and Employee Relations Branch.


John Innocenti, Director
Office of Human Resources Management

9/7/91
Date

Attachment:
SECR 6-15, dated May 17, 1991

POPPS 6-720.A February 9, 1995

ATTACHMENT 1

REQUEST FOR ACCOMMODATION FOR PERSONS WITH DISABILITIES

Instructions

Request for Accommodation for Persons with Disabilities (SEC Form 2233) is used by the Office of Administrative and Personnel Management (OAPM) for considering requests for reasonable accommodation. The SEC is committed to working with individuals with disabilities to provide reasonable accommodations to enable them to perform the essential elements of their jobs and to fully enjoy the benefits and privileges of employment at the SEC, consistent with the requirements of the Rehabilitation Act. To request an accommodation, please complete the form and forward it with appropriate documentation to your immediate supervisor for review. Supervisors will review the accommodation request and prepare a recommendation in which they may concur with the proposed accommodation, offer alternatives, non-concur (e.g. if the request is not justified by the major duties of the position, is considered unlikely to resolve the situation, or would adversely impact mission), or defer their recommendation based on insufficient information. In all cases, within 5 working days of receiving the request for accommodation, supervisors should forward the request with their recommendation appropriately noted, to the Disabilities Coordinator, OAPM, for further review and processing. OAPM will make a determination regarding the request for accommodation as quickly as possible and will notify the requestor of the decision.

Medical documentation to support the accommodation should accompany the request, if current information is not already on file in OAPM. The SEC,

(Over, please)

directly or through the Public Health Service, reserves the right to request additional, specific medical and factual information in order to evaluate the request for accommodation. For further guidance, see POPPS Chapter 720.A, Affirmative Action for Disabled Individuals and the Rehabilitation Act of 1973, 29 U.S.C.A. §§ 701 et. seq. (available from OAPM upon request).

PRIVACY ACT NOTICE: Solicitation of this information by the Securities and Exchange Commission (SEC) is authorized by the Affirmative Action for Disabled Individuals and the Rehabilitation Act of 1973, 29 U.S.C.A. §§ 701 et seq. The information may also be disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order.

All information contained in this Request will be held in strict confidence and will not be divulged to anyone except those listed on the form, and those evaluating the Request.

REQUEST FOR ACCOMMODATION FOR PERSONS WITH DISABILITIES

Employee Name: _____

Position/Organization: _____

Supervisor Name: _____

Date Submitted to Supervisor: _____

1. Please describe your disability and the impact it has on your ability to perform the requirements of your job or your ability to enjoy the benefits or privileges of employment at the SEC:

2. Briefly describe the desired accommodation and how the accommodation will enhance your ability to perform the requirements of your job or enable you to enjoy the benefits or privileges of employment at the SEC:

3. In order to evaluate your accommodation request, the SEC may need to discuss your request with your physician(s) or medical practitioner(s), accordingly, please provide the following information and complete and sign the release:

Physician(s) or Medical Practitioner(s) who can provide additional information:

Name: _____ Phone number: _____

Type of practice/specialty: _____

Name: _____ Phone number: _____

Type of practice/specialty: _____

Name: _____ Phone number: _____

Type of practice/specialty: _____

RELEASE

I hereby authorize the listed physician(s) or medical practitioner(s) to provide (additional) oral and/or written medical information related to my disability to the SEC (directly or through the Public Health Service) so that the Agency may evaluate this request for accommodation.

SIGNATURE: _____ DATE: _____

4. **Supervisor's Recommendation:**

Supervisor's Signature: _____ Date: _____

5. Date received in OAPM: _____

Referrals (Office/Date): _____

6. **DECISION/ACTION:**

Assoc. Exec. Director's Signature: _____ Date: _____

For OAPM Use Only

_____ *Date copies of DECISION distributed to Employee, Administrative
Contact, and Division Director/Office Head, or Regional/District
Director.*

_____ *Date accommodation implemented.*

SECURITIES AND EXCHANGE COMMISSION
Office of Personnel
Washington, D.C. 20549

SECR 6-15

May 17, 1991

Personnel

AFFIRMATIVE ACTION FOR INDIVIDUALS WITH DISABILITIES

This publication summarizes the Securities and Exchange Commission's policies on affirmative action for individuals with disabilities. It establishes a comprehensive Commission-wide affirmative action program; prescribes procedures for developing and implementing affirmative action program plans and plan updates for preparation and evaluation of affirmative action reports. Responsibilities of the Commission's staff are delineated along with those of managers and coordinators involved in program implementation at the operating level. This publication implements section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); 29 CFR 1613; FPM Chapter 306; and EEO-MD 712, "Comprehensive Affirmative Action Programs for Hiring, Placement, and Advancement of Individuals with Disabilities," March 29, 1983, by the Equal Employment Opportunity Commission. This publication also establishes relationships and responsibilities that will ensure full compliance with statutory and other requirements and effective utilization of personnel practices and procedures that facilitate affirmative action for individuals with disabilities. Executive accountability is emphasized. This publication is effected by the Privacy Act of 1974. Records prescribed by this document are authorized by 29 U.S.C. 791.

EXECUTIVE SUMMARY

Affirmative action is an integral part of the Commission's ongoing personnel management program as evidenced by:

- a. Persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications; and

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Approved by: John Innocenti
Editor: Rogell W. Burkett
DISTRIBUTION: B

b. Agency policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, communication, procedural, or attitudinal barriers. Nondiscrimination is a prerequisite for affirmative action, and it is the Commission's intent to epitomize fair employment practices for individuals with disabilities. Commission procedures for processing complaints of employment discrimination cover complaints on the basis of race, color, religion, sex, disability, national origin, and age; therefore, this publication should be read along with other current directives concerning Commission procedures for processing equal employment opportunity complaints. In the Commission, individuals with disabilities will be mainstreamed in equal opportunity activities as participants and as a protected class on equal footing with minorities and women. The affirmative action and equal employment opportunity for individuals with disabilities often depends upon proper use of special provisions in the FPM; therefore, personnel functions are emphasized.

1. Terms Explained:

a. **Agency.** In this publication means the Securities and Exchange Commission.

b. **Affirmative Action Program Plan (AAPP).** A specification of goals, objectives, and planned actions to achieve affirmative action for individuals with disabilities. The AAPP will be prepared each year (or at such other intervals as may be prescribed) under instructions from the Equal Employment Opportunity Commission.

c. **Affirmative Action Report (AAR).** A compilation and analysis of affirmative action accomplishment for individuals with disabilities. The AAR will be prepared each year (or at such other intervals as may be prescribed) under instructions from the Equal Employment Opportunity Commission.

d. **Annual Program Guidance.** At various times during the year the headquarters Selective Placement Coordinator will develop, and the Director, Office of Personnel will issue, directives and other communications on AAPPs and AARs.

e. **Equal Employment Opportunity/Affirmative Action (EEO/AA).** Interlocking activities that assure nondiscrimination and enable affirmative action for individuals with disabilities. The concept is all inclusive. Although this publication does not concern programs and procedures for processing complaints of discrimination on the basis of disability, data required for reports under this publication may, in some instances, concern complaint activity and fulfillment of requirements in nondiscrimination publications. See 29 CFR 1613.702 Subpart G (e.g., requirements on employment criteria, reasonable accommodation, and facility accessibility.)

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f. Disabled Individual. A person who has a physical or mental impairment that substantially limits one or more of the individual's major life activities; has a record of such impairment; or is regarded as having such an impairment. This definition is provided by the Rehabilitation Act of 1973, as amended, and has been incorporated with an explanation of terms in nondiscrimination publications.

g. Headquarters Selective Placement Coordinator. That individual in the Office of Personnel who advocates hiring, placement, and advancement of individuals with disabilities throughout the agency; develops the AAPP and AAR, and provides leadership and guidance for implementation of all AAPPs and preparation of all AARs.

NOTE: Selective Placement Coordinators are also assigned in the regional offices. See Figure 1.

h. Physical or Mental Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; (i.e., neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine); or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

i. Qualified Individual with Disabilities. With respect to employment, a qualified person with a disability is one who, with reasonable accommodation (or without if it is not needed), can perform the essential functions of the position in question without endangering the health and safety of the individual or others and who, depending upon the type of appointing authority being used; (1) meets the experience and/or education requirements (which may include passing a written test) of the position in question, or (2) meets the criteria for appointment under one of the special appointing authorities for individuals with disabilities.

j. Quarterly EEO/AA Report. A quarterly report to the Director of Personnel containing EEO/AA data and information under annual program guidance.

k. Targeted Disabilities. A group of physical and mental impairments given special emphasis in Federal affirmative action programs for individuals with disabilities. EEO-MD 712, "Comprehensive Affirmative Action Programs for Hiring, Placement, and Advancement of Disabled Individuals," issued March 29, 1983, by the Equal Employment Opportunity Commission, targets the following disabilities: deafness (16 and 17); blindness (23 and 25); missing extremities (28 and 32-38); partial paralysis (64-68) complete paralysis (71-78); convulsive disorders (82); mental retardation (90); mental illness (91); and distortion of limbs and/or spine (92). The numbers are codes taken from SF 256, Self-Identification of Reportable Disability.

2. Responsibilities:

a. Agency Head. This individual is responsible for:

(1) Overall direction of the agency's EEO/AA goals and objectives for individuals with disabilities; and

(2) Ensuring the achievements and deficiencies in regard to EEO/AA for individuals with disabilities, in particular changes in the work force profile, are reflected by a separate factor in Senior Executive Service (SES) evaluations of Executive Director, Division/Office Heads, Regional Administrators and Director, Office of Personnel.

b. Executive Director. This individual is responsible for:

(1) Final internal approval of the agency's AAPP, which is subsequently submitted to the Equal Employment Opportunity Commission for evaluation.

(2) Final approval of the agency AAR, which is subsequently submitted to the Equal Employment Opportunity Commission for evaluation.

(3) Overall implementation and oversight of the agency AAPP.

(4) Coordination and preliminary approval each year with the Director, Office of Personnel of the agency AAPP and AAR.

(5) Ensuring, in coordination with the Director, Office of Personnel, that EEO/AA for individuals with disabilities are addressed by means of line items and other separately identifiable elements in agency management plans, financial plans, budget requests, and associated reports for the offices of EEO, Personnel, Administrative Services, Comptroller, Regional Offices; and others, as appropriate.

(6) Ensuring that organizational structures, staffing levels, and budgets throughout the agency are appropriate and sufficient for development, implementation, and maintenance of effective EEO/AA programs for individuals with disabilities.

(7) Ensuring that training and technical assistance resources, particularly for the Office of Personnel are adequate to develop and maintain a high level of management, supervisory, and employee, and employee awareness of issues, policies, publications and procedures concerning EEO/AA for individuals with disabilities; and

(8) Ensuring that achievements and deficiencies concerning EEO/AA for individuals with disabilities are reflected by a separate factor in SES and merit pay evaluations of all staff with EEO/AA responsibilities.

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c. Director, Office of Personnel. This individual is responsible for:

- (1) Implementing and overseeing the AAPP for the headquarters and regional offices.
- (2) Designating a headquarters Selective Placement Coordinator and specifying the percentage of time this individual is to devote to EEO/AA for individuals with handicaps.
- (3) Directing preparation and submission of the AAPP in the headquarters and regions by the Selective Placement Coordinator.
- (4) Preliminary approval of the AAPP.
- (5) Making additional staff assignments as necessary to carry out the provisions of this publication; implementing the agency AAPP; and providing data for the agency AAR.
- (6) Coordinating and establishing EEO/AA goals and objectives (especially in regard to hiring) by each Division Director, Office Head, and Regional Administrator under the AAPP.
- (7) Reviewing and monitoring implementation of the AAPP.
- (8) Ensuring personnel policies or practices that create selection barriers for individuals with disabilities are identified and that alternatives to enable and promote affirmative actions are instituted.
- (9) Ensuring that all vacancy announcements include a statement concerning consideration of individuals with disabilities eligible for appointment under special authorities.
- (10) Ensuring proper evaluation and consideration of applicants eligible for appointment under Section 213.3102(t) or (u) of Schedule A or Section 213.3202(k) of Schedule B.
- (11) Establishing training programs to ensure that all personnel specialists are knowledgeable about the rights of applicants and employees with disabilities, special appointing authorities for individuals with disabilities, and Federal and agency selective placement policies and procedures.
- (12) Establishing training programs to ensure that all supervisors and managers are knowledgeable about EEO/AA laws, policies, procedures, directives, and guidelines concerning EEO/AA for disabled individuals and are skilled in effecting affirmative staffing, recruitment, and career development training.

(13) Ensuring EEO/AA materials are incorporated in orientation sessions for new employees throughout the agency.

(14) Ensuring, in coordination with the headquarters Selective Placement Coordinator, that adequate EEO/AA recordkeeping and information systems are established in the Office of Personnel.

(15) Ensuring that SF 256, Self-Identification of Reportable Disability, is properly obtained and processed for each employee of the agency.

(16) Reporting to the Executive Director, EEO/AA data under Annual Program Guidance, including the number of accessions and losses of individuals with disabilities.

(17) Establishing special employment programs for individuals with disabilities; that is, unpaid work experience and assuring that they are included in upward mobility, cooperative education, stay-in-school, summer employment, summer aide, summer intern, and other special-purpose programs.

(18) Ensuring that employees with disabilities have equitable training and career development opportunities.

(19) Ensuring achievements and deficiencies in regard to EEO/AA for individuals with disabilities are reflected by a separate factor in merit pay and other evaluations of staff with EEO/AA responsibilities.

(20) Directing preparation of the AAR by the headquarters Selective Placement Coordinator and transmitting it to the Executive Director.

(21) Ensuring, in coordination with the headquarters Selective Placement Coordinator, that adequate EEO/AA recordkeeping information systems are established and utilized throughout the agency.

(22) Directing development of the agency AAPP, AAR Annual Program Guidance, and related policies, standards, and procedures.

(23) Ensuring adherence to EEO/AA reporting requirements pursuant to current instructions to Federal agencies and Annual Program Guidance.

(24) Monitoring and evaluating EEO/AA performance at headquarters and regional offices to assure implementation of EEO/AA goals and objectives for individuals with disabilities.

SECR 6-15, May 17, 1991

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(25) Ensuring EEO/AA goals and objectives for individuals with disabilities are related to identified problem areas and are designed to remedy under-representation and under-utilization of individuals throughout the agency.

(26) Ensuring individuals with disabilities are mainstreamed to the extent possible as participants and as a protected class of EEO/AA activities throughout the agency.

(27) Ensuring individuals with disabilities are included with minorities and women in work force analysis and studies of the effects of planned and past personnel actions so that EEO/AA concerns are identified on an agency-wide basis; and

(28) Ensuring mechanisms are established throughout the agency to implement the Federal Equal Employment Opportunity Recruitment Program (FEORP) including, to the extent possible, individuals with disabilities and that, parallel mechanisms are established by adapting and applying FEORP principles to EEO/AA for individuals with disabilities.

d. Director, Office of Equal Employment Opportunity. This individual is responsible for:

(1) Ensuring EEO/AA policies and programs for individuals with programs are given emphasis along with EEO/AA policies and programs for minorities and women; and

(2) Ensuring mechanisms established for complaint process for minorities and women include individuals with disabilities.

e. Director, Office of Administrative Services. This individual is responsible for:

(1) Ensuring that the staff of the Office of Administrative Services, responds in a timely and effective manner to requests by the headquarters Selective Placement Coordinator, managers, and supervisors concerning implementation of approved AAPP and reasonable accommodations for the disabilities of employees and applicants with disabilities, including persons with disabilities visiting the agency on official business.

(2) Directing and analyzing surveys of architectural and other facility barriers in the headquarters and regional offices.

(3) Coordinating with the Director, Office of Personnel, to establish goals and timetables for removal of architectural and other facility barriers throughout the agency.

(4) Implementing a systematic program of barrier removal in the headquarters and regional offices; and

(5) Ensuring new and leased facility accessibility standards are met.

f. Comptroller. This individual is responsible for:

- (1) Implementing those aspects of approved agency AAPPs that concern activities under the Comptroller's direction; and
- (2) Responding in a timely and effective manner to requests made by the Director, Office of Personnel, managers, and supervisors for requests to fund accommodations for individuals with disabilities.

g. Division Directors, Office Heads, and Regional Administrators. These individuals are responsible for:

- (1) Implementing those aspects of approved agency AAPP that concern activities under their direction.
- (2) Responding in a timely and effective manner to requests by the Director, Office of Personnel concerning EEO/AA for individuals with disabilities.
- (3) Establishing and achieving EEO/AA goals and objectives (particularly in regard to hiring) under their AAPP; and
- (4) Coordinating with the headquarters Selective Placement Coordinator, and responding in a timely manner to requests for accommodations from employees with disabilities.

h. Headquarters Selective Placement Coordinator, Office of Personnel. This individual is responsible for:

- (1) Advocating hiring, placement, and advancement of individuals with disabilities throughout the agency.
- (2) Analyzing representation and utilization of individuals with disabilities in the agency work force and formalizing EEO/AA goals and objectives relating to identified problem areas that are designed to effect measurable results.
- (3) Developing the agency AAPP.
- (4) Initiating development of, and providing input for policies, standards, procedures and directives necessary for implementing an effective agency AAPP, and for preparing agency AARs.
- (5) Developing and coordinating Annual Program Guidance concerning AAPPs and AARs.

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(6) Communicating with regional coordinators to coordinate implementation of agency AAPPs and AARs.

(7) Providing technical assistance to regional Selective Placement Coordinators.

(8) Monitoring implementation of agency affirmative action programs on the basis of quarterly EEO/AA reports under the Annual Program Guidance and recommending any necessary corrective action.

(9) Assisting with development and maintenance of an agency-wide EEO/AA management information system that meets internal and external compliance review needs.

(10) Assisting with development and maintenance of an agency-wide reporting system to ensure consistent and coordinated gathering of information for agency AARs and quarterly EEO/AA reports under the Annual Program Guidance.

(11) Maintaining a locked file cabinet for copies of SF 256, Self-Identification of Reportable Handicap, on all members of the agency work force until secured automated recordkeeping system are in place and forms destroyed, as required.

(12) Compiling and analyzing data concerning hiring, placement, and advancement of individuals with disabilities throughout the agency.

(13) Identifying and assessing EEO/AA training needs and making recommendations to ensure that all personnel with EEO/AA responsibilities are adequately trained; and that managers, supervisors, and employees throughout the agency are aware of the needs and rights of individuals with disabilities, established agency policy, and relevant directives.

(14) Providing technical assistance for surveys of architectural and other facility barriers in the headquarters and regional offices and making recommendations concerning establishment of goals and timetables for barrier removal throughout the agency.

(15) Providing technical assistance to the Office of Administrative Services staff who are responsible for assuring that new facilities (leased or otherwise acquired) by the agency are accessible to and usable by individuals with disabilities.

(16) Providing leadership and guidance in establishing a Disabled Advisory Committee, whose purpose is to provide input for EEO/AA throughout the agency.

(17) Coordinating and establishing talent banks throughout the agency for referral of applications from individuals with disabilities when positions are filled.

(18) Analyzing, consolidating, and developing the agency AAR each year.

- (19) Evaluating quarterly EEO/AA reports from the regional offices.
- (20) Verifying on-site the accuracy of quarterly EEO/AA reports authorized by the Executive Director and Director, Office of Personnel.
- (21) Publicizing and promoting EEO/AA activities and identifying information needs.
- (22) Coordinating the employment, development, retention, and placement of individuals with disabilities throughout the agency.
- (23) Interpreting the intent of legislation, directives, and policy pertinent to affirmative action, selective placement, and related activities; and explaining the use of competitive procedures and special appointing authorities to employ individuals with disabilities.
- (24) Serving as a consultant and specialist in providing guidance and technical assistance to personnel specialists, equal employment opportunity staff, safety and health specialists, union officials, administrative services staff, managers, supervisors, and others who can help implement the objectives of the agency AAPP.
- (25) Maintaining liaison with the Office of Personnel Management (OPM) in regard to current OPM policies, issuances, and programs involving employment of individuals with disabilities.
- (26) Representing the agency at meetings and conferences and on committee task forces sponsored by Federal agencies and public and private organizations interested in employment of individuals with disabilities.
- (27) Advising agency managers and supervisors about reasonable accommodations for the disabilities of employees and applicants with disabilities.
- (28) Establishing liaison with local rehabilitation agencies and local organizations of and for individuals with disabilities.
- (29) Establishing working relationships with Selective Placement Coordinators in Federal agencies and with the Selective Placement Specialist in the nearest Office of Personnel Management area office.
- (30) Learning about disability, rehabilitation, and employment of individuals with disabilities.
- (31) Identifying training needs and recommending establishment of training programs.
- (32) Counseling employees and applicants with disabilities.

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(33) Informing disabled employees about training, career development, and promotion opportunity.

(34) Assisting the agency Disabled Employees Advisory Committee.

(35) Publicizing EEO/AA activities and identifying information needs.

(36) Publicizing in job fairs, conferences, and other events that focus on employment of individuals with disabilities; and

(37) Coordinating employment, development, and identifying information needs.

i. Regional Selective Placement Coordinators. These individuals are responsible for:

(1) Overall implementation and oversight of the headquarters AAPP as it relates to their particular region.

(2) Ensuring preliminary reports for each region are transmitted within established time frames to the headquarters Selective Placement Coordinator.

(3) Ensuring, in coordination with the Director, Office of Personnel and headquarters Selective Placement Coordinator, EEO/AA for individuals with disabilities are incorporated in field management plans, budget requests, and associated reports.

(4) Establishing training programs to ensure that all managers and supervisors in the field are knowledgeable about the laws, policies, procedures, directives, and guidelines concerning EEO/AA for individuals with disabilities are skilled in effecting affirmative staffing, recruitment, and career development training; and

(5) Advocating hiring, placement, and advancement of individuals with disabilities throughout the agency.

j. Supervisors. These individuals are responsible for:

(1) Advising their servicing personnel specialist of vacancies.

(2) Ensuring that individuals with disabilities receive the orientation and job training they need to learn and successfully perform their assigned duties.

(3) Promptly advising their servicing personnel specialist of any placement problems which occur.

(4) Recommending employees with disabilities for promotions in the same manner and basis as they would for other employees under their supervision; and

(5) Responding, in conjunction with the Selective Placement Coordinator, in a timely manner to requests from individuals with disabilities for accommodations.

k. Personnel Specialists. These individuals are responsible for:

- (1) Referring suitable candidates for vacancies which supervisors have identified.
- (2) Monitoring employee performance to prevent or minimize placement problems;
and
- (3) Acquiring knowledge of special hiring authorities for individuals with disabilities.

3. Developing and Approving the Agency Affirmative Action Program Plan and Affirmative Action Report:

a. The agency AAPP and AAR will be developed each year (or at such other intervals as may be prescribed) under instructions from the Equal Employment Opportunity Commission. The Annual Program Guidance will be developed to inform responsible agency officials of actions to be taken, time frames, and formats for plans and reports.

b. Under the agency AAPP and Annual Program Guidance, regions will follow content of the overall plan. Quarterly EEO/AA reports will be submitted in conformance with Annual Program Guidance. The headquarters AAR's will be evaluated in the Office of Personnel and results of the evaluations will be communicated to officials responsible for implementing the AAPPs. These evaluations will be in the form of computer printouts depicting the number of hires and losses for each division, office, and region, including progress in hiring and retaining individuals with disabilities. The computer printouts will also include other areas, such as promotions and accommodations etc., and will be sent annually, to each division, office, and region.

c. Table 1 outlines responsibilities for development and internal approval and evaluation of AAPPs and AARs. After approval by the Executive Director, the AAPP is submitted to the Equal Employment Opportunity Commission, who approves the plan or recommends changes. Quarterly EEO/AA reports will be used to prepare the agency AAR.

d. Figure 1 illustrates lines of authority and communication. Division Directors, Office Heads, and Regional Administrators are responsible for implementing approved AAPPs that concern activities under their direction and for establishing and achieving EEO/AA goals and objectives under approved AAPPs.

e. Attachment 1 explains how requests for reasonable accommodations are processed.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

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TABLE 1		
RESPONSIBILITIES FOR DEVELOPING AND APPROVING THE AFFIRMATIVE ACTION PROGRAM PLAN (AAPP) AND THE AFFIRMATIVE ACTION REPORT (AAR)		
R U L E	A	B
	If action is to	then action is assigned to the
1	develop and recommend approval	Headquarters Selective Placement Coordinator
2	implement and oversee the AAPP and AAR	Regional Selective Placement Coordinators
3	conduct preliminary approval of an AAPP and AAR	Director of Personnel
4	coordinate and approve the AAPP and AAR	Executive Director
5	provide overall direction of the AAPP and AAR	Agency Head

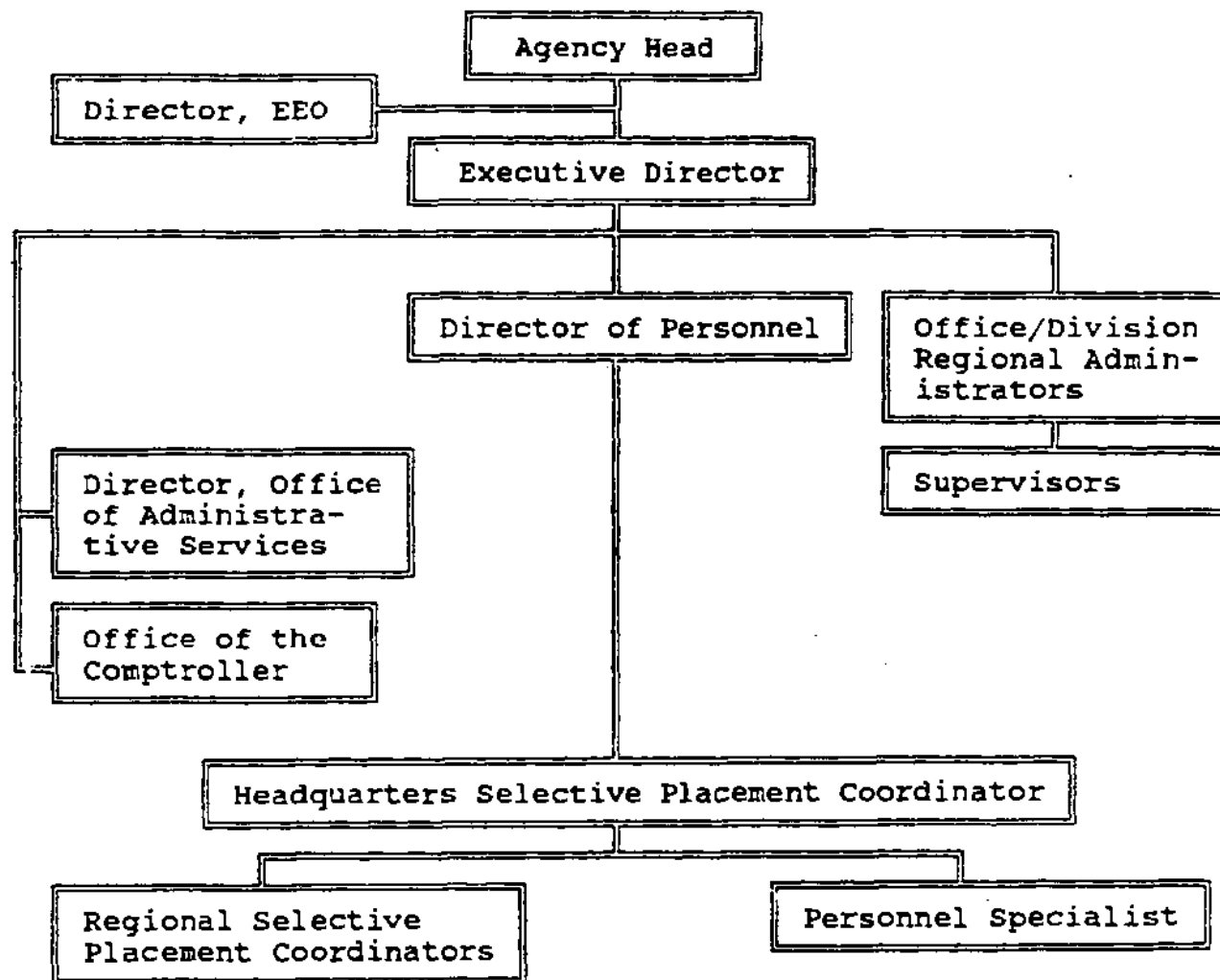


Figure 1. Lines of Authority and Communication.

4. Requests for Reasonable Accommodation. The Commission is committed to meeting its responsibilities under the Rehabilitation Act of 1973, as amended, and the regulations implementing the Act, 29 CFR 1613.704. The keys to the Commission's ability to respond timely are a clear statement of the nature of an employee's disability; a precise statement of the measure or measures the employee seeks as reasonable accommodation; and the medical benefits that would be expected to result from approval of the specific accommodation sought. Therefore, the following shall govern requests for reasonable accommodation:

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a. Employees shall prepare and submit accommodation requests through their immediate supervisors to the Director, Office of Personnel (see attachment 1). A courtesy copy of the request should also be furnished to the employee's Division Director, Office Head, or Regional Administrator, as appropriate. The employee's supervisor shall forward the request with appropriate recommendation(s) to the Director, Office of Personnel, within three working days of receipt of the employee's request.

b. The Director, Office of Personnel, shall review each request. Upon conclusion of each review, the Director, Office of Personnel, will confer with the Selective Placement Coordinator to determine the appropriateness, reasonableness, effects of agency or federal policy, and undue hardship each request projects. As part of this review, the Director, Office of Personnel, may, in order to render an informed decision, under 5 CFR 339, request additional medical data and/or an independent medical opinion. The Director, Office of Personnel, shall issue a written determination or request additional information, if required, within seven working days of receipt of a request for accommodation. If additional information is requested, a final determination will be made within seven working days of receipt of the information.

c. Employees may appeal unfavorable decisions to the Office of the Executive Director according to SECR 6-17, Employee Grievances.

d. The Director, Office of Personnel, Selective Placement Coordinator and each supervisor involved in the process, shall maintain the confidentiality of requests for accommodation and supporting medical documentation. That is, requests for accommodation may be disclosed *only* to those employees in the performance of their duties.

5. Forms Prescribed and Implemented:

a. Prescribed. SEC Form 2233, Request for Accommodation.

b. Implemented. SF 256, Self-Identification of Reportable Disability.


RICHARD J. KANYAN, Director
Office of Administrative Services

1 Attachment
Request for Accommodation

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-735.B
March 23, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 735.B

**REPRESENTATION BEFORE THE COMMISSION
BY FORMER MEMBERS AND EMPLOYEES**

1. PURPOSE. The purpose of this policy is to describe procedures for processing of notices by former members and employees of the Commission of the intention to act in a representative capacity before the Commission.

2. POLICY.

A. The Commission's policy is to require all former members and employees, for two years after termination of their employment, to file a notice with the Commission of their intent to appear before or communicate with the Commission in a representational capacity. The notice is required whenever the former member or employee is employed or retained as the representative of any person outside the government in any matter in which it is contemplated that he or she will appear before the Commission or communicate with the Commission or its employees. The notice must be filed with the Secretary of the Commission within ten days of his or her retainer or employment as a representative or of the time when the appearance or communication is first contemplated.

B. This process is intended to ensure compliance with the post-employment restrictions adopted by the Commission.

C. The Office of Human Resources Management (OHRM) has responsibility for coordinating review of representational requests and determining and communicating clearance of the requests.

D. Any questions concerning substantive interpretations of the Commission's post-employment regulations or 18 U.S.C. 207 should be referred to the Ethics Counsel in the Office of the General Counsel.

3. AUTHORITIES. The Commission's regulations and policies regarding post-employment restrictions may be found in the various Ethics Handbooks disseminated to employees by the Office of General Counsel.

4. PROCEDURES.

A. Each former member or employee must submit a formal notice to the Secretary of the Commission in accordance with the post-employment requirements of the SEC Rules of Conduct.

B. As stated in the SEC Professional Staff Ethics Handbook, Section I. H. 1, "The notice shall include an affirmative statement that the former employee did not participate personally and substantially in the matter while at the Commission, and that the matter did not fall within the former employee's official responsibility while he or she was with the Commission. In addition, the statement shall include a description of the contemplated representation and the name of the capacity and organizational unit in which the person had been employed. Employment of a recurrent character can be covered by a single comprehensive statement. All particular matters should be specifically identified." A sample notice of appearance is provided as Attachment 1.

C. Upon receipt of the letter of notice, the Office of the Secretary forwards it to OHRM.

D. The OHRM sends a copy of the notice with a forwarding memorandum (Attachment 2) to the related Division Director, Office Head, or Regional Administrator (or other appropriate official).

E. The Division Director, Office Head, or Regional Administrator reviews the notice, indicates the recommended determination for clearance on the cover memorandum, and returns it to OHRM within three working days, along with an explanation of any concerns or problems.

F. OHRM reviews the recommendation and any explanation (seeking clarification or additional information from the reviewer and/or Ethics Counsel as appropriate). A letter is prepared for the signature of the Director, OHRM to advise the former member or employee of clearance or non-clearance of the representation. Prior to making any determination of non-clearance of the representation, OHRM and the reviewer will consult with the Ethics Counsel.

5. RECORDS MANAGEMENT. OHRM maintains a computerized log of requests and paper files of requests and actions sequentially by year.

POPPS 6-735.B March 23, 1992

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6. OFFICE OF PRIMARY RESPONSIBILITY. Office of Human Resources Management, Staffing and Employee Relations Branch, in consultation with the Ethics Counsel, Office of the General Counsel.


John Innocenti, Director
Office of Human Resources Management

3/23/92
Date

Attachments:

1. Sample Notice of Appearance/Representation
2. Standard Forwarding Memorandum

POPPS 6-735.B, Attachment 1

Jones, Jones & Jones
Law Firm

[Date]

Jonathan Katz, Secretary
Securities and Exchange Commission
450 Fifth Street, N.W. (6-9)
Washington, D.C. 20549

Re: Statement by a Former Employee Pursuant to Rule 8(b) of the
Commission's Conduct Regulation

Dear Mr. Katz:

This statement is filed pursuant to Rule 8-3 of the Commission's Conduct Regulation, 17 C.F.R. 200-735-8(b), which requires that a former employee of the Commission, for two years after ceasing to be a Commission employee, file a statement with the Commission's Secretary if employed or retained as the representative of any person in any matter where it is contemplated that the former employee will appear before the Commission or communicate with the Commission or its employees. The statement must be filed within ten days of the former employee's retainer or employment or of the time when appearance before, or communication with, the Commission is first contemplated.

I was formerly a branch chief in the Division of Corporation Finance and resigned effective [date], to accept employment with the law firm of Jones, Jones & Jones. This is to advise you that I have been retained to represent XYZ Corporation In the Matter of Insider Trading, HO-0000. In the course of my representation of XYZ Corporation, it is contemplated that I will appear before, or communicate with, the Commission or the staff of various offices of the Commission by telephone, correspondence, or otherwise.

While an employee of the Commission, to the best of my recollection, I did not have official responsibility for, nor did I participate personally or substantially in, In the Matter of Insider Trading, HO-0000.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Since my participation in this matter may continue for an indefinite period involving more than one communication with or appearance before the Commission or its staff, this statement, pursuant to Rule 8-3b of the Commission's Conduct Regulation, 17 C.F.R. 200.735-8(b)(2), is intended to cover all my appearances and communications which relate directly to In the Matter of Insider Trading.

Sincerely,

John Q. Esquire, Esq.
Jones, Jones & Jones

[It is not necessary to send a copy
of this letter to the Ethics Counsel]

POPPS 6-735.B, Attachment 2

MEMORANDUM

TO: (Division/Office Director)
(Division/Office Name)

FROM: John Innocenti, Director
Office of Human Resources Management

SUBJECT: Request by (name) under Rule 8(b) of the Conduct Regulation
(No. 92-)

Under Rule 8(b) of the Commission's Conduct Regulation, any former member or employee of the Commission who, within two years after ceasing to be a member or employee, is employed or retained as the representative of any person outside the Government in any matter in which it is contemplated he or she will appear before the Commission is required to file with the Secretary of the Commission a statement which includes:

- (1) A description of the contemplated representation;
- (2) An affirmative representation that the matter in question is one for which the former employee had neither personal and substantial nor official responsibility while at the Commission; and
- (3) The name of the organizational unit in which the person had been employed.

Attached is communication submitted by a former employee of your office to comply with the requirements of Rule 8(b). Please review the communication for both completeness and compliance with post-employment restrictions. Check the appropriate box below, providing justification as necessary, and sign and return this memorandum within three working days to (name), Office of Human Resources Management.

Thank You.

- [] The attached communication fulfills the requirements of Rule 8(b) of the Commission's Conduct Regulations, and is consistent with post-employment restrictions. Clearance is recommended.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

- [] The attached communication fulfills the requirements of Rule 8(b) of the Commission's Conduct Regulation, but does not appear to be consistent with post-employment restrictions. Clearance is not recommended, and this matter has been referred to the Ethics Counsel, Office of the General Counsel, who will consult with OHRM.
- [] The attached communication is incomplete and does not fulfill the requirements of Rule 8(b). See explanation below/attached.

Explanation:

Division/Office Official

Date

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-735.C
December 29, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 735.C

CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

1. **PURPOSE.** This Chapter establishes SEC policy and procedures for the collection, systematic review, and custody of the OGE 450, Confidential Financial Disclosure Report (report) (see Attachment 1).

2. **POLICY.** The Commission's policy is to require employees in covered positions to complete and file the report on a timely basis in accordance with the governing regulations published by the Office of Government Ethics (OGE). The confidential financial disclosure system is a means of identifying and preventing actual and apparent conflicts of interest reflected in the financial holdings and outside positions of mid-level government employees. It is also a means of maintaining the public's confidence in the integrity of the Commission.

3. **SCOPE.** This Chapter applies to all SEC employees in covered positions who are therefore required to complete the report.

A. Covered positions are:¹

1. All positions at the GS/GM-15 level;
2. Accountants, attorneys, auditors, computer specialists, investigators and securities compliance examiners at the GS/GM-14 level;
3. Employees in contracting and procurement positions or contracting officers; and
4. Special Government Employees.

B. If a covered employee believes that the coverage of his/her position is inappropriate, the filer may submit a written request for reconsideration to the Associate Executive Director, Office of Administrative and Personnel Management (OAPM). Any decision made regarding the request will be made in consultation with the Ethics Office and will be final.

¹ Covered positions were amended as listed on September 5, 1995.

C. Any individual or class of individuals, including Special Government Employees, may be excluded from all or a portion of the reporting requirement when the Agency Head or the Associate Executive Director (OAPM) determines that:

1. The duties of the position makes remote the possibility that the filer would be involved in a real or apparent conflict of interest;

2. The duties of the position involve such a low level of responsibility that filing the report is unnecessary because of:

a. The substantial degree of supervision or review over the position; or

b. The inconsequential effect of any potential conflict of interest on the integrity of the government; or

3. The use of an alternative procedure approved in writing by OGE is adequate to prevent possible conflicts of interests.

4. AUTHORITIES. The applicable regulations may be found in 5 USC Appendix 6 and OGE interim regulations found in 5 CFR Part 2634, dated April 7, 1992, and November 30, 1993.

5. RESPONSIBILITIES.

A. The Designated Agency Ethics Official (DAEO), located in the Office of the General Counsel (OGC), is responsible for ensuring that an effective system for the administration of the provisions of all regulatory requirements related to the confidential financial disclosure system is established and implemented.

B. The Ethics Office, OGC, is responsible for:

1. Providing advice and assistance to covered employees on any substantive issues related to the report; and

2. Counseling agency officials with respect to the Commission's legal requirements concerning applicable statutes, regulations, and Executive orders.

C. The Associate Executive Director, OAPM, is responsible for:

1. Overseeing the day to day operation of the collection, review and custody of the reports;

2. Designating covered positions, in consultation with the Ethics Office;

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3. Designating officials to review and certify the reports, in consultation with the Ethics Office;

4. Approving extensions of up to 90 days beyond the required filing date; and

5. Granting exclusions from filing requirements.

C. The Ethics Program Coordinator, OAPM, is responsible for the financial disclosure program administration. This includes:

1. Preparing and distributing instructions for the completion of the reports;

2. Maintaining and updating a list of all covered employees;

3. Ensuring that new entrants complete the required disclosure;

4. Providing the Administrative Contacts with forms, instructions and transmittal envelopes to give to all incumbent filers and some new entrant filers, as well as written procedures for the Administrative Contacts to follow;

5. Providing technical assistance in the completion of the reports;

6. Keeping the official logbook on the receipt of completed and reviewed reports; and

7. Maintaining custody of all reports in secured storage.

D. The Administrative Contact in each office is responsible for:

1. Distributing forms and instructions to all incumbent filers and some new entrant filers;

2. Receiving the completed reports from the filers, entering the dates received on a log provided by OAPM (see Attachment 2), and routing the reports in the provided envelopes to the Division Director, Office Head, Regional Director, or District Administrator for review;

3. Ensuring all covered employees on the log complete the form on a timely basis and following up on delinquent reports; and

4. Returning the completed log to OAPM.

E. The reviewing officials are responsible for:

1. Reviewing the reports for completeness, actual or apparent conflicts of interest, and violations of any statute, regulation, or Executive order;
2. Requesting necessary additional information from the filers to thoroughly review the report; and
3. Returning all reports in a confidential manner to the OAPM Ethics Program Coordinator.

6. FILING DATES.

A. New Entrants.

1. New entrants must file within 30 days of assuming a covered position or within 30 days of their position being designated as a covered position, unless they receive an extension. A new entrant is not required to file a report if he or she left another covered position within the past 30 days and has previously satisfied the reporting requirement applicable to that former position.
2. Special Government Employees will be required to fill out a new entrant report at the time of their initial appointment and again upon reappointment or redesignation.

B. Incumbents.

1. Incumbents in a covered position must file annually on or before October 31. If the filer did not serve in his or her position for more than 60 days during the twelve month period ending September 30, he or she is not required to file an annual report.
2. Special Government Employees are not required to file an annual report.

C. Extensions.

1. The Associate Executive Director, OAPM, may grant, for good cause shown, a filing extension(s) totaling not more than 90 days. The filer should make a written request to his or her reviewing official, with the concurrence of the Associate Executive Director (OAPM), outlining the length of the requested extension and the specific reason(s) for the extension. It is important to request the extension well before the filing date, to ensure that a decision is made before the due date. Extensions will not be granted automatically. A copy of any approved extensions will be sent to the employee's Administrative Contact and Division Director, Office Head, Regional Director, or District Administrator. The original will be kept with the employee's completed report.

2. In highly unusual circumstances, the Director, OAPM, may grant a blanket extension to all covered employees or a group of covered employees. If this is granted, all filers covered by the blanket extension will be notified by OAPM.

D. An employee in a covered position on a detail to another agency will file his or her report with the Commission, not the agency at which he or she is detailed. If the employee is detailed to the other agency for over 60 days, the Commission will ask that agency to complete an intermediate review. If the employee is required to file solely based on his or her detailed position at the other agency, then that agency will receive and review the report.

E. There is no termination report required under the confidential financial disclosure system.

7. COLLECTION PROCESS.

A. New Entrants.

1. OAPM will include a blank form and filing instructions in the orientation packets distributed at orientation for new employees in covered positions located in Headquarters, the Operations Center or the Annex. In the regional and district offices, the form and instructions will be sent to the Administrative Contact before the employee enters on duty, so that the Administrative Contact can give the employee the form on his or her first day. OAPM will send the forms and filing instructions to new entrants who move into a covered position through their Administrative Contact. All filers also will be provided with an envelope in which to return the completed report to their Administrative Contact.

2. OAPM will send the Administrative Contacts a log of all employees to whom forms were distributed. When the Administrative Contact receives a completed report sealed in its envelope, he or she will enter the date the report was received on the log provided by OAPM and forward the envelope to the Division Director, Office Head, Regional Director, or District Administrator for review.

3. The report should remain in the sealed envelope until the Division Director, Office Head, Regional Director, or District Administrator reviews it. When all reports have been received, the Administrative Contact will then return the completed log to OAPM.

B. Incumbents.

1. Through the Administrative Contact, OAPM will send all covered employees a blank copy of the form and filing instructions approximately one month before the report is due. The filer will also be provided with an envelope in which to return the completed report to his or her Administrative Contact.

2. OAPM will send the Administrative Contacts a log of all employees to whom the forms should be distributed. When the Administrative Contact receives a completed report in its sealed envelope, he or she will enter the date the report was received on the log provided by OAPM and forward the envelope to the Division Director, Office Head, Regional Director, or District Administrator for review.

3. The report should remain in the sealed envelope until the Division Director, Office Head, Regional Director, or District Administrator reviews it. When all reports have been received, the Administrative Contact will then return the completed log to OAPM.

C. All reports must be signed and dated in ink.

8. REVIEW PROCESS.

a. The Division Director, Office Head, Regional Director, or District Administrator is responsible for reviewing the reports of all employees in covered positions under his or her supervision. This responsibility may be delegated to one or more officials at a lower level (ie., associate directors), although delegations of this responsibility to the filer's immediate supervisor is discouraged to protect the filer's privacy interests. However, in unusual cases, the reviewing official may request that an intermediate review be conducted by the filer's supervisor or other individual who is familiar with the employee's work assignments.

B. The reviewing official is responsible for reviewing the report for completeness, any actual or apparent conflicts of interest, and violations of any statute, regulation, or Executive order. Disclosures should be taken at face value, unless there is a patent omission or ambiguity, or the reviewer has independent knowledge of matters outside the report. If the reviewing official believes additional information is required, he or she should contact the filer and request that additional information be submitted by a specified date. The supplemental information then becomes part of the official report. Additionally, if the filer receives further information that should be included on the report, the filer should amend his or her report to reflect the additional data. The amendment should be initialed and dated, and it becomes part of the official report.

C. Care should be exercised by reviewing officials in making copies of reports to ensure that they are made only in connection with the fulfillment of the reviewing official's responsibilities under this Chapter, and to ensure that confidentiality is not breached. Any copy of a filer's report made by a reviewing official should be maintained under lock and key in the files of the Division Director, Office Head, Regional Director, or District Administrator. Copies of reports should not be maintained in the filer's employee performance file. Any copy of a filer's report should be destroyed after review of the following year's report.

D. When the review is complete, and the reviewing official concludes that the interests and positions disclosed in the report are in compliance with applicable statutes, regulations, or Executive orders, the reviewing official will sign in the signature block designated for the signature of the Agency's Final Reviewing Official and date the report. The report should then be returned to OAPM in a secure manner (e.g., hand-carried or mailed in a sealed envelope).

E. All reports must be reviewed within 60 days of the filing date.

9. ACTIONS TAKEN BASED ON REVIEW.

A. If the reviewing official concludes that disclosed information may reveal a violation of applicable laws and regulations, the reviewing official will:

1. Notify the filer of that conclusion;
2. Allow the filer a reasonable opportunity to respond orally or in writing; and
3. Make a determination after considering any response as to whether the filer is in compliance.

B. If the reviewing official determines that the filer is in compliance, he or she should sign and date the report.

C. If the reviewing official determines that the filer is not in compliance, the reviewing official should:

1. Notify the filer of that conclusion;
2. Allow the filer the opportunity for personal consultation with an adviser if practicable;
3. Determine appropriate remedial action in consultation with the division's or office's Ethics Liaison Officer or Deputy; and
4. Notify the filer in writing of the required action and the date by which such action should be taken.

D. Except in unusual circumstances, remedial action should be completed within 3 months of the date the filer receives notice of the determination that action is required. Remedial action may include, but is not limited to: divestiture; resignation from outside position; establishment of a qualified or blind trust; written recusal; or reassignment. The reviewing official will indicate the remedial action taken in the comment section on the cover page of the report and sign and date the report.

10. PENALTIES AND FINES.

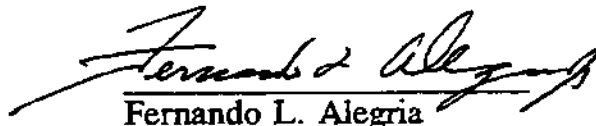
A. When there is reasonable cause to believe that an employee in a covered position has willfully falsified any information that is required to be reported, the employee will be referred to the Attorney General by the Agency Head for possible civil action. The filer also may be subject to prosecution under criminal statutes for providing false information on the report.

B. Internal administrative action and/or disciplinary or adverse action may be taken against any employee in a covered position who does not file his or her report in a timely manner or who falsifies or fails to report required information.

11. **EFFECTS ON OTHER DOCUMENTS.** This Chapter supersedes Chapter 11 (200.735-11) of 17 CFR Subpart M (SECR 19-3), dated March 16, 1989, applicable to the confidential financial disclosure system.

12. **RECORDS MAINTENANCE.** Reports will be maintained in OAPM for six years, at which time they will be destroyed unless needed for an ongoing investigation. The reports will be kept confidential. No member of the public shall have access to the reports, except pursuant to the order of a Federal court or as otherwise provided for under the Privacy Act.

13. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Administrative and Personnel Management, Training and Employee Relations Branch.



Fernando L. Alegria
Associate Executive Director
Office of Administrative and Personnel Management

12/29/93

Date

Attachments:

1. SF 450 - Public Financial Disclosure Report
2. Sample Log

Executive Branch Personnel
CONFIDENTIAL FINANCIAL
DISCLOSURE REPORT

Instructions for Completing SF 450

A. Who Must File

Your agency will inform you if the position in which you serve or will serve has been designated as requiring confidential financial disclosure. Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administration of grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement. Additionally, all special Government employees (SGEs) (those appointed pursuant to 18 U.S.C. 202(a) to serve no more than 130 days in a period of 365 days) must file, unless exempted or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.

B. Reporting Periods

New entrant reports: The reporting period is the preceding twelve months from the date of filing.

Annual reports: The reporting period is the preceding twelve months ending September 30 (or any portion thereof not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 61 days during that twelve-month period.

C. When to File

New entrant reports: Reports are due within 30 days of assuming a position designated for filing (including reappointment as a special Government employee (SGE)), unless your agency requests the report earlier. No report is required if you left another (different) filing position within 30 days prior to assuming the new position.

Annual reports: Reports are due not later than October 31, unless extended by your agency.

D. Where to File

With ethics officials at the agency in which you serve or will serve, in accordance with their procedures.

E. General Instructions

1. Confidential filers must provide sufficient information about their outside interests and activities, as well as those of their spouse and dependent children, so that an informed judgment can be made by agency ethics officials as to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities, and allows you and your agency to fashion appropriate protections against such conflicts.

2. This form consists of five parts, which require identification of certain specific financial interests and activities. No disclosure of amounts or values is required. You must complete each part (except as indicated for Part V) and sign the report. If you have no information to report in any part or do not meet the threshold values for reporting, check the "None" box. If you are a new entrant or special Government employee

(SGE), you are not required to complete Part V; in all other instances, a report is incomplete if any part is left blank.

3. The information to be disclosed on this form is required by regulation. You may include other information beyond these requirements that you wish to disclose for clarification. However, disclosure of any information does not authorize holdings, income, liabilities, affiliations, positions, gifts or reimbursements which are otherwise prohibited by law, Executive order, or regulation.

4. You can combine on one form the information applicable to yourself, your spouse, and dependent children which is required by Parts I, II, and V. (Parts III and IV require disclosures about yourself only.) You may, if you desire, distinguish any entry for a family member by preceding the entry with S if it is for a spouse or DC if it pertains to a dependent child. Joint assets may be indicated by J. Information about your spouse is not required in the case of marriage dissolution, permanent separation, or temporary separation with the intention of terminating the marriage or permanently separating.

5. In the case of references to trades or businesses which do not have publicly traded securities, you must provide sufficient information about these private entities to give the reviewers an adequate basis for conflict analysis. Thus, you must disclose the location and primary trade or business of private entities, as well as their separate financial interests and liabilities which are not solely incidental to the business. For instance, if your family swimming pool services corporation purchases an apartment house for investment in addition to its pool services business, you will have to disclose the apartment house investment, in addition to the family corporation.

6. In the case of a mutual fund, pension, IRA, or investment account, you must disclose information about portfolio holdings and sources of income, unless the entity is "an excepted investment fund." See definition below. In that case, identify it by name and

indicate "excepted investment fund" in the appropriate block; no further disclosure is required.

7. In the case of a trust, you must disclose information about its underlying assets and sources of income, unless it is an "excepted trust." See definition below. In that case, identify it by name and date of creation, and indicate "excepted trust" in the appropriate block; no further disclosure is required. (Additionally, you may, in rare cases, have an interest in a trust specifically certified by the Office of Government Ethics to be a qualified blind or diversified trust, pursuant to statute; for such qualified trusts, you will also be exempt from disclosures about underlying holdings.)

8. If you need assistance in completing this form, contact the ethics officials of the agency in which you serve or will serve.

I. Definition of Terms

o Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either:

- (1) unmarried, under age 21, and living in your household; or
- (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986, 26 U.S.C. 152.

o Excepted Investment Fund (EIF)

An "excepted investment fund" is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is:

- (1) widely held;
- (2) either publicly traded (or available) or widely diversified; and
- (3) you neither exercise control over nor have the ability to exercise control over the financial interests held by the fund.

*A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

o Excepted Trust (ET)

An "excepted trust" is one which:

- (1) was not created by you, your spouse, or dependent children; and
- (2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge.

o Honoraria

The term "honoraria" means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

o Personal Savings Account

The term "personal savings account" includes a certificate of deposit, a money market account, a savings account, an interest-bearing checking account, or any other form of deposit in a bank, savings and loan association, credit union or similar financial institution. Additionally, any money market mutual fund holding is treated as the equivalent of a personal savings account.

Privacy Act Statement

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart 1, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures

of the information on this report may be made: (1) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law.

Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other appropriate authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.

Public Burden Information

This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3017; and to the Office of Management and Budget, Paperwork Reduction Project (3209-0006), Washington, DC 20503. Do not send your completed financial disclosure report to these addresses; it should be filed as indicated above in section D.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

PARTS I - II

Page
POPPS Chapter 735.C, Attachment 1

Employee's Name (Last, first, middle initial)		Position/Title		Grade	Date of Appointment	Page No.
Agency		Branch/Unit and Address		Work Phone	Check box if special Government employee (SGE) <input type="checkbox"/>	
I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.				Signature of Employee		Date
				Reporting Status: <input type="checkbox"/> New entrant <input type="checkbox"/> Annual		
Date Received by Agency	On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (except as noted in "comments" box below).			Signature of Supervisor/Other Intermediate Reviewer		Printed Name/Title
Signature of Agency's Final Reviewing Official and Title				Date	Comments of Reviewing Officials (Check box if continued on reverse) <input type="checkbox"/>	

(Use additional copies of this form as continuation pages, if necessary, to complete any part.)

Part I: Assets and Income

None ☐

Identify for you, your spouse, and dependent children: 1) each asset held for investment or the production of income which had a fair market value exceeding \$1,000 (\$5,000 for personal savings accounts) at the close of the reporting period; and 2) each asset or source of income (other than U.S. Government salary or retirement, including the Thrift Savings Plan) which generated over \$200 in income during the reporting period (\$1,000 for your spouse's earned income, other than honoraria). This includes but is not limited to employers, stocks, bonds, tax shelters, personal savings accounts, realty, mutual funds, pensions, annuities, IRAs, assets, trust assets, commodity futures, trades and businesses, partnership interests, and honoraria. Exclude your personal residence, unless you rent it out, and any earned income of your dependent children. If the holding is an excepted trust (ET) or an excepted investment fund (EIF) (see instructions), indicate that in the designated column, and you need not disclose underlying holdings.

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, financial institution, type/location of real estate, etc.)	(X) If no longer held	Nature of Income (Rent, interest, dividends, capital gains, salary, etc.)	If EIF or ET, so indicate	Date (Only for honoraria)
1				
2				
3				
4				
5				
6				
7				
8				

Part II: Liabilities

None ☐

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts) by you, your spouse, and dependent children. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to a spouse, dependent child, or parent, brother, sister or child of you or your spouse.

Creditors (Name and address)	Type of Liability (Mortgage, promissory note, etc.)
1	
2	
3	
4	

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

PART III - END

Employee's Name (Last, first, middle initial)	Agency	Branch/Unit	Work Phone	Page No.
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Part III: Outside Positions

None ☐

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include but are not limited to those of an employee, officer, director, trustee, general partner, proprietor, representative, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature. You need not report any positions of your spouse or dependent children.

Organization (Name and address)	Type of Organization	Position	(X) If no longer held
1			
2			
3			
4			
5			

Part IV: Agreements and Arrangements

None ☐

Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

Terms of Any Agreement or Arrangement	Parties	Date
1		
2		
3		
4		

Part V: Gifts and Travel Reimbursements

None ☐

Do not complete this part if you are a new entrant or special Government employee (SGE).

Report the source and a brief description of gifts from one source totaling \$250 or more during the reporting period, and travel reimbursements from one source totaling \$250 or more during the reporting period, which are received by you, your spouse, and dependent children. Exclude anything valued at \$100 or less; anything from relatives or from the U.S. Government; anything given to your agency in connection with official travel; and food, lodging, or entertainment received as personal hospitality at the donor's residence or premises.

Source	Description (For travel-related items, include itinerary and date)
1	
2	
3	
4	
5	
6	

POPPS Chapter 735.C. Attachment 2

**SF 450 LOG
CONFIDENTIAL FINANCIAL DISCLOSURE REPORT**

OFFICE:

DIVISION/OFFICE

<u>EMPLOYEE NAME</u>	<u>ANNUAL/ NEW ENT.</u>	<u>DATE FORM SENT</u>	<u>EXT. Y/N</u>	<u>DUE DATE</u>	<u>DATE REC.</u>
John Doe	NE	08/20/9-	N	09/20/9-	
Jane Smith	A	09/20/9-	N	10/31/9-	

SIGNATURE OF ADMINISTRATIVE CONTACT

DATE

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-735.D
December 29, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 735.D

PUBLIC FINANCIAL DISCLOSURE REPORT

1. PURPOSE. This Chapter establishes SEC policy and procedures for the collection, systematic review, and custody of the SF 278, Public Financial Disclosure Report (report)(see Attachment 1).

2. POLICY. The Commission's policy is to require employees in covered positions to complete and file the report on a timely basis in accordance with the governing regulations published by the Office of Government Ethics (OGE). The public financial disclosure system is a means of identifying and preventing actual and apparent conflicts of interest reflected in the financial holdings and outside positions of senior-level government employees. It is also a means of maintaining the public's confidence in the integrity of the Commission.

3. SCOPE. This Chapter applies to all SEC employees in covered positions who are therefore required to complete the report.

A. Covered positions are:

1. Presidential Appointees;
2. Administrative Law Judges;
3. Members of the Senior Executive Service (SES); and
4. The Designated Agency Ethics Official (DAEO).

B. Any position of a confidential or policy making character may be excluded from the reporting requirements if the Director of OGE determines that such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the government. In order to exclude a position from the reporting requirement:

1. Any exclusion should be requested prior to the due date for the report which the employee would otherwise have to file;

2. The DAEO will send to OGE a list and description of each position for which an exclusion is sought and the identity of any incumbent

employees in those positions prior to the due date of the report. The exclusion will be effective as of the time the DAEO files the list with OGE;

3. Any additions, deletions, or reports of no changes to the list of exclusions must be filed with OGE annually on or before May 15; and

4. OGE will advise the Commission if a position has been improperly excluded, and set a date for the filing of the report.

4. AUTHORITIES. The applicable regulations may be found in 5 USC Appendix 6 and OGE interim regulations found in 5 CFR Part 2634, dated April 7, 1992.

5. RESPONSIBILITIES.

A. The DAEO, located in the Office of the General Counsel (OGC), is responsible for:

1. Ensuring that an effective system for the administration of the provisions of all regulatory requirements related to the public financial disclosure system is established and implemented;

2. Reviewing reports filed by Presidential Appointees, the Executive Assistant to the Chairman, the Chief Administrative Law Judge, and members of the SES in OGC (other than the DAEO); and

3. Forwarding to OGE all employee requests for extensions beyond 45 days from the required filing date.

B. The Ethics Office, OGC, is responsible for:

1. Providing advice and assistance to covered employees on any substantive issues related to completing the form;

2. Counseling agency officials with respect to the Commission's legal requirements concerning applicable statutes, regulations, and Executive orders; and

3. Advising reviewing officials on appropriate remedial actions if the reviewing official identifies conflicts of interest.

C. The Associate Executive Director, Office of Administrative and Personnel Management (OAPM), is responsible for:

1. Overseeing the day to day operation of the collection, review, and custody of the reports;

2. Designating employees in covered positions;

POPPS 6-735.D December 29, 1993

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3. Designating officials to review and certify reports, in consultation with the Ethics Office, except with respect to those reports for which the DAEC is the reviewing official under section 3.B.2.; and

4. Approving extensions up to 45 days beyond the required filing date.

D. The Ethics Program Coordinator, OAPM, is responsible for the financial disclosure program administration. This includes:

1. Ensuring that filers receive instructions on the completion of the reports;

2. Maintaining and updating a list of all employees in covered positions;

3. Identifying all new entrants, incumbents, and termination filers in coordination with OAPM's SES Program Coordinator and distributing forms and filing instructions to the filers;

4. Providing technical assistance in the completion of the forms;

5. Conducting a technical review of all reports, other than those reports for which a technical review is conducted by OGC;

6. Forwarding the reports to the appropriate official responsible for reviewing the forms for any conflicts of interest (see section 7. Review Process);

7. Sending a copy of all reviewed reports to the Branch Chief, Public Reference Branch, Office of Filings, Information and Consumer Services (OFICS);

8. Sending copies of the reports filed by Presidential Appointees and the DAEO to OGE; and

9. Maintaining custody of all reports in secured storage.

E. The reviewing officials are responsible for:

1. Reviewing the reports for completeness, actual or apparent conflicts of interest, and violation of any statute, regulation, or Executive order;

2. Requesting necessary additional information from the filers to thoroughly review the report; and

3. Returning all reports in a confidential manner to the OAPM Ethics Program Coordinator.

6. FILING DATES AND FILING PROCEDURES.

A. New Entrants.

1. New entrants must file within 30 days of assuming a covered position, unless they receive an extension. A new entrant is not required to file a report if he or she left another covered position within the past 30 days and has previously satisfied the reporting requirement applicable to that former position, or if the filer already completed a report as a nominee.

2. OAPM will provide all new entrants a blank form, receipt (see Attachment 2), and specific filing instructions when they enter a covered position. All reports must be filed with OAPM.

3. If the DAEO determines that the new entrant is not expected to perform the duties of his or her position for more than 60 days, the employee is not required to file a new entrant report or termination report. However, if the employee performs the duties of the covered position for more than 60 days, the employee must file a new entrant report within 15 days of the sixtieth day of duty, and a termination report in accordance with section 6.D.

B. Nominees.

1. A nominee must file a new entrant report no later than 5 days after his or her nomination has been transmitted to the Senate. Nominees should file their report with the DAEO. After reviewing the report, the DAEO will forward a copy to the Director of OGE, who will forward a copy to the Senate Committee considering the nomination.

2. If the Director, OGE, determines that the nominee is not expected to perform the duties of his or her position for more than 60 days, the nominee is not required to file a new entrant report or termination report. However, if the nominee performs the duties of the covered position for more than 60 days, the filer must file a nominee report within 15 days of the sixtieth day of duty, and a termination report in accordance with section 6.D.

C. Incumbents.

1. Incumbents in a covered position must file annually on or before May 15. If the filer did not serve in his or her position for more than 60 days in the preceding calendar year, he or she is not required to file an annual report.

2. OAPM will provide all covered employees a blank form, receipt (see Attachment 2), and specific filing instructions approximately a month before the report is due. All reports should be filed with OAPM.

D. Termination Filers.

1. Termination filers must file within 30 days of leaving a covered position. It is not necessary to file a report if, within 30 days of the termination date, the filer assumes another covered position for which a report is required to be filed.

2. OAPM will provide termination filers with a blank form, receipt (see Attachment 2), and specific filing instructions when leaving their covered position. All reports should be filed with OAPM.

E. Any employee in a covered position on a detail to another agency will file his or her report with the Commission, not the agency to which he or she is detailed. If the employee is detailed to the other agency for over 60 days, the Commission will ask that agency to complete an intermediate review.

F. All reports must be signed and dated in ink.

G. Extensions.

1. The Associate Executive Director, OAPM, may grant, for good cause shown, a filing extension(s) totaling not more than 45 days. The filer should make a written request to the Associate Executive Director, outlining the length of the requested extension and the specific reason(s) for the extension. It is important to request the extension well before the filing date, to ensure that a decision is made before the due date. Extensions will not be granted automatically.

2. For an extension over 45 days, the filer may make a written request to OGE through the DAEO. The request should state the length of extension desired and the specific reason(s) for the request. The DAEO will forward the request to OGE, along with his or her comments on the request. The request should be made well before the filing date in order to ensure that a decision is made before the due date.

7. REVIEW PROCESS.

A. When a report is filed, OAPM will date stamp it to show that it was filed on a timely basis. The filer may request a copy of the date stamped signature sheet. **Filers should not give the report directly to the reviewing official before filing it with OAPM.**

B. After a technical review is conducted to ensure that the report is completed correctly, and the report is compared to previous reports filed by the filer, the report will be passed on to the reviewing official for a substantive review. The following chart identifies the appropriate reviewing official:

<u>Filer</u>	<u>Reviewing Official</u>
Presidential Appointees, Chief Administrative Law Judge, Executive Assistant to the Chairman, and SES Members in the Office of General Counsel (excluding the DAEO)	DAEO
Administrative Law Judges	Chief Administrative Law Judge
Division Directors and Office Heads reporting to the Chairman, including the DAEO	Executive Assistant to the Chairman
Office Heads reporting to the Executive Director	Executive Director
Regional Directors	Director, Division of Enforcement, or designee
District Administrators	Regional Directors
All Other SES Members	Division Director, Office Head, Regional Director, or District Administrator

C. The reviewing official is responsible for reviewing the report for completeness, any actual or apparent conflicts of interest, and violations of any statute, regulation, or Executive order. Disclosures should be taken at face value, unless there is patent omission or ambiguity, or the reviewing official has independent knowledge of matters outside the report. If the reviewing official believes additional information is required, he or she should contact the filer and request that additional information be submitted by a specified date. The supplemental information then becomes part of the official report. Additionally, if the filer receives further information that should be included on the report, the filer should amend his or her report to reflect the additional data. The amendment should be initialed and dated, and it becomes part of the official report.

D. When the review is complete, and the reviewing official concludes that the interests and positions disclosed in the report are in compliance with applicable statutes, regulations, or Executive orders, the reviewing official will sign in the signature block designated for the signature of the Designated Agency Ethics Official/Reviewing Official and date the report. The report should then be returned to OAPM in a secure manner (e.g., hand-carried or mailed in a sealed envelope).

E. All reports must be reviewed within 60 days of the filing date. OAPM will forward to OGE the reviewed reports filed by the Presidential Appointees and the DAEO.

8. ACTIONS TAKEN BASED ON REVIEW.

A. If the reviewing official concludes that disclosed information may reveal a violation of applicable laws and regulations, the reviewing official will:

1. Notify the filer of the conclusion;
2. Allow the filer a reasonable opportunity to respond orally or in writing; and
3. Make a determination after considering any response as to whether the filer is in compliance.

B. If the reviewing official determines that the filer is in compliance, he or she should sign and date the report.

C. If the reviewing official determines that the filer is not in compliance, the reviewing official should:

1. Notify the filer of that conclusion;
2. Allow the filer the opportunity for personal consultation with an adviser if practicable;
3. Determine appropriate remedial action in consultation with the division or office's Ethics Liaison Officer or Deputy or the Ethics Office; and
4. Notify the filer in writing of the required action and the date by which such action should be taken.

D. Except in unusual circumstances, remedial action should be completed within 3 months of the date the filer receives notice of the determination that action is required. Remedial action may include, but is not limited to: divestiture; resignation from outside position; establishment of a qualified or blind trust; written recusal; or reassignment. The reviewing official will indicate the remedial action taken in the comment section on the cover page of the report and sign and date the report.

9. PENALTIES AND FINES.

A. When there is reasonable cause believe that an employee in a covered position has willfully failed to file a report or willfully falsified any information required to be reported, the employee will be referred to the Attorney General by the

Agency Head for possible civil action. The filer also may be prosecuted under criminal statutes for providing false information on the report.

B. \$200 Late Filing Fee.

1. Any report that is filed more than 30 days after the due date or approved extension date is subject to a **\$200** fine payable to the United States Treasury. The report is considered to be over 30 days late if it is not received by OAPM within the 30 day time frame. Any employee in a covered position required to pay the late filing fee will be notified by OAPM in writing and will be required to submit a check to the Associate Executive Director, OAPM, for transmittal to the Office of the Comptroller (OC). If the payment is not received within 75 days of the filing date, the OC will take appropriate action to collect the debt. This late filing fee is in addition to other sanctions which may be imposed for late filing.

2. The late filing fee may be waived by the Director of OGE if he or she determines that the delay was caused by extraordinary circumstances which made the delay necessary. Any request for a waiver must be made in writing and submitted with supporting documentation to the DAEO for transmittal to OGE.

C. Internal administrative action and/or disciplinary or adverse action may be taken against any employee in a covered position who does not file his or her report in a timely manner or who falsifies or fails to report required information.

10. PUBLIC ACCESS. Within 30 days of receipt, OAPM will make the reports available to the public for review through the Branch Chief, Public Reference Branch, OFICS. Any individual requesting to see a copy of a report must fill out a request on form OGE 201 (see Attachment 3). A copy of OGE 201 will be sent to the filer for each request made.

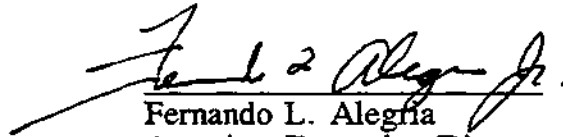
11. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes Chapter 11 (200.735-11) of 17 CFR Subpart M (SECR 19-3), dated March 16, 1989, applicable to the public financial disclosure system.

12. RECORDS MAINTENANCE. Reports will be maintained for six years in OAPM. A copy will be made available to the public for 6 years, at which time both the original and the copy will be destroyed unless needed for an ongoing investigation. Reports of nominees not confirmed by the Senate will be destroyed 1 year from the date the nominee is no longer under consideration, unless needed for an ongoing investigation.

POPPS 6-735.D December 29, 1993

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13. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and
Personnel Management, Training and Employee Relations Branch.



Fernando L. Alegria
Associate Executive Director
Office of Administrative and Personnel Management

12/29/93
Date

Attachments:

1. SF 278 - Public Financial Disclosure Report
2. Receipt for SF 278
3. OGE 201 - Request to Inspect or Receive Copies of SF 278, Financial Disclosure Report

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Instructions for Completing SF 278

Privacy Act Statement

Title I of the Ethics in Government Act of 1978, as amended (the "Act"), 5 U.S.C. App. § 101 et seq., requires the reporting of this information. This information will be reviewed by Government officials to determine compliance with applicable Federal laws and regulations, and the report may be disclosed upon request to any requesting person pursuant to section 105 of the Act or as otherwise authorized by law. You may inspect applications for public access of your own form upon request. See also the OGE/GOVT-1 Privacy Act system of records. Knowing and willful falsification of information, or failure to file or report information required to be reported by section 102 of the Act may subject you to a civil penalty of not more than \$10,000 and to disciplinary action by your employing agency or other appropriate authority under section 104 of the Act. Knowing and willful falsification of information required to be filed by section 102 of the Act may also subject you to criminal prosecution and sentencing under 18 U.S.C. §§ 1001 and 3571.

Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Administrative Services, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, N.W., Washington, D.C. 20005-3917; and to the Office of

Management and Budget, Paperwork Reduction Project (3209-0001), Washington, D.C. 20503. Do not file financial disclosure reports at these addresses; submit them as indicated in "Where to File" on page 3.

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a \$200 late filing fee. Such fee will be collected by the filer's agency, for deposit with the U.S. Treasury.

I. Introduction

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year, except Part II of Schedule C and Part I of Schedule D where you must also include any positions held and agreements or arrangements made from the beginning of the filing year until the date you file. Schedule B need not include transactions made, or gifts or reimbursements received, during a period when the filer was not a Federal employee.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination of Government employment.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D (candidates do not file Part II of Schedule D), as follows:

- **Schedule A**—The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is less than 31 days before the date of filing.

- **Schedule C, Part I (Liabilities)**—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is less than 31 days before the date of filing.

- **Schedule C, Part II (Agreements or Arrangements)**—Show any agreements or arrangements as of the date of filing.

- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Scope of Disclosure

The extent of the reporting requirement is noted in each schedule. In addition to your individual financial information, you are required to report information concerning your spouse and dependent children in several schedules of the form. However, no report is required with respect to your spouse if he or she is living separate and apart from you with the intention of terminating the marriage or providing for permanent separation. In addition, no report is required with respect to any income or obligations of an individual arising from the dissolution of marriage or permanent separation from a spouse. There are other exceptions to the reporting of assets and income, transactions, and liabilities of a spouse or dependent child which are discussed in the instructions applicable to those subjects.

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Act or permitted public access to reports must be given sufficient information by reporting individuals concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government, in that it provides a mechanism for determining actual or potential conflicts between

your public responsibilities and your private interests and activities and allows you and your agency to fashion appropriate protections against such conflicts when they first appear.

A Presidential nominee to a position requiring the advice and consent of the Senate shall file with the Senate committee considering the nomination an amendment to the initial report, which shall update all items of earned income and honoraria through the period ending no earlier than 5 days before the scheduled date of the Senate committee hearing on the nomination. This update shall be provided in the manner requested by the Senate committee considering the nomination. Copies shall be provided to OGE and your agency ethics official.

Definition of Terms

o Category of Amount

Reportable financial interests are disclosed either by actual amount or by category of amount, depending on the interest, as specified by the form. You may, but you are not required to, indicate an actual amount where the form provides for a category of amount or value.

o Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either: (1) unmarried, under age 21, and living in your household, or (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986.

o Excepted Investment Fund

An excepted investment fund is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is widely held; publicly traded (or available) or widely-diversified; and under circumstances where you neither exercise control over nor have the ability

to exercise control over the financial interests held by the fund. A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

o Gifts

See instructions for Schedule B, Part II.B.

o Honoraria

The term "honoraria" means payments of money or anything of value to you or your spouse for an appearance, speech, or article, excluding necessary travel expenses. See 5 CFR Part 2636.

o Personal Savings Account

The term "personal savings account" includes a certificate of deposit, a money market account, or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

o Relative

The term "relative" means an individual who is your father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half-sister, your spouse's grandfather or grandmother, or your fiancé or fiancée.

o Trusts ("Qualified" and "Excepted")

See instructions for Schedule A, Part II.B., and 5 CFR Part 2634, Subpart D.

o Value

You may use any one of the methods described below, in determining fair market value:

Option 1- any good faith estimate of the value of the property if the exact value is unknown or not easily obtainable;

Option 2- value based upon a recent appraisal of the property interest;

Option 3- the purchase price of your property interest, or estimated retail price of a gift;

Option 4- the assessed value of the property for tax purposes, adjusted to reflect current market value if the tax assessment is computed at less than 100% of current value;

Option 5- the year-end book value of non-publicly traded stock, or the year-end exchange value of corporate stocks, or the face value of corporate bonds or comparable securities;

Option 6- the net worth of your interest (as in a business partnership or other jointly held business interest);

Option 7- the equity value of your interest (as in a solely owned business or commercial enterprise); or

Option 8- exact value (e.g., personal savings accounts) or any other recognized indication of value (such as last sale on a stock exchange).

II. Who Must File

a. Candidates for nomination or election to the office of President or Vice President.

b. Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial office or as a Foreign Service Officer or for appointment to a rank in the uniformed services at a pay grade of O-6 or below.

c. The following newly elected or appointed officials:

- o The President;
- o The Vice President;
- o Officers and employees (including special Government employees, as defined in 18 U.S.C. § 202) whose positions are classified at GS-16¹ or above of the General Schedule, or the rate of basic pay for which is fixed under other pay schedules at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16¹;
- o Members of the uniformed services in pay grade O-7 or above;
- o Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS-16¹ or higher;
- o Administrative law judges;
- o Employees in the excepted service in positions which are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;
- o The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service or Postal Rate Commission in positions for which the rate of basic pay is equal to or greater than the minimum rate of basic pay fixed for GS-16¹;
- o The Director of the Office of Government Ethics and each designated agency ethics official; and

o Civilian employees in the Executive Office of the President (other than special Government employees) who hold commissions of appointment from the President.

d. Incumbent officials holding positions referred to in section II.c. of these instructions if they have served 61 days or more in the position during the preceding calendar year.

e. Officials who have terminated employment after having served 61 days or more in a calendar year in a position referred to in section II.c and have not accepted another such position within 30 days thereafter.

III. When to File

a. Within 30 days after becoming a candidate for nomination or election to the office of President or Vice President, or by May 15 of that calendar year, whichever is later, but at least 30 days before the election, and on or before May 15 of each succeeding year an individual continues to be a candidate.

b. At any time after the President or President-elect has publicly announced an intention to nominate an individual referred to in section II.b. of these instructions, but no later than 5 days after the President transmits the nomination to the Senate.

c. Within 30 days after assuming a position described in section II.c. unless such an individual has left another such position within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (section II.b.) or as a candidate for the position (section II.a.).

d. No later than May 15th annually, in the case of those in a position described in section II.d.

e. In the event an individual terminates employment and does not accept another position described in section II.c. within 30 days, the report must be filed no later than the 30th day after termination.

IV. Where to File

a. Candidates for President and Vice President, with the Federal Election Commission.

b. The President and Vice President, with the Office of Government Ethics.

c. Members of a uniformed service, with the Service Secretary concerned.

d. All others, with the designated agency ethics official, or that official's delegate, at the agency in which the individual serves, will serve or has served.

e. In the case of individuals nominated by or to be nominated by the President to positions requiring confirmation of the Senate, see 5 CFR Part 2634 for expedited procedures and filing location.

V. General Instructions

a. This form consists of the front page and four Schedules. You must complete each Part of all Schedules as required. If you have no information to report in any Part of a Schedule, you should indicate "None." If you are not required to complete Schedule B or Part II of Schedule D, you should mark it "Not Applicable." A report is considered incomplete if any Part of any Schedule is left blank. Schedule A combines a report of income items with the disclosure of certain property interests. Schedule B deals with transactions in

¹ Under the Federal Employees Pay Comparability Act of 1990, Public Law 101-609, General Schedule positions at GS-16, 17 and 18 will be replaced by a new range of rates for positions classified "above GS-15." The rate of basic pay for those positions will not be less than 120% of the minimum rate of basic pay payable for GS-15. When this provision of the Comparability Act takes effect at some point in 1991, this minimum rate for positions classified "above GS-15" will replace GS-16.

real property or certain other assets, as well as gifts and reimbursements. Schedules C and D relate to liabilities and employment relationships. After completing the first page and each Part of the Schedules (including extra sheets of any Schedule where continuation pages are required for any Part), consecutively number all pages.

b. The information to be disclosed is only that which the Ethics in Government Act of 1978, as amended, and 5 CFR Part 2634 specifically require. You may, however, include any additional information, beyond those requirements, that you wish to disclose for purposes of clarification. Disclosure of information does not authorize any holdings, income, honoraria, liabilities, transactions, gifts, reimbursements, affiliations or positions otherwise prohibited by law, Executive order, rule or regulation.

c. Combine on one form the information applicable to yourself, your spouse and dependent children; or if more convenient, use separate schedules to report the required information applicable to family members. You may, if you desire, distinguish any entry for a family member by preceding the entry with an (S) if it is for a spouse or a (DC) if it pertains to a dependent child. Joint assets may be indicated by a (J). See 5 CFR Part 2634, Subpart C, for exclusions in the case of separation or divorce.

d. Definitions of the various terms used in these instructions and detailed information as to what is required to be disclosed are contained in 5 CFR Part 2634.

e. In the case of references to entities which are operating trades or businesses which do not have listed securities, you must provide sufficient information about these private entities to give the reviewers of your disclosure report an adequate basis for the conflicts analysis required by the Act. Thus, you must disclose the location and primary trade or business of private entities, as well as attributed interests and activities not solely incidental to such a primary trade or business. For instance, if your

family swimming pool services corporation incurs a liability to purchase an apartment house for investment in addition to its pool services business, you will have to report the apartment house investment as part of the nature of the business of the family corporation.

f. In the case of references to entities which are investment funds such as mutual or pension funds (whether public or private), you must disclose the portfolio holdings and all other items such as transactions and liabilities to the extent otherwise required for reportable interests, unless the entity is an "excepted investment fund." See Definition of Terms above.

g. If you need assistance in completing this form, contact the designated agency ethics official of the agency in which you serve, will serve, or have served.

Schedule A

I. General Instructions

Two of the general disclosure requirements of the Act concern certain interests in property (generally referred to here as assets) and items of income. Schedule A is designed to enable you to meet both of these reporting requirements. Generally a description of your, your spouse's, or your dependent child's assets and sources of income is required to be listed in BLOCK A of the Schedule. Reading from left to right across the page from each description of the asset or income source, you will be able to report in BLOCK B the value of each asset, and in BLOCK C the type and amount of income generated by that asset or received from the non-asset source.

On Schedule A are four examples which are representative of the reporting scheme of this Schedule. The first example represents the proper method of reporting stock of Central Airlines Company held at the end of the reporting period which then had a

value of \$75,000. The individual had also received dividends of \$1,500, reported in BLOCK C. If the Central Airlines stock had been sold, there would be a check in the "None (or less than \$1,001)" column in BLOCK B if the individual no longer owned any of the stock at the end of the reporting period, and there would be an entry for capital gains as well as dividends in BLOCK C if they were realized during the period. The second example represents the proper method of reporting the source of \$130,000 of earned income from private law practice, as well as \$18,500 the reporting individual maintained in the capital account in the law firm at the end of the reporting period.

The third example represents acceptable reporting of an investment fund which is widely held, widely diversified (or publicly traded) and independently managed. Because it meets these requirements, no individual assets of the fund need to be reported, and the type of income does not need to be broken into dividends, interest, or capital gains as long as the column for "excepted investment fund" is marked. The fourth example reports a pension interest from which the filer has not yet received any payment.

Normally you will have to list an item only once in BLOCK A with all other value and income information associated with that item shown on the same line to the right. However, when you have a number of different kinds of financial arrangements and income involving one entity, a full disclosure of all the required information for that entity may require more than one line. You may always use more than one line for clarification if you choose.

II. Property Interests and Assets

(BLOCKS A and B)

A. Items to Report

Report the identity and category of valuation of any interest in property (real or personal) held by you, your spouse or a dependent child in a trade or

business, or for investment or the production of income which has a fair market value which exceeds \$1,000 as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, pension interests and annuities, futures contracts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, personal savings or other bank accounts, real estate, commercial crops, livestock, accounts or other funds receivable, and collectible items held for resale or investment. **Exceptions:** Exclude your personal residence (unless rented out) and any personal liability owed to you, your spouse or dependent child by a spouse or dependent child, or by a parent, brother, sister or child of you, your spouse, or dependent child. Exclude any retirement benefits (including the Thrift Savings Plan) from Federal Government employment and any social security benefits. Exclude also any deposits aggregating \$5,000 or less in personal savings accounts in a single financial institution.

With respect to assets of a spouse or a dependent child, do not report items:

- (1) which represent your spouse's or dependent child's sole financial interest or responsibility and of which you have no knowledge;
- (2) which are not in any way, past or present, derived from your income, assets, or activities; and
- (3) from which you neither derive, nor expect to derive, any financial or economic benefit.

Note: It is very difficult for most individuals to meet all three parts of this test, especially (3). For instance, if you file a joint tax return with your spouse, you derive a financial or economic benefit from the items involved and you are charged with knowledge of those items. A trust for the education of your minor child would also convey a financial benefit to you. Therefore, those asset and income items do not fit the test.

A personal residence held for investment or production of income, such as a summer home rented during parts of the year, must be reported.

Intermittent sales from personal property such as collections of antiques or art holdings demonstrate that the items are held for investment or the production of income and should therefore be reported.

B. What to Show on the Form

Enter the identity of the asset in BLOCK A and then show the value in BLOCK B. Only the category of value, rather than the actual value of the property interest or asset, must be shown. You need not disclose which valuation methods you used.

For assets such as stocks, bonds, and securities, report any holdings directly held or attributable to you, your spouse or dependent child from one source totaling more than \$1,000 in value. Identify the holding and show the category of value. If you hold different types of securities of the same corporation (e.g., bonds and stocks of "X" Corporation), these holdings should be considered as being from the same source for purposes of determining whether the aggregate value of the interest is below or above the \$1,000 threshold value. Report personal savings accounts only if they aggregate more than \$5,000 in a single financial institution.

If you have an interest in an investment fund or pool which is an "excepted investment fund" (see Definition of Terms above), you need only identify the interest by giving the complete name of the fund, rather than identifying the underlying assets as well.

To report interests of you, your spouse, or dependent child in a business, a partnership, or joint venture, or the ownership of property held for investment or the production of income, identify the character of the ownership interest, and the nature and location of the business or interest, unless it is a publicly traded

security. For example, the entry for a holding of farm land might show, under BLOCK A... "sole ownership of 100 acres of unimproved dairy farm land on Rural Route #1 at Pine Bluff, Madison County, Wisconsin."

You must disclose the primary trade or business of non-public entities, as well as interests and activities not solely incidental to such a trade or business. For example, if your family is involved in a private real estate investment business but as a side interest buys stock through the business in a bank, you must disclose that in addition to real estate (by type and general location), the family business holds an interest in a bank.

For an IRA (Individual Retirement Account), indicate the value of each underlying asset, as well as the income derived therefrom (even though deferred for Federal tax purposes) in accordance with section IV below, to enable the reviewer to evaluate compliance with applicable laws and regulations. If the IRA were invested solely in a mutual fund such as "Templeton World Fund, Inc." and the investment properly disclosed in Schedule A, that would be sufficient identification of the asset, since for most reporting individuals that fund would be an "excepted investment fund." If, however, the IRA had an individual or privately managed portfolio, detailed disclosure of the portfolio would be required on Schedule A in the same amount of detail as if each investment were directly held.

With respect to trusts in which a vested beneficial interest in principal or income is held, report trust interests and trust assets which had a value in excess of \$1,000. See 5 CFR Part 2634 for more information about vested interests.

You need not report the identity of assets of a trust of which you, your spouse or dependent children are the beneficiaries if the interest is:

1. a "qualified blind trust" or "qualified diversified trust," which has been certified by the Office of

Government Ethics, in accordance with 5 CFR Part 2634, Subpart D, or

2. an "excepted trust," that is, one which:

A. was not created by you or your spouse or dependent children, and

B. has holdings or sources of income of which you, your spouse and dependent children have no knowledge.

In the case of these special types of trusts, you should show in BLOCK A the identity of the trust, including the date of creation, and in BLOCK C, the classification of the trust as a "qualified trust" or an "excepted trust." (The category of amount of the trust income, if it exceeded \$200, must also be reported in BLOCK C, in accordance with section IV below.)

Note: You are not permitted by the statute to "create" an excepted trust by instructing a trustee not to divulge information or otherwise avoiding previous sources of knowledge upon entering Government service.

Do not report a trust of which your spouse or dependent child is a beneficiary that meets the three part test set forth in the second paragraph under II.A. A trust that does not fit that exception may still be an excepted trust under this section; in such case, it must be reported, but the assets need not be identified.

Except for the special trusts or funds referred to above, you must identify each individual investment held by a trust or fund, which had a value in excess of \$1,000. For example, in BLOCK A an entry such as "trust held by First National Bank (Boston, MA) consisting of ITT stock, U.S Treasury certificates, and Dallas Municipal Bonds" might be made. In BLOCK B the applicable value of each trust asset would be entered. (As described under IV.B.6. Trust Income, below, the income from each asset would be

entered in BLOCK C as well as income from assets of the trust sold during the reporting period.)

III. Earned and Other Non-Investment Income

(BLOCKS A and C)

A. Items to Report

For yourself, report the identity of the source in BLOCK A and the type and actual amount in BLOCK C of non-investment income exceeding \$200 from any one source. Such income includes fees, salaries, commissions, compensation for personal services, retirement benefits, and honoraria. Report these items on the same line as related interests in property, if any.

For your spouse, report the source, but not the amount, of non-investment income exceeding \$1,000 and the source, amount and date of honoraria exceeding \$200 from any one source. No report of the earned or other non-investment income of your dependent children is required.

Exclude income from employment by the United States Government and from any retirement system of the United States (including the Thrift Savings Plan) or from social security.

B. What to Show on the Form

1. **HONORARIA**—For you or your spouse, show honoraria aggregating more than \$200 from any one source. Report the identity of the source in BLOCK A, and the date of the services performed and actual amount in BLOCK C. List each honorarium separately. For example, if, prior to your Government service, you received \$1,500 for a speech before the Chicago Civic Club on March 19, 1991 of which \$200 was actually spent for round-trip travel, and \$200 went to the agent who made the speaking arrangement, on your new entrant report you would enter in

BLOCK A... "Chicago Civic Club, 18 Lakeshore Dr., Chicago, IL"; in BLOCK C under OTHER (specify type) ... "Honorarium"; under ACTUAL AMOUNT... "\$1,100," and under DATE... "3/19/91." Honoraria received and donated to charity must be reported, but a notation explaining that fact may be included in reporting such items. The source, date and amount of payments made or to be made directly to a charitable organization in lieu of honoraria must also be disclosed. In addition, for certain payments in lieu of honoraria you must complete a confidential report for your agency, disclosing the source, the names of charitable organization recipients, the amount, and the dates of payments, if made on or after January 1, 1991. See 5 CFR Part 2636.

2. **EARNED AND OTHER NON-INVESTMENT INCOME**—Includes all income, exclusive of honoraria, from non-investment sources including fees, commissions, salaries, and income from personal services or retirement. Report the identity of the source and give the actual amount of such income exceeding \$200 from any one source. For example, if you earned \$450 teaching at a law school, enter in BLOCK A... "John Jones Law School, Rockville, MD"; in BLOCK C under OTHER... "Salary"; and under ACTUAL AMOUNT ... "\$450." If you earned \$75 for teaching in one law school and \$250 from teaching at another school, report only the \$250 amount. Report employee benefits and severance payments which meet the reporting requirements separately from salary.

If your spouse has earned income in excess of \$1,000 (other than honoraria) from any one source, identify the source but show nothing under amount. If your spouse is self-employed in a business or profession, for example as a practicing psychologist who earned \$10,500 during the year, you need only show under BLOCK A... "practicing psychologist."

IV. Investment Income

(BLOCKS A and C)

Report items of investment income on the same line of Schedule A as the related property interest or other asset from which such income is derived. Note that some property interests or other assets will not have a related item of income. In such a case, check "None (or less than \$201)" in BLOCK C under category of amount.

A. Items to Report

Report the identity in BLOCK A and the type and value in BLOCK C of any investment income over \$200 from any one source received by or accrued to the benefit of you, your spouse or dependent child during the reporting period. For purposes of determining whether you meet the over \$200 threshold from any one source, you must aggregate all types of investment income from that same source. For your spouse or dependent child such income is only required to be reported if the asset source meets the reporting threshold in section II above.

Investment income includes, but is not limited to: income derived from dealings in property, interest, rents, royalties, dividends, capital gains; income from annuities, the investment portion of life insurance contracts, or endowment contracts; your distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust. You need not show the actual dollar amount of dividends, rents and royalties, interest, capital gains, or income from qualified trusts, excepted trusts, or excepted investment funds. For these specific types of income, you need only check the category of amount of the item reported. For all "other investment income" as described in item 7 below, you will have to report the actual dollar amount of income from each source, and indicate the type in the space marked "Other (specify type)" in BLOCK C.

B. What to Show on the Form

Check all applicable classifications of income and corresponding categories of amounts. If more than one type of income is derived from the same asset, check all relevant types and categories of amount (unless an excepted investment fund). Categories of amount may be distinguished by using the abbreviations D,R,I and CG in the boxes, in lieu of checks, to represent dividends, rents/royalties, interest or capital gains.

1. DIVIDENDS—Show in BLOCK C the amount you, your spouse or dependent child accrued or received as dividends from investment sources including common and preferred securities and underlying assets of pension and mutual funds (unless an excepted investment fund). Identify the source of such income and check the category of amount. For example, if cash dividends of \$950 were received for shares of common stock of IBM, enter in BLOCK A... "IBM common" and in BLOCK C check that dividend income was received and check the appropriate category of amount.

2. RENTS AND ROYALTIES—Show income accrued or received by you, your spouse or dependent child as rental or lease payments for occupancy or use of personal or real property in which any one of you has an interest. In addition, show payments accrued or received from such interests as copyrights, royalties, inventions, patents, and mineral leases or other interests. Identify the source of such income and check the category of amount. For example, if you received \$2,000 as rental income from an apartment building in Miami, Florida, enter in BLOCK A... "apartment building at 5802 Biscayne Blvd., Miami, FL," and in BLOCK C check that rental income was received and check the appropriate category of amount.

3. INTEREST—Identify the source and the category of amount of any interest accrued or received by you, your spouse or dependent child as income from investment holdings including: bills

and notes, loans, personal savings accounts, annuity funds, bonds, and other securities. For example, if you earned \$300 in interest during the calendar year on a Savings Certificate with Federal Savings and Loan, enter in BLOCK A... "Federal Savings and Loan (Baltimore, MD)-Savings Certificate," and in BLOCK C check that interest income was received and check the appropriate category of amount.

4. CAPITAL GAINS—Report income from capital gains realized by you, your spouse or dependent child from sales or exchanges of property, business interests, partnership interests or securities. Identify the source and check the category of amount of the gain. An example of an entry in BLOCK A might be "sale of one-third interest in 100-acre farm in Hamilton County, Iowa" and in BLOCK C check that capital gains were received and check the appropriate category of amount.

5. INVESTMENT FUND INCOME — Identify the fund and the category of amount and the type(s) of income from investment funds such as mutual or pension funds for you, your spouse or dependent child. This may include dividends, capital gains and interest for a single fund (unless an excepted investment fund). Income from each individual asset of the fund must also be listed, unless it is an excepted investment fund. See Definition of Terms above for discussion of excepted investment funds.

6. TRUST INCOME —Report the category of amount and the type of income accrued or received from any trust. Whenever you are required to identify the source of trust income, either for yourself or for a spouse or dependent child, it is not enough simply to say "John Jones Trust." Generally, the investment holdings of the trust, discussed above under "Property Interests and Assets," and the income derived from each holding must be identified to the same extent as if held directly. However, if the trust is a qualified trust or an excepted trust, in BLOCK A show only the identity of the trust including the date of creation, in BLOCK C check the classification of the trust interest as a "qualified

...of excepted trust, and also in BLOCK C show the category of amount of income attributable to you, your spouse, or dependent child.

7. OTHER INVESTMENT INCOME—Report any other items of investment income exceeding \$200 and not described above, along with the specific type and actual amount, such as gross income from business interests, endowment or annuity contract payments, estate income, a distributive share of a partnership or joint business venture income. To identify the sources of other investment income, either for you, your spouse, or a dependent child, briefly characterize in BLOCK A the nature of the business or investment interest and, when applicable, the location; for example... "one-third ownership in a retail furniture store at 1010 Grand Ave., Chicago, IL." In BLOCK C under OTHER, specify the applicable type of income, for example... "distributive share" from a partnership or "gross income" from a proprietorship, and under ACTUAL AMOUNT the actual amount of such income which was received during the reporting period. Where the asset is listed because of a value of greater than \$1,000 in BLOCK B, but it does not produce more than \$200 in income for the reporting period, check "None (or less than \$201)" instead of listing the actual amount.

Schedule B

I. Part I—Transactions

A. General Instructions and Items to Report

This part is to be completed by incumbents and termination filers only. Give a description, the date, and the category of amount of any purchase, sale, or exchange of any real property, stocks, bonds, commodity futures, excepted investment fund shares, and other securities by you, your spouse or dependent child when the amount involved in the transaction exceeded \$1,000. Also, indicate whether sales were made pursuant to a certificate of divesti-

ture previously issued by OGE to permit delayed recognition of capital gain. (For more information on certificates of divestiture, see 5 CFR Part 2634, Subpart J.) This includes reporting any sale or exchange of an asset involving an amount exceeding \$1,000 when the sold or exchanged asset did not yield income of more than \$200 (and therefore was not reported on Schedule A), or reporting the purchase of an asset involving an amount exceeding \$1,000 but at the end of the reporting period having a value of \$1,000 or less and earning income of \$200 or less during the reporting period (and therefore not appearing on Schedule A). The example on the form shows the proper way to disclose Central Airlines common stock the reporting individual purchased for \$75,000 on 2/1/91. Note that on Schedule A there is an entry for the stock as well since it was still held at the end of the reporting period.

You need not report a transaction involving (1) your personal residence (unless rented out); (2) a money market account or personal savings account; (3) an asset of your spouse or dependent child if the asset meets the three-part test set forth under the instructions for Schedule A, at 11.A.; (4) a holding of a "qualified blind trust," a "qualified diversified trust," or an "excepted trust"; (5) U.S. Treasury bills, notes, and bonds; (6) transactions which occurred prior to your Federal Government employment; or (7) transactions solely by and between the reporting individual, spouse, or dependent child.

You will need to report any transactions of a non-public business or commercial enterprise, investment pool, or other entity in which you, your spouse or dependent child have a direct proprietary, general partnership or other interest unless (1) the entity is an "excepted investment fund," or (2) the transaction is incidental to the primary trade or business of the entity as indicated by you on Schedule A. (See also sections V.e. and f. of the General Instructions preceding those for Schedule A.)

B. What to Show on the Form

Under identification of assets, identify the property or securities involved in the purchase, sale or exchange, and give the date of the transaction. For example, under IDENTIFICATION OF ASSETS... "GMC common stock"; under TYPE OF TRANSACTION... check type; under DATE... enter date transaction occurred; under AMOUNT OF TRANSACTION... check the category of value of the sale price, purchase price, or exchange value of the property involved in the transaction. You must also indicate whether an item was sold pursuant to a certificate of divestiture issued by the Office of Government Ethics under 5 CFR Part 2634, Subpart J, to permit delayed recognition of capital gain.

Where multiple transactions have occurred which involve the same asset, you may list the item once, check purchase and/or sale, and indicate... "biweekly," "throughout year," or other appropriate frequency, and the aggregate amount of the sales and purchases. Reporting an exchange generally requires reporting two items since one item is exchanged for another.

II. Part II— Gifts, Reimbursements, and Travel Expenses

A. General Instructions

This Part is to be completed by incumbents and termination filers only. The Act requires you to disclose the receipt of certain gifts, in-kind travel expenses, and cash reimbursements by you, your spouse, or dependent child from any one source other than the U.S. Government. This reporting requirement applies to gifts and reimbursements received by your spouse or dependent child to the extent the gift was not given to him or her totally independent of the relationship to you.

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

B. Items to Report

Report gifts and reimbursements received by you, your spouse or dependent child from any one source during the reporting period aggregating \$250 or more in the case of gifts of food, lodging, transportation, entertainment and reimbursements; or aggregating \$100 or more from any one source in the case of any other gift. A "gift" means any payment, forbearance, advance, rendering or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. In determining which gifts and reimbursements must be reported or aggregated, exclude these items:

1. Anything having a value of \$75 or less;
2. Anything received from "relatives" (see Definition of Terms, above);
3. Bequests and other forms of inheritance;
4. Suitable mementos of a function honoring the reporting individual;
5. Food, lodging, transportation, and entertainment or reimbursements provided by a foreign government within a foreign country or by the United States Government, or D.C., state or local governments;
6. Food and beverages not consumed in connection with a gift of overnight lodging;
7. Anything given to a spouse or dependent child totally independent of the relationship to you;
8. Gift items in the nature of communications to your office, such as subscriptions to newspapers and periodicals;
9. Gifts of hospitality (food, lodging, entertainment) on the donor's personal or family premises, as defined in 5 CFR Part 2634;

received during non-Federal employment periods; and

11. Reimbursements you received for political trips which were required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 434).

C. What to Show on the Form

1. GIFTS OF FOOD, LODGING, TRANSPORTATION, ENTERTAINMENT—Report the identity of the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and the value of gifts of food, transportation, lodging, or entertainment aggregating \$250 or more from any one source which were received by you or your spouse or dependent child and which do not fall within any of the categories of exclusions enumerated above. To reach a \$250 aggregation, you determine whether any one or combination of the components within this gift category received from one source (food, transportation, lodging, and entertainment) amounts to \$250 or more in value. For example, if you spent a weekend at a hunting lodge owned by AmCoal Corporation, and you received lodging fairly valued at \$150, food valued at \$100, and entertainment valued at \$125, the aggregate value of the gift is \$375. A gift of this nature — hospitality at a lodge owned by a corporation rather than an individual — would not qualify as a "personal hospitality" exclusion. To report this gift you would show, under SOURCE ... "AmCoal Corp., 1210 North St., Chicago, IL"; under BRIEF DESCRIPTION ... "lodging, food, and entertainment as a guest at hunting lodge owned by "AmCoal, 1/25-2/91"; and under VALUE... "\$375."

2. OTHER GIFTS—Report the identity of the source, a brief description, and the value of gifts other than food, transportation, lodging, or entertainment aggregating \$100 or more in value from any one source, other than excluded gifts, which you or your spouse or dependent child received during

the calendar year. Thus, if you and your spouse each receive an \$80 figurine from the same donor (source), the gifts have a value of more than \$100 and must be reported. To report a gift, identify the source, briefly describe the item(s), and show the value. In the case of the figurines, report on the form under SOURCE... "Artifact Co., 159 Utah St., Omaha, NE"; and under BRIEF DESCRIPTION... "two porcelain figurines". Under VALUE... "\$160" would be shown.

3. REIMBURSEMENTS—Report the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and the value of any cash reimbursements (except those from the United States Government or otherwise excluded) aggregating \$250 or more which you or your spouse or dependent child received from any one source. For example, if you were reimbursed \$400 for travel and lodging expenses in connection with a speech you made for the Denver Realtors Association, you would report this item on the form by showing under SOURCE... "Denver Realtors Assoc., 45 Bridge St., Denver, CO"; under BRIEF DESCRIPTION... "travel expenses for speech made in Denver: United Airlines round trip from Washington, D.C. 1/22-23/91, \$275; Denver Airport Marriott, \$125"; and under VALUE... "\$400" would be shown. If your spouse made this speech and received the reimbursement totally independent of his or her relationship to you, no information for this item need be reported.

Note: If you receive food, transportation, lodging, and entertainment or a reimbursement of official travel expenses from a non-profit tax-exempt institution categorized by the IRS as one falling within the terms of 26 U.S.C. § 501(c)(3), you must report the name of the organization, a brief description of the in-kind services or the reimbursement and the value. If known, you may also wish to note the date you received the required written approval from your agency to accept such items. See 5 U.S.C. § 4111 and 5 CFR Part 410, Subpart G.

Schedule C

I. Part I—Liabilities

A. General Instructions

The Act requires you to disclose certain of your financial liabilities. The examples on the form show how to report a mortgage on real estate the reporting individual held for the production of income and a promissory note. Note that you will need to disclose the date, interest rate and term (if applicable) of each liability. Also note you must disclose the highest amount owed on any liability held during the reporting period, not just at the end of the period. If the liability was completely paid during the period, you may also note that on the form if you wish.

B. Items to Report

Identify and give the category of amount of the liabilities which you, your spouse or dependent child owed to any creditor which exceeded \$10,000 at any time during the reporting period, except:

1. a personal liability owed to a spouse or dependent child, or to a parent, brother, sister, or child of you, your spouse or dependent child;
2. a mortgage or home equity loan secured by real property which is the personal residence (or a second residence not used for producing income) of you or your spouse;
3. a loan secured by a personal motor vehicle, household furniture, or appliances, where the loan does not exceed the purchase price of the item;
4. a revolving charge account where the outstanding liability did not exceed \$10,000 as of the close of the preceding calendar year; and

5. any liability of your spouse or dependent child which represents the sole financial interest or responsibility of the spouse or child, and about which you have no knowledge, and which is not derived from your income, assets, or activities, and concerning which you neither derive nor expect to derive any financial or economic benefit.

You are required to report any liability of any non-public company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, unless (1) the liability is incidental to the primary trade or business of the entity as indicated by you on Schedule A, or (2) the entity is an excepted investment fund. (See also sections V.e. and f. of the General Instructions preceding those for Schedule A.)

C. What to Show on the Form

Under CREDITORS (NAME AND ADDRESS), show the name and address of the actual creditor unless the reporting individual is only able to identify a fiduciary and certifies in the report that he has made a good faith effort to determine who the actual creditor is and was unable to do so, or upon his certification that such determination is otherwise impracticable. Under TYPE OF LIABILITY, briefly indicate the nature of the liability. Under DATE, enter date loan incurred; under INTEREST RATE, note the set rate or, if a variable one, the formula used to vary the rate, i.e. prime +2%; and under TERM, show the duration of the loan. Check the category of value for the highest amount owed during the reporting period.

II. Part II—Agreements or Arrangements

A. General Instructions and Items to Report

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of

Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits. This includes any agreements or arrangements with a future employer entered into by a termination filer. The example on the form shows the severance agreement under which the reporting individual expects to receive a lump sum payment from the law firm he has left in order to enter the Government. It also shows a continuing pension interest and describes the nexus between the organization and the pension interest, so that a complete conflicts assessment can be made.

For purposes of public disclosure, you must disclose any negotiations for future employment from the point you and a potential non-Federal employer have agreed to your future employment by that employer whether or not you have settled all of the terms, such as salary, title, benefits, and date employment is to begin. Your agency may require internal disclosure of negotiations much earlier and you should seek guidance before conducting any negotiations with persons with whom you do business. A criminal statute, 18 U.S.C. § 208, applies to official actions you may take while negotiating future employment.

B. What to Show on the Form

Under STATUS AND TERMS, describe the agreement or arrangement with appropriate specificity. Under PARTIES, show the name of the organization, or entity, and (if applicable) the name and title of the official, corporate officer, or principal person responsible for carrying out the terms of the agreement or arrangement. Under DATE, show the date of any such arrangement. No report is required regarding any agreement or arrangement entered into by a spouse or dependent child.

Schedule D

I. Part I—Outside Positions

A. Items to Report

Report all outside positions held at any time during the reporting period, as well as those positions you currently hold as an officer, director, trustee, general partner, proprietor, representative, employee or consultant of (1) any corporation, company, firm, partnership, trust, or other business enterprise; (2) any non-profit organization; (3) any labor organization; (4) any educational institution; or (5) any organization other than the United States Government. Exclude positions held in any religious, social, fraternal, or political entity, and any positions solely of an honorary nature. Be sure to report on Schedule A any income over \$200 that you received from acting in any of these positions. No report is required regarding any positions held by your spouse or dependent child.

B. What to Show on the Form

Give the name, address and brief description (type) of the organization, the title or other brief functional description of the position, and the dates you held the position. If you currently hold the position, in the entry block under "TO," note "Present."

II. Part II—Compensation in Excess of \$5,000 Paid by One Source

A. General Instructions

This Part is to be completed by nominees and new entrants only. You must disclose your sources of compensation in excess of \$5,000 and the nature of the duties you provided. This includes not only the source of your salary or other fees, but the disclosure of clients for whom you personally provided \$5,000 or more in services even though the clients' payments

were made to your employer, firm or other business affiliation. The examples on the form show the proper way to disclose the business affiliation which paid the reporting individual's compensation, in this case a law firm, and a client of the firm for which the reporting individual personally provided over \$5,000 worth of services. This Part does not require you to disclose the value of the compensation for these services; it does require a brief description of the services you provided. When a source has paid you directly, you should have a corresponding entry on Schedule A if the payment was within the reporting period for Schedule A. A client who paid your business affiliation more than \$5,000 for your services will appear only in this Part.

B. Items to Report

Report the nature of the duties performed or services rendered for any person (other than the United States Government) from which compensation in excess of \$5,000 in any of the two preceding calendar years or the present calendar year was received by you or an entity which billed for your services (business affiliation). Exclude: (1) information to the extent that it is considered confidential as a result of a privileged relationship established by law, or (2) information about persons for whom services were provided by a business affiliation of which you were a member, partner or employee unless you were directly involved in the provision of the services. The name of a client of a law firm is not generally considered confidential. No report is required regarding compensation paid to your spouse or a dependent child.

C. What to Show on the Form

Under SOURCE, give the name and address of the person to whom services were provided, for example, "Newark Real Estate Co. (Newark, NJ)"; and under BRIEF DESCRIPTION, the title or other brief functional description of the services rendered, for example: "tax matters researched for above firm while an associate with Quinn and Ouspensky."

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Reporting Individual's Name		SCHEDULE A															Page Number									
Assets and Income BLOCK A		Valuation of Assets at close of reporting period BLOCK B							Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. BLOCK C																	
<p>Identify each asset held for the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period.</p> <p>Identify each asset or source of income which generated over \$200 in income during the reporting period.</p> <p>None <input type="checkbox"/></p>		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000	Type							Amount							Date (Mo., Day, Yr.) Only if Honoraria		
										Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000		\$50,001 - \$100,000	\$100,001 - \$250,000
S.	Central Airlines Common				*																					
DC	Doe Jones & Smith, Hometown, USA			*																						
or	Kempstone Equity Fund				*																					
J	Doe Jones & Smith pension plan						*																			
1																										
2																										
3																										
4																										
5																										
6																										

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Reporting Individual's Name	SCHEDULE B	New Entrant/Nominee/Candidate: <input type="checkbox"/> Schedule Not Applicable
		Page Number

Part I: Transactions

Report any purchase, sale, or exchange by you, your spouse, or dependent child during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not

report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

None ☐

S, DC or J	Identification of Assets	Transaction Type (x)			Date (Mo., Day, Yr.)	Amount of Transaction (x)									
		Purchase	Sale	Exchange		Less Than \$1,000	\$1,000 - \$9,999	\$10,000 - \$49,999	\$50,000 - \$99,999	\$100,000 - \$499,999	\$500,000 - \$999,999	\$1,000,000 or more			
Example:	Central Airlines Common	x			2/1/91				x						
1															
2															
3															
4															
5															

Part II: Gifts, Reimbursements, and Travel Expenses

Report the source, a brief description (including travel, dates, and the nature of expenses provided), and the value of: (1) transportation, lodging, food, or entertainment received from one source totaling \$250 or more (unless received as personal hospitality at the donor's personal or family residence); (2) other gifts from one source totaling \$100 or more in value; and (3) cash reimbursements of \$250 or

more from one source. Exclude gifts, reimbursements and travel expenses from the U.S. Government. Also exclude gifts from relatives, gifts of \$75 or less when aggregating gifts for the total from one source, and gifts and reimbursements received by your spouse or dependent child that were given totally independent of the relationship to you. See instructions for further exclusions.

None ☐

S, DC or J	Source (Name and Address)	Brief Description	Value
Example:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 8/15/90	\$500
	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	\$125
1			
2			
3			
4			
5			

Reporting Individual's Name	SCHEDULE C	Page Number
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Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automo-

biles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☐

Creditors (Name and Address)		Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (\$)							
						000'000'15 - 000	000'000'15 - 100'000'05	000'000'15 - 100'000'05	000'000'15 - 100'000'05	000'000'15 - 100'000'05	000'000'15 - 100'000'05	000'000'15 - 100'000'05	000'000'15 - 100'000'05
S, DC or J	Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1981	13%	25 yrs.							
		John Jones, 123 J St., Washington, DC	Promissory note	1989	10%	on demand							
1													
2													
3													
4													
5													

Part II: Agreements or Arrangements

Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an

employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None ☐

Status and Terms of any Agreement or Arrangement		Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 11/91 and retained pension benefits (independently managed, fully funded, defined contribution plan)	Doe Jones & Smith, Hometown, USA	7/85
1			
2			
3			
4			
5			
6			

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

Reporting Individual's Name	SCHEDULE D	Page Number
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Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or

consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☐

Organization (Name and Address)		Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Natl Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	Present
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/85	11/91
1					
2					
3					
4					
5					
6					

Part II: Compensation In Excess Of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during the reporting period. This includes the names of clients and customers of any corporation,

firm, partnership, or other business enterprise, or any non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

Incumbent /
Termination Filer/
Candidate: ☐
Not Applicable ☐
None ☐

Source (Name and Address)		Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith), Maneytown, USA	Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

PUBLIC FINANCIAL DISCLOSURE REPORT, SF 278

Attached is Standard Form 278, Public Financial Disclosure Report, which must be completed by all Presidential Appointees, Administrative Law Judges and members of the Senior Executive Service:

- when they first enter a covered position if they have not left a covered position within the past 30 days;
- annually as of May 15; and
- when they leave a covered position and do not accept another covered position within 30 days.

Failure to return the form within 30 days or as of May 15 for annual reports (or within 30 days of the extension date) will result in a \$200.00 late filing fee.

Please return your completed SF-278 in a sealed envelope, marked confidential, by _____ to:

The Office of Administrative and Personnel Management
Attn: Ellen S. Bliss
Room 2035
Mail Stop 2-3

Please complete the bottom half of this receipt and return it to Ellen S. Bliss at the above address.

SECURITIES AND EXCHANGE COMMISSION

ACKNOWLEDGEMENT OF RECEIPT OF SF-278 Public Financial Disclosure Report

I acknowledge receipt of the SF-278, Public Financial Disclosure Report. I am aware that I must complete the form and return it to the Office of Administrative and Personnel Management by _____ or I am subject to the \$200 late filing fee.

Name (Printed or Typed)

Organization

Signature

Date

Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record

Application		Agency/Use Only
1. Applicant's name and address (please print):		2. Date:
1a. Office Telephone Number: () _____ ext. _____ (Optional)		3. Occupation
4. If application is for or on behalf of any other person or organization, give the other's name:	4a. Address of the other person or organization:	
5. <input type="checkbox"/> Copy of the Public Financial Disclosure Report Form SF 278 requested for the following named individual(s): Certain other types of records ("covered records") can also be requested using this form (See Part III below); if you are requesting another covered record, check this box <input type="checkbox"/> and specify which type of record(s): _____		
a. _____	d. _____	
b. _____	e. _____	
c. _____	f. _____	
6. Applicant's signature		

" Notice of Action

☐ Copies of the report(s) or other covered record(s) you requested are enclosed. See the Important Notice below.

☐ Your request does not comply with the requirements of the statute. Please complete Part I of this form and return so we may comply with your request.

☐ Other. Explanation:

☐ Fees. If applicable, amount: _____ (when fees are required, make out a check payable to the U.S. Treasury and send it to the executive branch agency processing this request form).

A. Important Notice

The law and implementing OGE regulations require that a report or other covered record not be available to any person except upon written application by such person stating his or her name, occupation and address, and that the person be aware of the prohibitions on improper use, set forth below.

Section 105(c) of the Ethics in Government Act of 1978, as amended and 5 C.F.R. 2634.603(f) of the implementing OGE regulations provide that it is unlawful for any person to obtain or use a report:

- (1) for any unlawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

Attorney General may bring a civil action against any person who obtains or uses a report for any such prohibited purpose as set forth above. The court may assess against such a person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(form continued on reverse side)

B. Privacy Act Statement

For historical purposes only: the POPPS Manual was cancelled on November 17, 2015.

Section 105 of the Ethics in Government Act of 1978, as amended (5 U.S.C. App.) and 5 C.F.R. 2634.603 authorize the solicitation of the information requested in this form. The primary use of the information on this form is to permit officials of the recipient agency to consider and process your request for inspection or receipt of a copy(ies) of the SF 278 Executive Branch Personnel Public Financial Disclosure Report form(s) or other covered record(s) to which you seek access. Failure to furnish the information, except for your office telephone number (which is an optional item of information to be used to assist in contacting you about your request), will result in this agency's inability to allow access to, or to provide copies of, the financial disclosure report form(s) or other record(s) requested. Otherwise, furnishing the requested information is voluntary. The information on this form itself may be publicly disclosed pursuant to proper request under section 105(b) of the Ethics Act or as otherwise authorized by law.

Additional disclosures of the information on this form may be made:

- (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation;
- (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena;
- (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision;
- (4) to the National Archives and Records Administration or the General Services Administration in records management inspections;
- (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and
- (6) in response to a discovery request or for the appearance of a witness in pending judicial or administrative proceeding, if the information is relevant to the subject matter.

See also the OGE/GOVT - 1 executive branch - wide Privacy Act system of records.

C. Public Burden Information

Public burden reporting for this collection of information is estimated to take approximately ten minutes per response, including time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington DC 20005-3917; and to the Office of Management and Budget, Paperwork Reduction Project (3209-0002), Washington, DC 20503. Do not file this form with these offices; rather, file it with the appropriate office of the executive branch department or agency from which you are seeking access to a financial disclosure report or other covered records.

III. Other Covered Records

In addition to requests for access to public SF 278 reports, this form can also be used to request access to certain other agency records which are covered under the access procedures of section 105 of the Ethics Act and the implementing OGE regulations ("covered records"). Such other covered records are certificates of divestiture, 18 U.S.C. 208(b)(1) & (3) waivers granted by the recipient agency (after deletion of any material withholdable pursuant to the Freedom of Information Act, 5 U.S.C. 552 (see 18 U.S.C. 208(d)(1)), and other OGE Form 201s. If you seek access to any such additional record(s), check the second box in Part I.5 on the front page and specify the record(s) sought.

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-751.A
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

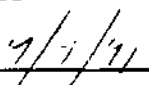
Chapter 751.A

DISCIPLINARY ACTIONS AND ADVERSE ACTIONS

1. **PURPOSE.** This chapter describes the Commission's policies and procedures for maintaining discipline and taking disciplinary actions and adverse actions against non-probationary employees in the competitive service and certain employees in the excepted service. Attached is a copy of SECR 6-10, dated November 12, 1990, which remains in effect until superseded by a revision to this chapter. The chapter will be reviewed and likely revised within the next year.
2. **EFFECTS ON OTHER DOCUMENTS.** The attachment to this chapter is incorporated by reference into this policy. For employees in the excepted service, this chapter should be read in conjunction with Chapter 751.B. Case files of all actions covered under this chapter are subject to the provisions of the Privacy Act, which limit access and establish accountability procedures for authorized disclosure of personal information.
3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Staffing and Employee Relations Branch.



John Innocenti, Director
Office of Human Resources Management



Date

Attachment:
SECR 6-10, dated November 12, 1990

SECURITIES AND EXCHANGE COMMISSION
Office of Personnel
Washington, D.C. 20549

SECR 6-10

Nov 12, 1990

Personnel

DISCIPLINE AND ADVERSE ACTIONS

This publication establishes policy and principles for maintaining discipline and for taking disciplinary and adverse actions against employees in the competitive service, preference eligibles in the excepted service and many non-preference eligible employees in the excepted service. (Procedures for employees in the excepted service are contained in SECR 6-18, Use and Administration of Disciplinary Action Involving Attorneys and Personnel of the Excepted Service.) It implements 5 U.S.C. Chapter 43 and 75 and 5 CFR Parts 432 and 752. This publication is affected by the Privacy Act of 1974. Optional Form 283, United States Merit Systems Protection Board Appeal, contains a Privacy Act Statement that is incorporated in the body of the document. This information may be obtained under the authority of Executive Order 9397 which prescribes records authorized by 5 U.S.C. Chapters 43 and 75 and Title 2, Public Law 95-454. The authorities for the maintenance of the systems of records required by this publication are 5 U.S.C. 1302, 2951, 3301, and 3302; E.O. 10577 and E.O. 11491; 3 CFR 1954-1958 Comp. page 218 and 3 CFR 1966- 1970 Comp. page 861.

Certain lay words and terms used in this publication are defined in attachment 1.

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SECTION A - GENERAL INFORMATION

1. Securities and Exchange Commission Policy:

a. The Commission must maintain a constructive, disciplined work environment in which both management and employees recognize and carry out their responsibilities. Usually, maintaining discipline is not a problem within a work environment where reasonable rules and standards of conduct and performance are clearly communicated and consistently enforced; where supervisors set a good example; where aspects of conduct and performance needing improvement are identified in a way that respects the employee's dignity; where employees are treated fairly and encouraged to improve; and where good performers are recognized.

b. Disciplinary or adverse action will be taken without regard to marital status, political affiliation, race, color, religion, sex, national origin, age or handicapping condition and with proper regard for employee's privacy and constitutional rights.

c. Disciplinary action or adverse action is taken only when necessary and then promptly and equitably.

2. Delegations of Authority:

a. **Written Reprimand.** Supervisors at all levels are delegated authority to effect written reprimands to correct an employee's deficiencies in performance or conduct except for those conduct matters reserved to the Director of Personnel (see paragraph 2d.) Prior to the issuance of a reprimand, however, the supervisor should consult the servicing personnel specialist and such other person(s) as established by the Division or Office policy.

b. **Suspension for 14 Days or Less.** Division Directors, Office Heads, and Regional Administrators are delegated authority to act as initiating and deciding officials on suspensions for 14 days or less. (Only in rare cases will Division Directors, Office Heads, and Regional Administrators actually perform both functions.) They may delegate the authority to act as an initiating official to any subordinate supervisor. This redelegation must be in writing and a copy must be furnished to the Office of Personnel (see attachment 2).

c. **Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, Furlough for 30 Days or Less.** Division Directors, Office Heads, and Regional Administrators are delegated authority to act as initiating officials on suspensions of more than 14 days; removal; reduction in grade or pay; and furlough for 30 days or less. This responsibility may be redelegated to a lower supervisory level, as appropriate; however it must be in writing and a copy must be furnished to the Office of Personnel. The Executive Director is delegated authority to act as the deciding official on such actions, and such authority may be delegated only to an official of comparable level or higher, as appropriate.

d. **Disciplinary and Adverse Actions Based on Violations of SEC Rules of Conduct or Federal Ethics Statutes.** After appropriate consultation with the Division Director, Office Head, or Regional Administrator, the Director of Personnel is delegated authority to act as an initiating official on adverse action against employees for reasons such as:

(1) Violations of the Commission's regulations regarding conduct of members and employees; and

(2) Violations of federal statutes governing ethics or conduct.

NOTE: The Executive Director may act as deciding official in such actions.

3. Employee Coverage:

a. Any career, career-conditional, indefinite or term employee, who is not serving in a probationary or trial period.

b. Any employee having competitive status in a Schedule B position in the excepted service under a non-temporary appointment.

c. Any preference eligible who has completed one year of current continuous employment in the same or similar positions outside the competitive service.

d. An individual in the excepted service (other than a preference eligible) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or who has completed two years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two years or less.

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e. A non-preference eligible in the excepted service who is being disciplined for performance reasons is covered as outlined in paragraph 12.

4. **Employee Exclusions.** Employees not specifically covered in paragraph 3 are excluded from these disciplinary and adverse action provisions. Some employees in the excluded category are:

a. Reemployed annuitants.

b. Employees currently serving a probationary or trial period related to their initial appointment in the federal service.

c. Appointees subject to Senate confirmation.

d. Employees in the excepted service who are not covered in paragraph 3. (See SECR 6-18, Use and Administration of Disciplinary Action Involving Attorneys and Personnel of the Excepted Service, for agency established review process).

e. Managers or supervisors who have not completed the probationary period associated with that position who are downgraded to the grade held immediately before becoming managers or supervisors.

f. Administrative Law Judges or employees who are in the Senior Executive Service or in a confidential/policy advocating position (schedule C type appointment).

g. Employees whose positions are downgraded as a result of reclassification and who are entitled to a grade retention under 5 U.S.C. 5362.

5. **Actions Covered.**

a. The procedures contained in this regulation cover the following types of disciplinary or adverse actions:

- (1) Reprimands and warnings.
- (2) Suspensions of 14 days or less.
- (3) Suspension of over 14 days.
- (4) Reduction in grade or pay.
- (5) Furloughs of 30 days or less.
- (6) Removals.

b. Information concerning selection of penalties is in attachment 3, and discussion of specific disciplinary and non-disciplinary situations is in attachment 4.

6. **Actions Excluded.** By legislation, such actions include but are not limited to:

a. Adverse actions taken for security reasons under 5 U.S.C. 7532.

b. Actions taken pursuant to decisions of the Office of Personnel Management (OPM) which do not allow administrative discretion.

c. Reduction-in-force actions taken under to 5 U.S.C. 3502.

d. Actions terminating temporary promotions.

e. Non-selection from a group of properly ranked and certified candidates in a promotion action.

f. Merit pay decisions.

g. Senior Executive Service performance awards or awards granted under SECR 6-2, Incentive Award Plan.

h. Actions against employees in the Senior Executive Service.

i. Actions reducing the grade of a supervisor or manager who has not completed the probationary period associated with the supervisory appointment, if the reduction is to the grade held prior to becoming a supervisor or manager.

j. Appeals from decisions in political activity cases.

k. Involuntary retirement subject to FPM, Part 831; and

l. Position classification decisions. (Only when a reduction in grade results from classification decision and the employee is not entitled to grade retention under 5 U.S.C. 5362 is the downgrade processed as an adverse action with appeal rights to the Merit System Protection Board.) Position classification decisions may be appealed according to procedures outlined in SECR 6-12, Position Classification Appeals.

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7. Representation Rights:

a. In presenting a grievance or responding to a proposed adverse action, employees have the right to be represented by an attorney or other representative. If an employee selects another Commission employee to serve as a representative, the employee who is the representative will be provided a reasonable amount of official time (if otherwise in an active duty status) to present the grievance or appeal. If the representative is from another location, the Commission is not obligated to pay travel costs associated with the representative's participation.

b. Commission employees who are asked to serve as representatives must obtain authorization from their respective Division Director, Office Head or Regional Administrator. Office of General Counsel staff may not serve as an employee representative for actions covered by this regulation.

c. The Commission may disallow an employee's choice of representative:

- (1) If there is a conflict of interest or position.
- (2) If release of the employee would cause unreasonable cost to the government; and
- (3) If priority work assignments preclude an employee's release to serve as a representative. Disallowance must be in writing and specifically state the basis for disallowance.

d. Where a labor organization has been granted exclusive employee recognition, a representative of the union shall be given the opportunity to be present at any examination of a unit employee in connection with an investigation, if the employee reasonably believes the examination may result in disciplinary action, and if the employee requests it. 1/

1/ Exclusive recognition has been granted AFGE Local 2692 in the New York Regional Office; however, the union has not requested to negotiate a contract. All but supervisors and management officials are covered in the New York Office. An employee in a unit represented by AFGE Local 2692 is responsible for requesting a representative if he or she reasonably believes that an examination may result in disciplinary action against himself or herself. Supervisors have no obligation to alert employees to bring a representative. Supervisors must allow an employee a reasonable amount of time (as determined in each individual situation) to obtain representation but do not have to wait for the employee to be joined by the employee's preferred choice representative. A reasonable time may range from a few minutes to a few days.

8. Establishing a Case File for Disciplinary and Adverse Actions:

a. Before an adverse action is proposed, it must first be coordinated with the servicing personnel specialist.

b. When an employee is given a notice of proposed action, the initiating official must establish a case file. Ultimately, the file shall contain the notice of proposed action; any correspondence or notation of conversation with the employee concerning the action or its rationale; documentation in support of the charges; and any written summary of an oral response; a copy of the final decision; and a copy of the employee's appeal, where applicable. The initiating official transmits the file to the deciding official upon issuance of the notice of proposed action. The deciding official then transmits the file to the Office of Personnel after effecting a decision on the matter.

c. When procedures in this regulation provide an opportunity for oral reply, a transcript of the response is not required. However, the person hearing the reply must prepare a summary for the record. Such summary will be made available to the employee, who will be given a reasonable amount of time, normally one day, to review the document.

SECTION B - PROCEDURES FOR TAKING DISCIPLINARY AND ADVERSE ACTIONS

9. Counseling and Letters of Reprimand:

a. **Counseling.** Employees are entitled to be advised promptly by their supervisor when deficiencies in their conduct or performance are observed. Where deficiencies involve work performance, the performance standards and expectations must serve as the basis for counseling. The initial counseling may be oral or written and should cover at a minimum:

(1) Exactly what is deficient in the employee's conduct or performance.

(2) The effect of this deficiency on the work of the office; and

(3) What the employee must do to bring performance or conduct up to the desired standard. The supervisor should ensure that the employee has every opportunity to comment on the deficiency and reason for occurrence, as well as to ask any related questions he or she may have.

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b. **Letter of Reprimand.** Should the deficiency persist or recur, the employee should be issued a written reprimand which incorporates the items in paragraph 9a. The written reprimand should refer to prior discussions concerning the deficiency and should clearly indicate the consequences to the employee if the deficiency continues. A sample notice can be found in attachment 5.

10. Suspension of 14 Days or Less.

a. Advance Written Notice:

(1) The notice must be in writing and signed by the initiating official. In all cases, an advance notice shall be a proposal to suspend and must in no way imply that a decision has already been made.

(2) The notice must clearly state the specific reasons for the proposed suspension and must be such as to promote the efficiency of the service. The notice must also indicate an employee's right to make an oral and/or written reply; the individual to whom the reply should be made (the deciding official or his or her designee); the time (normally 10 days) in which the reply must be received; and the employee's right to be represented by an attorney or other representative (see attachment 6).

(3) The case file containing the notice of proposed action and all supporting documents must be forwarded to the deciding official. The file must also be made available to the employee involved and his or her designated representative.

b. Consideration of Employee's Reply:

(1) The employee is entitled to make an oral and/or written reply and furnish affidavits and other documentary evidence.

(2) No transcript of an oral reply is required, but the person hearing the reply must prepare a summary of the reply for the record.

(3) If the deciding official does not receive the oral reply personally, he or she must designate, in writing, another official to receive the reply, prepare a written summary, and recommend what the decision on the proposed suspension should be.

(4) The employee is entitled to be represented by an attorney or other representative in making the reply.

(5) The employee's reply must be considered before a decision on the action is made by the deciding official.

c. Decision in Writing:

(1) A decision on the proposed action should be made as soon as possible after the employee responds or upon expiration of the response period if no reply is received (see attachment 7.)

(2) It must advise the employee that any reply submitted was fully considered, and state which of the specifications listed in the notice were sustained and which were not.

(3) The written decision must inform the employee of the final decision on the proposed suspension.

(4) It must inform the employee of his or her right to file an action under the formal agency grievance procedure.

d. Case File. The action case file, notice of proposed action, answer (or summary), notice of decision, and any supporting documentation must be forwarded to the Office of Personnel.

e. Grievance of Suspension of 14 Days or Less:

(1) Employees may grieve suspensions of 14 days or less under the Employee Grievance System.

(2) Employees may formally file action under the agency procedure no later than 15 days after receipt of the notice of the decision. The written grievance must identify the employee's representative, if any, and indicate if the employee wishes to make a personal presentation.

(3) The procedure begins formally because the employee's right to reply to the proposed suspension is tantamount to the informal procedures.

11. Suspension of Over 14 Days and Furloughs of 30 Days for any Reason; Removals' Reductions in Grade or Pay for Reasons Other Than Performance.

a. Advance Written Notice:

(1) The notice must be in writing and signed by the initiating official. The notice shall be a proposal to take adverse action and must in no way imply that a decision has already been made.

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(2) It must be received by the employee at least 30 days in advance of an eventual effective date except for certain emergency situations which are covered in paragraph 1lg. The date on which the notice is delivered is not counted, as it is not a full day.

(3) The notice must state the specific reasons for the proposed adverse action. These reasons and specifications must be clearly stated in sufficient detail to enable the employee to prepare a specific reply, and must be such as to promote the efficiency of the service. The notice must advise the employee of the right to make an oral and/or written reply; the availability of the case file for review; indicate the individual to whom the reply must be forwarded, and the employee's right to be represented by an attorney or other representative.

(4) The material on which the notice of proposed action is based, and which is relied on to support the reasons, must be available to the employee for review. Material which cannot be disclosed to the employee or his or her representative shall not be used to support the reasons in the notice. The notice must inform the employee where he or she may review the material (see attachment 8).

(5) The case file containing the notice and all supporting material is forwarded to the deciding official.

b. Duty Status During Notice Period:

(1) Except for the special circumstances described in paragraph 1lh, an employee in an active duty status should remain on duty during the notice period.

(2) An employee who is absent from the job (annual or sick leave, LWOP, AWOL, etc.), may be continued in such status as long as the reasons for the absence are voluntary on the part of the employee. It is improper to retain an employee on enforced leave when that employee is ready, willing, and able to return to work.

c. Official Time to Prepare Response. An employee who is in an active duty status is allowed a reasonable amount of official time to review materials, secure affidavits and prepare a response. Generally, no more than a few hours of official time should be required for this purpose. Official requests for time are made to and approved by the appropriate supervisor who should consider both the Commission's needs as well as the employee's needs.

d. Consideration of Employee's Reply:

(1) The employee is entitled to make an oral and/or written reply and furnish affidavits and other documentary evidence.

(2) No transcript of an oral reply is required, but the person receiving the response must prepare a summary of it for the record, a copy of which will be given to the employee (see paragraph 8c).

(3) If the deciding official does not receive the oral reply personally, he or she must designate in writing another official to receive the reply, who will prepare a written summary and recommend what the decision on the proposed action should be.

(4) The employee is entitled to be represented by an attorney or other representative in making an oral reply; and

(5) The employee's reply must be considered before a decision is made.

e. Decision in Writing:

(1) A decision on the proposed action should be delivered to the employee as soon as possible following any response and at or before the time the action takes effect. Any action taken must be for such cause that will promote the efficiency of the service and must be supported by a preponderance of evidence.

(2) The written decision must inform the employee of the final decision on the proposed action and, if appropriate, the effective date of the action.

(3) The written decision must advise the employee that any reply submitted was fully considered and state which of the reasons listed in the notice of the proposed adverse action were sustained and which were not sustained; and

(4) It must state the employee's right to appeal the action to the Merit Systems Protection Board (MSPB) and the time limit for appeal. The written decision must also include a copy of OF 283, United States Merit Systems Protection Board Appeal, a copy of the MSPB regulations, and where additional information on appeal rights may be obtained. (See Section C and attachments 9 and 13).

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f. Adverse Action Case File. The case file containing copies of the notice of proposed action, the answer of the employee, a summary thereof (when made orally), the notice of the decision, and any supporting material is to be forwarded from the deciding official to the Office of Personnel.

g. Exception to 30 Day Advance Notice Period:

(1) Advance written notice and opportunity to answer are not necessary in cases of furlough without pay due to unforeseeable circumstances.

(2) When there is reasonable cause to believe an employee is guilty of a crime which impacts adversely on the Commission and for which a sentence of imprisonment can be imposed, the Commission may invoke the crime provision and use the accelerated advance written notice and decision procedure described in paragraph 11i.

h. Special Circumstances. In rare instances a situation may develop where an employee's continued presence in the work place during the notice period may produce a serious threat to the employee or others, may result in loss or damage to Government property, or otherwise jeopardize legitimate Government interests. In such situations, an employee may be placed in a paid non-duty status during all or part of the notice period. As an alternative, an employee may be:

(1) Assigned to other duties.

(2) Placed on leave with his or her consent.

(3) Placed on involuntary sick or other leave when he or she is incapacitated for duty.

(4) Placed on appropriate leave (paid or unpaid) if absent for reasons not caused by the Commission.

i. Invoking the Crime Provision:

(1) When there is reasonable cause to believe an employee is guilty of a crime which impacts adversely on the Commission and for which sentence of imprisonment may be imposed, the appropriate management official may decide to invoke the crime provision. The employee will be issued a notification that he or she is being immediately placed in a non-duty status with pay for no longer than 10 days. The employee then will be given a notice of proposed removal. The notice will give the employee a reasonable period to answer (no less than seven days) and the name of the person to whom the answer is to be made.

(2) After consideration of the response, a decision on the proposed action will be issued. The decision must state:

(a) The specific reasons for taking adverse action.

(b) There is a reasonable cause to believe the employee is guilty of a crime which adversely impacts on the Commission and for which a sentence of imprisonment may be imposed.

(c) The action is being taken for such cause as to promote the efficiency of the service.

(d) The action is effective upon receipt by the employee.

(e) The employee has the right to appeal to the MSPB (see paragraph 14).

NOTE: These procedures are also followed in mixed cases (those involving both performance and conduct issues).

12. Removal or Reduction in Grade for Reasons of Unacceptable Performance.

a. Advance Written Notice:

(1) A 30 day advance written notice of the proposed action signed by the initiating official must be given to the employee. ^{2/} The purpose of this notice is to give the employee a fair opportunity to defend himself or herself against the proposed action. The notice must make it clear that the action is proposed but not yet decided.

(2) The notice must cite the specific instances of unacceptable performance (which must have occurred during the one year period ending on the date of the notice) on which the proposed action is based and the critical job elements involved in each instance of unacceptable performance. ^{3/}

^{2/} The notice period may be extended to 60 days for specific and appropriate written reasons if approved by the Director of Personnel.

^{3/} For PMRS (merit pay) staff, unacceptable performance is any level of performance below the fully successful level.

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(3) The notice must state the employee's right to make an oral and/or written reply; the availability of the case file for review; the individual to whom the reply is to be made; the time (normally 15 days) in which the reply must be received; and the employee's right to be represented by an attorney. (See attachment 10).

(4) The case file containing the notice and all supporting documentation is forwarded to the deciding official.

b. Consideration of Employee's Reply:

(1) The employee is entitled to make an oral and/or written reply and furnish affidavits and other documents in support of the reply for the record.

(2) No transcript of an oral reply is required, but the person receiving the reply must make a written summary of the reply for the record.

(3) If the deciding official does not receive the oral reply personally, he or she must designate in writing another official to receive the reply, prepare a written summary and recommend what the decision on the proposed action should be.

(4) The employee is entitled to be represented by an attorney or other representative in making an oral or written reply.

c. Improvement of Performance. If the employee's performance improves during the notice period, and if his or her performance continues to be acceptable for one year from the date of the advance written notice, any entry or other notation of prior unacceptable performance (below the fully successful level for merit pay staff) shall be removed from all Commission records relating to the employee.

d. Decision in Writing:

(1) A decision on the proposed action, signed by the deciding official, must be issued within the 30 day period after the end of the notice period. Any action taken must be supported by substantial evidence.

(2) The written decision must inform the employee of the final decision on the proposed action and, if appropriate, the effective date of action.

(3) It must advise the employee that any reply submitted was fully considered and it must specify which instances of unacceptable performance (below the fully successful level for merit pay staff) were sustained and which were not.

(4) It must state the employee's right to appeal the action to the Merit Systems Protection Board (MSPB) and the time limit for appeal. The written decision must also include a copy of OF 283, United States Merit Systems Protection Board Appeal, a copy of the MSPB regulations, and where additional information on appeal rights may be obtained. (See Section C and attachments 11 and 13).

13. Mixed Actions. Adverse actions may be based on conduct as well as performance. In such cases, the employee must be given the greater procedural rights accorded in adverse actions based on reasons other than performance (see paragraph 11).

SECTION C - APPEALS PROCESS

14. Procedures for Appeals:

a. A written appeal filed by an employee with the MSPB must be received within 20 days after the effective date of the action (see attachment 9 and attachment 11).

b. Two copies of the appeal, and attachments, if any, must be sent to the MSPB. A copy must also be sent to the Office of Personnel.

c. An appellant has the right to a hearing before a MSPB presiding official (for which a transcript will be kept), and to be represented by an attorney or other representative.

d. Only non-probationary competitive service employees; preference eligibles (veterans who have been in their job one year or more); and individuals in the excepted service who have completed two years of current continuous service are entitled to appeal adverse actions to the MSPB.

15. Standards of Evidence:

a. The action of the agency shall be sustained only if the decision is supported by substantial evidence for actions regarding unacceptable performance (below the fully successful level for merit pay staff) and by a preponderance of evidence in all other actions.

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b. Notwithstanding the requirements of evidence, the agency's decision will not be sustained if the appellant shows harmful error in the application of agency procedures, shows the decision was based on prohibited personnel practices, or that the decision was not in accordance with the law.

c. Unless the MSPB agrees to reopen and reconsider a case based on a petition from a party to the appeal or from the Office of Personnel Management, or unless MSPB decides to reopen a case on its own motion, the initial decision of the MSPB is final. Petitions for review must be filed within 35 days of issuance of the initial decision.

d. If the MSPB elects to reopen and reconsider a case, it may, following its review, affirm or reject, in whole or in part, the initial decision.

16. Allegations of Discrimination:

a. Allegations of unlawful discrimination raised in conjunction with disciplinary or adverse actions are processed under the Commission's discrimination complaint procedures. Initiation of equal employment opportunity complaint procedures does not automatically delay or suspend the adverse action procedure.

b. When an employee has raised the issue of discrimination, (either orally or in writing) prior to the issuance of a decision on an action appealable to the MSPB, a special advisory must be included with the agency decision. (See attachments 9 and 11).

SECTION D - THE DISCIPLINE PROCESS AND GENERAL GUIDANCE FOR SUPERVISORS

17. Supervisory Responsibilities. The application of timely and effective discipline is an important supervisory responsibility. In fulfilling that responsibility supervisors:

a. Should clearly communicate instructions, procedures, and expectations to their staff. Supervisors will find that such direction will result in maximum efficiency, and will also serve as the criteria for promotions, awards, performance appraisals, etc. Failure by employees to meet either the standards of conduct or the minimally acceptable performance expectations, may serve as the basis for disciplinary and adverse action.

b. Should immediately address employee deficiencies when problems first arise. At this point, constructive counseling or training may be all that is needed to correct the problem. 4/ If the employee's conduct or work performance does not improve to an acceptable level despite these efforts, and disciplinary action becomes necessary, supervisors must ensure that standards and procedures are equally applied to all employees.

c. Must support all disciplinary and adverse actions with specific facts outlining the nature and extent of the problem and efforts to correct it. For example, dates and content of counseling, examples of deficient work products, and/or the specific conduct problem are necessary to fulfill procedural requirements.

d. Should maintain an open line of communication with the Office of Personnel. Your personnel specialist can assist you in staying within the procedural requirements for disciplinary and adverse action as well as providing alternatives, suggestions, and guidance for correcting or addressing the problem.

18. The Discipline Process. Even in the best of organizations, disciplinary and adverse action may become necessary. When considering and taking such action, management must:

a. Inquire into the apparent offense and ensure appropriate consideration of all available relevant information.

b. Ensure that action taken is for good cause, consistent with applicable law, regulation and policy.

c. Conduct interviews and inquiries, and pursue disciplinary action in private to minimize embarrassment to the employee. Only the minimum number of people necessary (consistent with the need for fact-gathering, internal coordination, and observance of the employee's right to representation) should be involved in or made aware of the action. Information about such actions may not be routinely made available to those outside of management without the employee's consent. Paragraph 7 contains guidance concerning the employee's right to representation including, where applicable, union representation when an interview or inquiry is investigatory in nature.

d. Make no attempt to demand that an employee resign or retire to avoid discipline (see paragraph 20).

4/ Hearing impaired employees should be afforded an interpreter to ensure effective communication.

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19. Typical Disciplinary Matters:

a. A typical disciplinary matter might be addressed as follows:

(1) Identify the problem along with required improvements, and discuss them with the employee. If the problem involves job performance (as opposed to conduct-type issues such as leave, tardiness, etc.), discuss improvements in the context of the employee's performance standards.

(2) If the problem is not resolved within a reasonable period of time, notify your personnel specialist of the actions you have taken, while continuing to counsel the employee.

(3) If improvement does not occur within a reasonable period of time, reprimand or short suspension may be desirable.

(4) If the problem continues or if improvements are only for a short duration, severe action such as reduction in grade or removal may be appropriate.

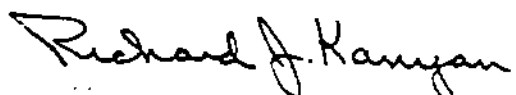
b. The steps mentioned above would apply to a typical case in which progressively more severe action is applied to resolve a problem. Some situations may be so severe that immediate discipline, ranging from reprimand to removal, is necessary. Your personnel specialist can assist you in evaluating each situation.

20. Voluntary Separations and Reductions. Separations and reductions in grade or pay voluntarily initiated by employees are, by their nature, not actions requiring the use of adverse action procedures. However, resignation, optional retirement, or reduction in grade or pay at the employee's request is involuntary and an adverse action if it is obtained by coercion, duress, time pressure, intimidation, or deception. Whether an action is voluntary or involuntary is determined not by the form of the action, but by the circumstances that produced it.

a. An action requested by an employee is voluntary only if the employee has freedom of choice. The general principle is that an action is voluntary if the employee is free to choose, understands the transaction, is given a reasonable time to make a choice, and is permitted to set the effective date. Management may point out the desirability of another effective date, but may not arbitrarily set an earlier or later date and have the action remain voluntary.

b. An employee who is confronted by management with a potential disciplinary or adverse action may choose to voluntarily accept a reduction in grade or pay, resign, or retire in lieu of disciplinary or adverse action. It is permissible for management to discuss the possible alternatives with the employee and the fact that the employee may be faced with an inherently unpleasant situation, or that possible choices may be limited to two unpleasant alternatives, (e.g., voluntary separation or disciplinary action) does not make the resulting action involuntary. Stated more positively, it is appropriate for management to advise an employee that as of a certain date, management will make a decision regarding the necessity of disciplinary action. The employee then knows the time frame within which he or she may voluntarily separate if he or she so chooses. If the separation date established by the employee is later than the decision date set by management, then management must decide whether to proceed with action on the date originally set or to delay the action in view of the employee's voluntary decision to separate. Either decision by management is appropriate and should be based on the circumstances of the case. It is not appropriate to advise or request that the employee resign or retire. Neither is it appropriate to say that the employee must resign or retire to avoid adverse or disciplinary action.

c. Voluntary separation should not be encouraged when there is substantial medical and other evidence which casts doubt on an employee's capacity to understand the alternative involved. In such cases management should seek guidance from the Office of Personnel as to the appropriate course of action.



RICHARD J. KANYAN, Director
Office of Administrative Services

EXPLANATION OF TERMS

Adverse Action. A removal, suspension of over 14 days, furlough for 30 days or less, or reduction in grade or pay. Actions resulting from reduction-in-force are not included. Adverse actions may or may not be for disciplinary reasons.

Adverse Action Based on Conduct. An action arising from reasons other than employee performance. Procedures for effecting such actions are covered in paragraph 11 and 5 U.S.C. Chapter 75.

Adverse Action Based on Unacceptable Performance. A reduction in grade or removal which stems from the failure of an employee to meet one or more critical job elements. Procedures for effecting such actions are covered in paragraph 12 and 5 U.S.C. Chapter 43.

Appeal to the MSPB. A written request by an employee to the MSPB for review of an adverse action.

Bargaining Unit Employee. An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.

Charge. Sometimes used to refer to the reason(s) for which disciplinary action is proposed. Such charges must be stated in notices of proposed action and referred to in notices of decision.

Days. Consecutive calendar days, 12 midnight to 12 midnight including holidays, weekends, and other non-duty days.

Deciding Official. An SEC official who is authorized to make a decision on a disciplinary or adverse action.

Disciplinary Action. An action taken by management to correct an employee's delinquency or misconduct. Included are oral admonishments, reprimands, and suspensions of 14 days or less.

Excepted Service. Those positions which have been excluded from the competitive civil service by statute or OPM action. In the Commission, most positions in the excepted service include attorneys, law clerks, political appointees, etc.

Grade. A pay level in a position classification system.

Harmful Error. An error by management in its application of procedures which, if corrected or alleviated, might have resulted in a different conclusion.

Initiating Official. An Commission official who is delegated authority to issue a notice of proposed disciplinary or adverse action based on misconduct or unacceptable performance.

Mixed Actions. Adverse actions arising from problems in employee conduct and performance. Procedures for handling these cases are explained in paragraph 13.

MSPB. The Merit Systems Protection Board.

MSPB Presiding Official. A representative of the Merit Systems Protection Board having authority to conduct a hearing and make the decision on a case appealed to the board.

Official Designated to Hear an Employee's Personal Answer. An employee who is the deciding official or an official to whom the deciding official delegates the authority to hear the answer and recommend final action.

OPM. Office of Personnel Management.

Oral or Written Admonishment. A conversation between a supervisor and an employee or memorandum from supervisor to employee which purpose is to correct deficiencies in the employee's conduct or performance. This counseling constitutes an informal non-disciplinary method of resolving the problems identified, providing information, guidance, advice, assistance or encouragement. Such admonishments may be considered in assessing an appropriate penalty.

Preference Eligible. An employee who is or is considered to be a veteran of military service as provided in 5 U.S.C. Section 2108.

Preponderance of the Evidence. That degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

Prior Offense. A prior cause of action for which a disciplinary penalty has been imposed.

Reason. Includes the current cause of action and facts, circumstances, and considerations relied on to support the action (for example, prior offenses).

Reduction-in-Grade. An involuntary lowering of an employee's grade as a result of an adverse action.

Removal. An involuntary separation of an employee from Commission employment due to misconduct or unsatisfactory performance. It terminates the employee's status as a Commission employee and, in some cases, may bar the individual from future federal employment.

Representation. Employee's choice of an individual who gives advice and assistance in preparation of answer and who may be present or make answer for the employee. The Commission may disallow the employee's choice; however, disallowance must be in writing and specifically state the basis therefore (see paragraph 7).

Reprimand. A written notice to the employee clearly identifying the deficiencies in the employee's conduct or performance, their impact on the office, and the possible consequences of a failure to correct the deficiencies. This letter is a formal and official disciplinary action. It is placed in the employee's official personnel folder and is destroyed no later than one year from the date of issuance. The initiating official may direct that the letter be removed from the folder at any time he or she determines that circumstances warrant such action.

Substantial Evidence. Whether in light of all the relevant and creditable evidence presented, a reasonable person could agree with the action taken.

Suspension. A suspension places an employee in a non-duty status without pay. It is a severe action and is accompanied by a warning to the employee that a further violation of rules could result in more serious adverse action.

AUTHORITY TO INITIATE DISCIPLINARY AND ADVERSE ACTIONS

Date

Name of Supervisor, Manager or
official delegated authority
by Division/Office Head

Authority to Initiate Disciplinary and Adverse Actions

Dear:

You are authorized to act as the initiating official for actions,
as prescribed in SECR 6-10, Discipline and Adverse Actions, (in-
sert paragraph 2b or 2c, as appropriate) for employees under your
direct supervision.

You are reminded to consult with your personnel specialist and to
notify (insert name of appropriate Division/Office official) in
this office before initiating any action.

(signed)
Division/Director,
Office Head, or
Regional Administrator
Title
Organization

cc: Director of Personnel

TABLE OF PENALTIES INVOLVING EMPLOYEE MISCONDUCT

1. The decision logic tables on the following pages may be used as a guide for selecting appropriate penalties in disciplinary actions involving employee misconduct. ^{5/} The tables show the inter-relationships of disciplinary causes and actions, but it does not establish procedural requirements, nor does it automatically set penalties. Depending on the circumstances, a penalty may be more or less severe than those listed in the tables. This guide does not presume to cover all possible offenses, however, it does attempt to include most issues that are likely to apply in the Commission. Other factors to be weighed are: character, gravity, recency and consequences of the offense; combination and character of other offenses; mitigating circumstances; length of service; quality of work; personal reputation; past contributions and record of cooperation.

2. Cause of Action (Offense) Column:

a. It is not necessary to state a cause of action exactly as shown in this column. However, it is important to state exactly what the employee did wrong (identified by a specific charge), preferably in simple, clear language.

b. Be careful to select a charge that fits the facts and not to distort the facts to fit a specified offense in the guide.

3. Accumulation of Offenses:

a. The period of time (reckoning period) over which offenses are cumulative for purposes of assessing progressively stronger penalties varies for different offenses. Generally, the reckoning period in the decision logic tables for item 1, attendance-related offenses; item 14, delay in carrying out or failure to carry out instruction(s) in a reasonable time; and item 16, failure to attend to duties, is one year. That is, management can use like offenses up to one year old in determining the penalty for a current offense. For all other offenses in the decision logic tables, which can be generally grouped as reflecting character traits, the reckoning period is indefinite and should be considered on a case by case basis.

b. For an explanation of terms used in the table of penalties see attachment 1.

^{5/} As noted in paragraph 12 only two penalties (removal and reduction-in-grade) may be applied for adverse action based solely on performance.

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
1. Attendance-related offenses a. Unexcused tardiness This includes delay in reporting at the scheduled starting time, returning from lunch or break periods, and returning after leaving work station on official business. 1-2 hour absences for tardiness are normally charged to absence without leave (AWOL). * The 4th offense typically would be charged as AWOL and be covered under that standard outlined below.	Oral admonishment	Oral admonishment to formal reprimand	Formal reprimand to 3 day suspension *
b. AWOL If AWOL is charged because of application of tardiness standard.	1 to 5 day suspension	5 day suspension to removal	5 day suspension to removal
If AWOL is not related to tardiness (unauthorized absence of more than 8 hours when the employee fails to report for duty and fails to notify management of his or her intentions concerning return to duty, or when --	Reprimand to 5 day suspension	1 to 14 day suspension	

SECR 6-10, Attachment 3, Nov 12, 1990

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
<p>(AVOL, cont'd) the employee fails to provide an acceptable reason for the absence upon return to duty).</p> <p>This offense includes leaving the work station without permission.</p> <p>Penalty depends on length and frequency of absences.</p> <p>Removal may be appropriate for a 1st or 2d offense if the absence is prolonged.</p> <p>Absences between 2-8 hours can be charged as AVOL depending on the individual circumstances.</p>	Reprimand to 5 day suspension	1 to 14 day suspension	5 day suspension to removal
c. Failure to request leave according to established procedures, or failure to honor a valid denial of a leave request	Oral admonishment to 3 day suspension	1 to 5 day suspension	
2. Violations of the Commission's Conduct Regulation as contained in 17 CFR Subpart M including , but not limited to such items as security transactions and reports of holding outside employment, handling --	Oral admonishment to removal	Reprimand to Removal	3 day suspension to removal

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
(Violations, 17 CFR Subpart M) of confidential information, action in case of personal interest, and acceptance of gifts.	Oral admonishment to removal	Reprimand to removal	3 day suspension to removal
3. Breach of security regulation, procedure, or practice (penalty depends on grade level of individual and nature of offense).			
a. Where restricted information is not compromised and breach is unintentional	Oral admonishment to 5 day suspension		
b. Where restricted information is compromised and breach is unintentional	Reprimand to removal	30 day suspension to removal	Removal
c. Deliberate violation	30 day suspension to removal	Removal	
4. Offenses related to intoxicants. Actions involving these offenses must be carefully evaluated to ensure that the requirements of SECR 6-5, Alcohol and Drug Abuse Program, are met. --	Reprimand to 14 day suspension	14 to 30 day suspension	30 day suspension to removal

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
(Intoxicants, cont'd) a. Alcohol related:			
(1) Unauthorized use of alcoholic beverages while on Government premises or in duty status.	Reprimand to 14 day suspension	14 to 30 day suspension	30 day suspension to removal
(2) Reporting to or being on duty while under the influence of alcohol.	Reprimand to 30 day suspension	14 day suspension to removal	Removal
(3) Sale or unauthorized transfer (providing to, or making available to another person) of an alcoholic beverage while on Government premises, in a duty status, or while any person involved is in a duty status.	Reprimand to removal	Removal	
b. Drug related:			
(1) Unauthorized possession of a drug or controlled substance while on Government premises or in a duty status.	5 to 30 day suspension	14 day suspension to removal	
(2) Unauthorized use of a drug or controlled substance while on Government premises or in a duty status.	14 day suspension to removal	30 day suspension to removal	

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
(Intoxicants, cont'd) (3) Reporting to, or being on duty while under the influence of a drug or controlled substance.	30 day suspension	Removal	Removal
5. Making false, malicious or unfounded statements against co-workers, supervisors, subordinates, or Government officials which tend to damage the reputation, or undermine the authority of those concerned.	Oral admonishment to removal	3 day suspension to removal	14 day suspension to removal
6. Abusing or offensive language, gestures or other conduct (also see "discourtesy," rule 7 below).	Oral admonishment to 5 day suspension		5 day suspension to removal
7. Discourtesy to the Public. Penalty for 4th offense within one year may be 14 day suspension to removal.	Oral admonishment to 3 day suspension	Reprimand to removal	3 day suspension to removal
8. Stealing, actual or attempted; unauthorized possession of Government property or property of others; theft and/or embezzlement of money.			

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
(Stealing, cont'd)			
a. Where substantial value is not involved.	Reprimand to removal	Reprimand to removal	5 day suspension to removal
b. Where substantial value is involved.	14 day suspension to removal	Removal	Removal
9. Using Government property or Government employees in duty status for other than official purposes.	Oral admonishment to removal	Reprimand to removal	5 day suspension to removal
NOTE: Penalty depends on the value of the property or amount of employee time involved, the nature of the position held by the offending employee, and other factors. For misuse of Government vehicles, see rule 34.			
10. Misuse of official Government credential.		5 day suspension to removal	
11. Deliberate misrepresentation, falsification, concealment or withholding of a material fact; or absent a claim of Fifth Amendment protection, refusal to testify or cooperate in an official proceeding.		1 day suspension to removal	

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
<p>12. Loss of or damage to Government property, records, or information.</p> <p>NOTE: Penalty depends on value of property or extent of damage, and degree of fault attributable to employee.</p>	Oral admonishment to 10 day suspension	Reprimand to removal	Reprimand to removal
<p>13. Offenses relating to fighting.</p> <p>NOTE: Penalty depends on such factors as provocation, extent of any injuries, and whether actions were defensive or offensive in nature.</p>			
<p>a. Threatening or attempting to inflict bodily harm.</p>	Reprimand to 14 day suspension	5 day suspension to removal	10 day suspension to removal
<p>b. Hitting, pushing or other acts against another without causing injury.</p>	Reprimand to 30 day suspension		
<p>c. Hitting, pushing or other acts against another causing injury.</p>	5 day suspension to removal	Removal	Removal
<p>14. Delay in carrying out or failure to carry out instruction in a reasonable time.</p>	Oral admonishment to 5 day suspension	Reprimand to removal	5 day suspension to removal

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

SECR 6-10, Attachment 2, NOV 12, 1990

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
15. Insubordinate defiance of authority, disregard of directive, refusal to comply with proper order.	Reprimand to removal	3 day suspension to removal	5 day suspension to removal
16. Failure to attend to duties when in a duty status (e.g., sleeping, loafing, socializing, etc.)			
a. Where no danger to persons or property is involved.	Oral admonishment to 1 day suspension	Reprimand to 5 day suspension	5 day suspension to removal
b. Where danger to persons or property is involved.	Reprimand to removal	14 day suspension to removal	30 day suspension to removal
17. Offenses related to gambling.			
a. Participating in an unauthorized gambling activity while on Government premises or in a duty status.	Oral admonishment to reprimand	Reprimand to 5 day suspension	5 day suspension to removal
b. Operating, assisting, or promoting an unauthorized gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	14 day suspension to removal	Removal	Removal

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
18. Indebtedness where agency operations or reputation are affected.	Oral admonishment to reprimand	Reprimand to 5 day suspension	5 day suspension to removal
19. Plagiarism	Reprimand to removal	3 day suspension to removal	
20. Off duty misconduct of such major import that the employee is unable to fulfill his or her job responsibilities, or off duty misconduct of such significance that there is an adverse effect upon the agency.			
OFFENSES RELATED TO SUPERVISORY/MANAGERIAL OBSERVANCE OF EMPLOYEE RIGHTS			
21. Sexual harassment	Reprimand to removal	5 day suspension to removal	30 day suspension to removal
22. Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation, or handicapping condition.			

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
23. Reprisal against an employee for providing information to an Office of Inspector General (or equivalent), the Office of Special Counsel, to an EEO investigator, or for testifying in an official proceeding.	Reprimand to removal	Removal	Removal
24. Reprisal against an employee for exercising a right provided under 5 U.S.C. 7101 et seq. (governing Federal labor-management relations).			
25. Violation of an employee's constitutional right to freedom of speech, association, and religion.			
26. Violation of prohibited personnel practices (see attachment 12).			
OFFENSES PRESCRIBED IN STATUTE			
27. Finding by MPSB of refusal to comply with MPSB order or of violation of statute causing issuance of Special Counsel complaint (5 U.S.C. 1206(g)(1) and 1207(b)).	Reprimand to removal	Reprimand to removal	Reprimand to removal

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
28. Directing, expecting or rendering services not covered by appropriations (5 U.S.C. 3101).	Removal	Removal	Removal
29. Prohibited political activity.			
a. Violation of prohibition against political contributions (5 U.S.C. 7325).			
b. Violation of prohibition against campaigning or influencing elections (7 U.S.C. 7325).	30 day suspension to removal	30 day suspension to removal	30 day suspension to removal
30. Failure to deposit into the Treasury, money accruing from lapsed salaries or from unused appropriations for salaries (5 U.S.C. 5501).	Removal	Removal	Removal
31. Soliciting contributions for a gift for a superior; making a donation as a gift to a superior; accepting a gift from an employee receiving less pay except for the occasional giving to or receiving by a supervisor of modest gifts on special occasions as provided in the Commission's Conduct Regulation, 6/ 15 U.S.C. 7351). See footnote on following page.			

For historical purposes only; the POPPS Manual was cancelled on November 17, 2015.

SECR 6-10, Attachment 3, Nov 12, 1990

CAUSE OF ACTION (OFFENSE)	TYPICAL PENALTY		
	First	Second	Third
32. Action against national security (5 U.S.C. 7532).	Suspension to removal	Suspension to removal	Suspension to removal
33. Willfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes (31 U.S.C. 638a(c)(2)).	30 day suspension to removal	30 day suspension to removal	30 day suspension to removal
34. Mutilating or destroying a public record (18 U.S.C. 2071).	Removal	Removal	Removal
35. Participating in a strike (5 U.S.C. 7311).			

6/ 17 CFR 200.735-3(b)3, prohibits the solicitation of contributions from another employee for a gift to an employee in a superior official position. However, this does not prohibit the occasional giving of gifts of modest value to an employee in a superior position or the receipt of such gifts by a superior or the use of completely voluntary contributions of nominal amounts to establish funds for the limited purpose of providing token remembrances or gifts of modest value to an employee in a superior position on special occasions.

SPECIFIC DISCIPLINARY AND NONDISCIPLINARY SITUATIONS

1. **Substandard Performance of Duties.** It is important to recognize the true character of a substandard performance problem. That requires careful evaluation of the total circumstances surrounding the substandard work to determine whether the employee is responsible for the condition and can control the essentials of the problem. Appropriate corrective action is not necessarily disciplinary. A disciplinary action is appropriate when the cause(s) of the substandard performance is/are within the employee's control and when it is expected that disciplinary action can motivate a change in behavior to correct the substandard performance.

2. Alcohol or Drug Abuse:

a. SECR 6-5, Alcohol and Drug Abuse Program, prescribes non-disciplinary procedures for offering rehabilitative assistance for alcohol or drug abuse problems. When the supervisor has good reason to believe that the cause of a job-related problem may be alcohol or drug abuse, he or she should consult with the Office of Personnel, who will provide assistance and guidance in applying the requirements of SECR 6-5. If an employee agrees to undergo a rehabilitative program, that fact will be considered in assessing the need for or the penalty to be applied in any disciplinary action.

b. Participation in a rehabilitative program does not exempt an employee from disciplinary or adverse action for reason(s) that occur after the initial referral for interview according to SECR 6-5, nor for reason(s) unrelated to alcohol or drug abuse.

3. Misuse of Leave -- The General Rule:

a. Since management has the discretion to approve or deny most requests for leave, the general rule is that management may not take action based on an employee's use of approved leave, whether it be sick leave, annual leave, or leave without pay. Use of accrued sick leave is an entitlement of every employee who is ill or incapacitated by injury, and approval is contingent on submission of supporting evidence according to agency policy and acceptable to management. The right of the employee to take sick leave for non-emergency examinations is, however, subject to the supervisor's discretion and need for the employee's services. As a result, the employee must request non-emergency leave in advance.

SECR 6-10, Attachment 4, Nov 12, 1990

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b. When management approves an employee's request for leave, the supervisor's determination is that the employee's presence on the job is not required. However, if the employee's services are required, management may deny leave. Should the employee fail to report for duty, management may show the absence in time and attendance reports as absence without leave (AWOL). The denial of the leave request and reporting as AWOL means that the employee's presence is required and the reason for requesting leave is not one for which leave must be approved. The employee's failure to honor the leave denial and the unauthorized absence may form the basis for disciplinary or adverse action.

c. If management believes, based on the past leave pattern of absences, that an employee is abusing the leave privilege or leave request, reporting or documentation requirements, the supervisor may impose more stringent leave approval requirements on the employee, as described below, which will establish a basis for improvement by the employee or for disciplinary action.

(1) Inform the employee that his or her attendance is unsatisfactory and needs to be improved.

(2) Advise him or her of the specific requirements for requesting leave; including how, to whom and when employee requests are to be submitted.

(3) Specify the documentation required for any sick or emergency leave requests. ^{2/}

(4) The possible consequences of failure to comply with the requirements (e.g., an absence that is not in compliance with requirements will be recorded as AWOL).

(5) Advise that AWOL may serve as the basis for disciplinary or adverse action.

d. Exception to the General Rule. Disciplinary or adverse action may be taken based on a record of approved LWOP when the following criteria are met:

^{2/} The Manual of Administrative Regulations, Volume II, Section 630, Leave Policy and Regulations, requires documentation for sick leave that extends beyond three work days. Management, however, has the discretion, when necessary, to require documentation for any period of absence for sick leave (e.g., doctor's certificate) or emergency annual or LWOP (documentation appropriate to the request).

(1) The record shows that the employee was absent for compelling reasons beyond the employee's control, and management's approval or disapproval was immaterial because the employee could not be on the job (i.e., illness).

(2) The absence or absences continued beyond a reasonable time (generally one year) and the employee was warned that adverse action might be initiated unless the employee became available for duty on a regular, full-time or part-time basis.

(3) Management showed that the position needed to be filled by an employee available for duty on a regular full-time, or part-time basis.

NOTE: This exception would be applicable only under certain unusual circumstances such as the inability of an employee to return to duty, or to work on a regular basis because of the continuing effects of illness or injury (on or off the job).

4. Off-Duty Misconduct. Because the agency does not interfere unnecessarily in the private affairs of its employees, care must be taken in citing an employee's off-duty misconduct as a cause of action. There must be a connection between the cause of action and the efficiency of the service.

SECR 6-10, Attachment 5, Nov 12, 1990

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REPRIMAND

Date

TO : Employee
FROM: Immediate Supervisor
RE : LETTER OF REPRIMAND

On (date), I discussed with you problems concerning your tardiness and your leave record. During this conversation, you were informed of the Commission's leave policies and that all leave taken by you must be approved in advance by either _____ or me. Since our discussion, you have continued to abuse your leave privilege.

Specifically, you have been tardy/absent on the following days:

Days:

Minutes late:

Your tardiness and irregular attendance have lowered your work output and has caused me to make last minute assignments of your case-load to other personnel. This has resulted in inefficiencies, failures of the office to meet deadlines, and reduced morale on the part of employees asked to do your work.

In the future, (1) you must make arrangements to arrive at work on time, (2) you must secure my approval for any annual leave to be taken, and (3) you must present to me a doctor's certificate upon return from any sick leave used.

This letter or warning is my final notice to you concerning the immediate action necessary on your part to correct deficiencies in your attendance. I want you to be fully aware that I will recommend more severe action if there is no immediate improvement in your attendance.

If there is any doubt in your mind concerning any part of this letter of warning, I am available to discuss it with you.

A copy of this letter will be made a part of your official personnel file/employee performance file, 8/ and any comments you may wish to make in writing may also be filed with it. The letter will remain in your folder no longer than one year. 9/

8/ If the subject of reprimand is a performance issue (i.e., covered in the performance standards), the reprimand is to be filed in the employee performance file. Non-performance subjects or mixed subjects are filed in the official personnel folder.

9/ Length of time up to one year determined by issuing official.

SECR 6-10, Attachment 6, Nov 12, 1990

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PROPOSED SUSPENSION OF 14 DAYS OR LESS

Date

Name of Employee
Duty Station

Dear:

This is a formal notice that I propose to suspend you without pay for three days for the reasons listed below. This proposal is for such cause as will promote the efficiency of the service (include background statement regarding prior warnings, counseling, and attempts to assist employee in correcting problem).

Reason No. 1 (State specific reason).

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

Reason No. 2 (State specific reason).

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

You may reply to this notice orally, in writing, or both within 10 days from the date you receive this letter. Direct your reply to (indicate name of decision official) in Room _____. Full consideration will be given to any reply you submit. In making a response, you have the right to be represented by an attorney or other representative. A written decision on the proposed suspension will be issued as soon as possible after your reply is received, or after expiration of the 10 day limit if you do not reply.

Initiating Official
Title
Organization

PROPOSED SUSPENSION DECISION

Date

Name of Employee
Duty Station

Dear:

A letter of (date) informed you of a proposal to suspend you without pay for three days because of (reason).

I have given full consideration to the information you presented in your letter of (date) and in your personal reply of (date). I find that the reason cited in the proposal is supported by the evidence, and warrants your suspension. Accordingly, it is my decision that you be suspended for three days effective (date).

You have the right to grieve this action under the employee grievance system. The written grievance must be received no later than 15 days after the effective date of the suspension, and is to be submitted to the Executive Director, with a courtesy copy to me. Your written grievance must state your reasons for contesting the suspension, with any information or proof you care to submit. It should indicate if you wish to make a personal presentation.

At your request, (name of personnel specialist) will provide further information on the Commission's grievance system.

(signed) -
Deciding Official
Title
Organization

SECR 6-10, Attachment 8, Nov 12, 1990

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**PROPOSED ADVERSE ACTION BASED ON
REASONS OTHER THAN UNACCEPTABLE PERFORMANCE**

Date

Name of Employee
Duty Station

Dear:

This is a formal notice that I propose to remove you from your position of (title, series, grade, facility and location) no earlier than 30 days from the date you receive this notice. This proposal is made for such cause as will promote the efficiency of the service. (Include background statement of counseling, warnings, and efforts to correct the problems.) The reasons for the proposed action are:

Reason No. 1 (State specific reason).

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

Reason No. 2 (State specific reason).

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

(Any reference to employee's past disciplinary record in determining the severity of the penalty should be discussed with your personnel specialist to assure a correct citation).

The material relied on to support this proposed action is available for review at (location). If you wish to review this material, please contact (name, location, and telephone number).

You may reply to this notice orally, in writing, or both within 15 days after you receive this letter. Your reply should be addressed to (insert name) Executive Director, Room_____. If you wish to make an oral reply, please advise the Executive Director who will arrange for your presentations. Full consideration will be given to any reply you submit. In making the response, you have the right to be represented by an attorney or other representative. A written decision on the proposed removal will be issued at the earliest practicable date.

_____(signed)
Initiating Official
Title
Organization

SECR 6-10, Attachment 9, Nov 12, 1990

47

**ADVERSE ACTION DECISION BASED ON
REASONS OTHER THAN UNACCEPTABLE PERFORMANCE**

Date

Name of Employee
Duty Station

Dear:

A letter of (date) informed you of a proposal to remove you from your position of (title, series, grade, facility, and location). I have given full consideration to that letter, your submission of (date) and your oral reply of (date). I find that reason number 2 was not supported by a preponderance of evidence and is withdrawn. I find, however, that reason number 1 and both specifications in that reason are supported by a preponderance of evidence and warrant your removal to promote the efficiency of the service. It is my decision, therefore, that you be removed effective (date). 10/

You have the right to appeal this action to the Merit Systems Protection Board (insert appropriate address). An appeal may be filed anytime during the period beginning with the day after the effective date of the action and ending on the 20th day after the effective date. The petition for appeal must be in writing and signed by you or your representative. Two copies of the petition and any other pleading must be submitted to the Merit Systems Protection Board and another copy forwarded to the Director of Personnel, Securities and Exchange Commission. Copies of Optional Form 283, United States Merit Systems Protection Board Appeal, and portions of 5 CFR 1201, are enclosed.

10/ If the decision is to impose a lesser penalty than that originally proposed, or to dismiss the proposed adverse action entirely, then language appropriate for the decision should be inserted.

Upon request (name, title, location) will give you further information regarding appeal procedures to the Merit Systems Protection Board. 11/

(signed)
Executive Director

Enclosure

11/ The following advisory should be inserted as appropriate (see paragraph 16 of this regulation.) "If you believe that this personnel action discriminated against you on the basis of your race, religion, sex, national origin, age, or handicap, you may file a complaint of discrimination with the Agency's Equal Employment Opportunity Office, or you may file an appeal with the Merit Systems Protection Board, as previously described. You may not, however, file both.

If you elect to file a complaint of discrimination, your complaint will be processed under 29 CFR Part 1613, Subpart D. Should you elect to file an appeal, your appeal will be processed under 5 CFR Part 1201, Subpart D."

SECR 6-10, Attachment 10, Nov 12, 1990

49

PROPOSED ADVERSE ACTION BASED ON
UNACCEPTABLE PERFORMANCE

Date

Name of Employee
Duty Station

Dear:

This is a formal notice that I propose to remove you from your position of (title, series, grade, facility and location) no earlier than 30 days from the date you receive this notice because of unacceptable performance. (Include a background statement of counselling, warnings, and efforts to correct the problems). The specific instances of unacceptable performance on which the proposed action is based are:

Reason No. 1 (State specific instances of unacceptable performance and the related critical job element in the employee's written performance standard, which must have occurred within the previous one-year period.

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

Reason No. 2 (State specific reason).

Specification No. 1 (State specific instance that supports the reason).

Specification No. 2 (State specific instance that supports the reason).

(List additional reasons and specifications as appropriate).

(Any reference to employee's past disciplinary record in determining the severity of the penalty should be discussed with your personnel specialist to assure a correct citation. Any disciplinary record cited must also be addressed in the letter of decision).

The material relied on to support this proposed action is available for review at (location). If you wish to review this material, please contact (name, location and telephone number).

You may reply to this notice orally, in writing, or both within 15 days after you receive this letter. Your reply should be addressed to (insert name) Executive Director, Room_____. If you wish to make an oral reply, please advise the Executive Director who will arrange for your presentation. Full consideration will be given to any reply you submit. In making the response you have the right to be represented by an attorney or other representative. A written decision on the proposed removal will be issued no later than 30 days from the expiration date of this notice.

(signed)
Initiating Official
Title
Organization

SECR 6-10, Attachment 11, Nov 12, 1990

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**ADVERSE ACTION DECISION FOR
REASONS OF UNACCEPTABLE PERFORMANCE**

Date

Name of Employee
Duty Station

Dear:

A letter of (date) informed you of a proposal to remove you from your position of (title, series, grade, facility and location) for the reasons cited. I have given full consideration to your written submission of (date) and your oral reply of (date). I find that the reasons contained in the notice are supported by substantial evidence and warrant your removal. It is my decision, therefore, that you be removed effective _____.

_____ 12/

You have the right to appeal this action to the Merit Systems Protection Board (insert appropriate address). An appeal may be filed anytime during the period beginning with the day after the effective date of the action until no later than 20 days after the action. The petition for appeal must be in writing and signed by you or your representative. Two copies of the petition and any other pleading must be submitted to the Merit Systems Protection Board and another copy forwarded to the Director of Personnel, Securities and Exchange Commission. Copies of Optional Form 283, United States Merit Systems Protection Board Appeal, and portions of 5 CFR 1201, are enclosed.

Upon request, (name, title, location) will give you further information regarding appeal procedures to the Merit Systems Protection Board.

Executive Director

(Letter must be issued within 30 days after the expiration of notice period).

12/ If the decision is to impose a lesser penalty than that originally proposed or to dismiss the proposed adverse action entirely, then language appropriate for the decision should be inserted.

NOTE: The following advisory is to be inserted as appropriate (see paragraph 16 of this regulation).

"If you believe that this personnel action discriminated against you on the basis of your race, religion, sex, national origin, age, or handicap, you may file a complaint of discrimination with the agency's Equal Opportunity Employment Office, or you may file an appeal with the Merit Systems Protection Board, as previously described. You may not, however, file both.

Should you elect to file a complaint of discrimination, your complaint will be processed according to 29 CFR Part 1613, Subpart D. Should you elect to file an appeal, it must be processed according to 5 CFR Part 1201, Subpart D."

PROHIBITED PERSONNEL PRACTICES

The prohibited personnel practices enacted by the Civil Service Reform Act of 1978 are summarized below for general information only. For meaning of terms and for specific provisions of the Act, refer to 5 U.S.C. 2302.

Prohibited Personnel Practices. Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, must not:

- * Discriminate for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation.

- * Solicit or consider any recommendation or statement on a person who requests, or is being considered for a personnel action, unless the recommendation or statement is based on personal knowledge or records of the one furnishing it, and is an evaluation of the person's work performance, ability, aptitude, general qualifications, character, loyalty, or suitability.

- Use official authority to coerce political activity, to provide political contribution or service, or to retaliate against an employee or applicant for refusal to take part in such political activity.

- Deceive or willfully obstruct a person in the right to compete for employment.

- Grant any preference or advantage not authorized by law, rule, or regulation to an employee or applicant to improve or worsen prospects of a particular person.

- Appoint, employ, promote, or advance relatives in his or her own agency or advocate such action.

- Take or fail to take personnel action against employees or applicants who exercise their appeal rights or lawfully disclose violations of law, rule or regulation, mismanagement, gross waste funds, abuse of authority, or a substantial and specific danger to public health or safety.

- Discriminate for or against an employee or applicant on the basis of conduct which does not adversely affect the performance of the employee or others (this does not prohibit taking into account conviction for crime under laws of any state, the District of Columbia, or the United States when determining suitability or fitness).

* Take or fail to take any other personnel action if to do so violates any law, rule, or regulation concerning merit system principles in 5 U.S.C. 2301.

SECR 6-10, Attachment 13, Nov 12, 1990

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OMB No. 3124-008

U. S. MERIT SYSTEMS PROTECTION BOARD

APPEAL FORM

INSTRUCTIONS

GENERAL: You do not have to use this form to file an appeal with the Board. However, if you do not, your appeal must still comply with the Board's regulations, 5 C.F.R. Part 1201. Your agency's personnel office will give you access to the regulations, and the Board will expect you to be familiar with them. You also should become familiar with the Board's key case law and controlling court decisions as they may affect your case. You must tell the Board if you are raising an affirmative defense (see Part III), and you are responsible for proving each defense you raise.

WHERE TO FILE AN APPEAL: You must file your appeal with the Board's regional office identified in the decision notice the agency gave you.

WHEN TO FILE AN APPEAL: Your appeal must be filed during the period beginning with the day after the effective date of the action you are appealing and ending on the 20th day after the effective date. You may not file your appeal before the effective

date of the action you are appealing. If you are appealing from a decision which does not set an effective date, you must file within 25 days of the date of the decision you are appealing. If your appeal is late, it may be dismissed as untimely. The date of filing is the date your appeal is postmarked or the date of receipt if you personally deliver it to the regional office.

HOW TO FILE AN APPEAL: You may file your appeal by mail, by facsimile, or by personal delivery. You must submit two copies of both your appeal and all attachments. You may supplement your response to any question on separate sheets of paper, but if you do, please put your name and address at the top of each additional page. All of your submissions must be legible and on 8 1/2" x 11" paper. Your appeal must contain your or your representative's signature in block 6. If it does not, your appeal will be rejected and returned to you. If your representative signs block 6, you must sign block 35 or submit a separate written designation of representative.

Privacy Act Statement: This form requests personal information which is relevant and necessary to reach a decision in your appeal. The U.S. Merit Systems Protection Board collects this information in order to process appeals under its statutory and regulatory authority. Since your appeal is a voluntary action, you are not required to provide any personal information in connection with it. However, failure to supply the U.S. Merit Systems Protection Board with all the information essential to reach a decision in your case could result in the rejection of your appeal.

The U.S. Merit Systems Protection Board is authorized under provisions of Executive Order 9397, dated November 22, 1943, to request your Social Security number, but providing your Social Security number is voluntary and failure to provide it will not result in the rejection of your appeal. Your Social Security number will only be used for identification purposes in the processing of your appeal.

You should know that the decisions of the U.S. Merit Systems Protection Board on appeals are final administrative decisions and, as such, are

available to the public under the provisions of the Freedom of Information Act. Additionally, it is possible that information contained in your appeal file may be released as required by the Freedom of Information Act. Some information about your appeal will also be used in depersonalized form as a data base for program statistics.

Public Reporting Burden: The public reporting burden for this collection of information is estimated to vary from 20 minutes to 1 hour, with an average of 30 minutes per response, including time for reviewing the form, searching existing data sources, gathering the data necessary, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, and to the Office of Management and Budget, Paperwork Reduction Project (3124-0084), Washington, DC 20503.

Part I Appellant Identification

1. Name (last, first, middle initial)	2. Social Security Number
3. Present address (number and street, city, state, and ZIP code). You must notify the Board of any change of address or telephone number while the appeal is pending with the MSPB.	4. Home phone (include area code)
6. I certify that all of the statements made in this appeal are true, complete, and correct to the best of my knowledge and belief.	5. Office phone (include area code)
<div style="display: flex; align-items: center;"> <div style="flex: 1;"> </div> <div style="flex: 1; text-align: center;"> Signature of appellant or designated representative </div> <div style="flex: 1; text-align: center;"> Date signed </div> </div>	

NSM 7340-01-001 (12/87)
30283-104
Optional Form 283 (Rev. 11-89)

MSPB
5 C.F.R. 1201

Part II Appealed Action		
7. Briefly describe the agency action you wish to appeal and attach any relevant documents, including the proposal letter, the decision letter, and the relevant SF 50 or its equivalent.		
8. Name and address of the agency that took the action you are appealing (including bureau or other divisions, as well as street address, city, state and ZIP code)		9. Your position title and duty station at the time of the action appealed
10. Grade at time of the action appealed	11. Salary at the time of the action appealed \$ _____ per _____	12. Are you a veteran and/or entitled to the employment rights of a veteran? <input type="checkbox"/> Yes <input type="checkbox"/> No
13. Employment status at the time of the action appealed <input type="checkbox"/> Temporary <input type="checkbox"/> Applicant <input type="checkbox"/> Retired <input type="checkbox"/> Permanent <input type="checkbox"/> Term <input type="checkbox"/> Seasonal	14. If retired, date of retirement (month, day, year)	15. Type of service <input type="checkbox"/> Competitive <input type="checkbox"/> SES <input type="checkbox"/> Excepted <input type="checkbox"/> Postal Service
16. Length of government service	17. Length of service with acting agency	18. Were you serving a probationary or trial period at the time of the action appealed? <input type="checkbox"/> Yes <input type="checkbox"/> No
19. Date you received written notice of the proposed action (month, day, year) (attach a copy)	20. Date you received the final decision notice (month, day, year) (attach a copy)	21. Effective date of the action appealed (month, day, year)
22. Explain briefly why you think the agency was wrong in taking this action.		
23. Do you believe the penalty imposed by the agency was too harsh? <input type="checkbox"/> Yes <input type="checkbox"/> No	24. What action would you like the Board to take on this case (i.e., what remedy are you asking for)?	
Part III Appellant's Defenses		
25. a) Do you believe the agency committed harmful procedural error(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No	25. b) If so, what is (are) the error(s)?	
25. c) Explain how you were harmed by the error(s).		

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26. a) Do you believe that the action you are appealing violated the law? <input type="checkbox"/> Yes <input type="checkbox"/> No		26. b) If so, what law?	
26. c) How was it violated?			
27. If you believe this action was taken as a result of your whistleblowing activities, please provide details, including dates and names of persons involved.			
28. a) If you believe you were discriminated against by the agency, in connection with the matter appealed, because of either your race, color, religion, sex, national origin, marital status, political affiliation, handicapping condition, or age, indicate so and explain why you believe it to be true. You must indicate, by specific examples, how you were discriminated against.			
28. b) Have you filed a formal discrimination complaint with your agency or any other agency concerning the matter which you are seeking to appeal?		<input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No	
28. c) If yes, place filed (agency, number and street, city, state, and ZIP code)		28. d) Date filed (month, day, year)	
		28. e) Has a decision been issued? <input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No	
29. a) Have you, or anyone in your behalf, filed a formal grievance with your agency concerning this matter, under a negotiated grievance procedure provided by a collective bargaining agreement?		29. b) Date filed (month, day, year)	
<input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No			
29. c) If yes, place filed (agency, number and street, city, state, and ZIP code)		29. d) Has a decision been issued? <input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No	
		29. e) If yes, date issued (month, day, year)	

Part IV Hearing		
<p>30. You may have a right to a hearing on this appeal. If you do not want a hearing, the Board will make its decision on the basis of the documents you and the agency submit, after providing you and the agency with an opportunity to submit additional documents. If neither box is checked, the Board will presume you do not want a hearing, and none will be scheduled.</p> <p>Do you want a hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If you choose to have a hearing, the Board will notify you where and when it is to be held.</p>		
Part V Designation of Representative		
<p>31. You may represent yourself in this appeal, or you may choose someone to represent you. Your representative does not have to be an attorney. You may change your designation of a representative at a later date, if you so desire, but you must notify the Board promptly of any change. Where circumstances require, a separate designation of representative may be submitted after the original filing. Include the information requested in blocks 31 through 35.</p> <p>"I hereby designate _____ to serve as my representative during the course of this appeal. I understand that my representative is authorized to act on my behalf."</p>		
32. Representative's address (number and street, city, state, and ZIP code):	33. Representative's employer	
	34. Representative's telephone number (include area code)	
	35. Applicant's signature	Date
Part VI Reduction In Force (RIF)		
Instructions		
<p>Fill out this part only if you are appealing from a Reduction in Force. Your agency's personnel office can furnish you with most of the information requested below.</p>		
36. Retention group and sub-group	37. Service computation date	38. a) Has your agency offered you another position rather than separating you? <input type="checkbox"/> Yes <input type="checkbox"/> No
38. b) Title of position offered	38. c) Grade of position offered	38. d) Salary of position offered \$ _____ per
38. e) Location of position offered		38. f) Did you accept this position? <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>39. Explain why you think you should not have been affected by the Reduction in Force. (Explanations could include: you were placed in the wrong retention group or sub-group; an error was made in the computation of your service computation date; competitive area was too narrow; improperly reached for separation from competitive level; an exception was made to the regular order of selection; full 30-day notice was not given; you believe you have assignment (bump or recess) rights, or any other reasons. Please provide as much information as possible regarding each reason.)</p>		

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-751.B
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 751.B

DISCIPLINARY ACTIONS AND ADVERSE ACTIONS INVOLVING ATTORNEYS AND OTHER EXCEPTED SERVICE PERSONNEL

1. **PURPOSE.** This chapter describes the Commission's policies and procedures for taking disciplinary actions and adverse actions against employees in the excepted service. Attached is a copy of SECR 6-18, dated February 28, 1985. These procedures remain in effect, except as noted below, until superseded by a revision to this chapter. The chapter will be reviewed and likely incorporated into a revised policy or policies on disciplinary and adverse actions within the next year.

2. **CHANGES TO SECR 6-18.** Public Law 101-376, the "Civil Service Due Process Amendments" signed on August 17, 1990, extended MSPB Appeal rights for adverse actions (e.g., suspensions more than 14 days and removals based on conduct) and actions based on unacceptable performance to most non-preference eligible excepted service employees who have completed two years of current continuous service. Therefore, paragraph 3 b. (4) will no longer apply in situations where appeal rights have been granted. Otherwise, the attachment to this chapter is incorporated by reference into this policy.

3. **EFFECTS ON OTHER DOCUMENTS.** This chapter should be read in conjunction with Chapter 751.A on disciplinary and adverse actions, and personnel involved in situations covered by this chapter are urged to seek guidance on the applicable regulations from the employee relations staff in the Office of Human Resources Management. Case files of all actions covered under this chapter are subject to the provisions of the Privacy Act, which limit access and establish accountability procedures for authorized disclosure of personal information.

3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Staffing and Employee Relations Branch.


John Innocenti, Director
Office of Human Resources Management



Date

Attachment: SECR 6-18, dated February 28, 1985

SECURITIES AND EXCHANGE COMMISSION
Office of Personnel
Washington, D.C. 20549

SECR 6-18

Feb 28, 1985

Personnel

USE AND ADMINISTRATION OF DISCIPLINARY ACTION INVOLVING
ATTORNEYS AND PERSONNEL OF THE EXCEPTED SERVICE

This regulation explains how to administer disciplinary action to probationary and non-veteran preference employees in schedule A of the excepted service. In the Securities and Exchange Commission, attorneys comprise the largest group of employees in this category. Certain other categories of excepted service employees, as reflected in Office of Personnel Management (OPM) regulations, are also covered. (For example, schedule B employees and those who are on a temporary appointment pending the establishment of a register). Schedule C excepted service employees (i.e., political appointees, confidential assistants and advisors) are excluded.

1. **General Information.** Good management practices and recent court decisions suggest that internal due process rights be extended to all excepted service employees who must be involuntarily separated from the Securities and Exchange Commission. Disciplinary or adverse action will be taken without regard to marital status, political affiliation, race, color, religion, sex, national origin, age or handicapping condition and with proper regard for employee's privacy and constitutional rights.

2. **Central Control.** The Office of Personnel is the control point for all disciplinary actions involving excepted service employees, and it serves as the primary source of authoritative information and guidance in the application of this regulation.

*3. **Procedures Involving Disciplinary Actions.** When required, the following procedures must be applied consistently for the involuntary (disciplinary) separation of excepted service employees. These procedures however, may vary based upon the employee's personal status.

a. For employees who are within a probationary period (i.e., the first year of their appointment).

(1) The Division Director, Office Head, or Regional Administrator will advise the employee, in writing, of the decision to terminate employment, including the effective date of dismissal. Two weeks notice, as a minimum, will be given unless otherwise Directed by the Director of Personnel.

Supersedes SECR 6-18, Jan 4, 1985
OPR: PD/William E. Ford II
Approved by: James C. Foster
Editor: Rogell W. Burkett
DISTRIBUTION: B

SECR 6-18, Feb 28, 1985

(2) The letter must include:

- (a) The reason(s) for termination; and
- (b) Supporting documentation

NOTE: The only basis for requesting review of a termination notice is an allegation for partisan political reasons or marital status. Allegations of discrimination may also be raised. If a review is requested, it must be submitted to the Executive Director (see attachment 1.)

b. For employees who are not serving a probationary period (i.e., have more than one year of continuous Federal employment); are not eligible for veterans preference; and are being disciplined 1/ because of conduct (suitability) or a combination of conduct or performance.

(1) The Division Director, Office Head, or Regional Administrator will advise the employee, in writing, of the decision to effect discipline, including the effective date of the action. (See attachment 2.)

(2) An appropriate notice will be given prior to effecting the action; that is, five days notice for suspensions, and 14 days notice for demotions and removals. These notice periods are standard periods unless otherwise directed by the Director of Personnel or the Deputy Director of Personnel.

(3) The letter must include:

- (a) The reason(s) for termination; and
- (b) Supporting documentation.

(4) The letter must also provide an opportunity for the employee to have the decision reviewed by the Executive Director. 2/ (See attachment 2.)

c. For employees who are not serving a probationary period; are not eligible for veterans preference; and are being reduced in grade or removed solely because of performance,^{3/} the procedures contained in SECR 6-10, Discipline and Adverse Actions, paragraphs 12a, through 12d(3) apply. The employee may have the action reviewed by the Executive Director as provided in paragraph 3b(4) above.

1/ Discipline, as used in this publication, includes suspension, demotion or removal.

2/ Actions involving suspensions may be effected by any lower level of supervision within the division/office chain of command over the employee involved. In such cases, review of the action will be taken by the Division Director or Office Head, as appropriate.

3/ Suspensions are not appropriate for reasons based solely on performance.

SECR 6-18, Feb 28, 1985

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d. For employees with veterans preference and who are not serving a probationary period, the full procedural rights in SECR 6-10 will be applied.

4. **Equitable Provisions of Disciplinary Actions.** As with all cases, an employee is disciplined only after all other efforts to correct or resolve the problem(s) have been taken. Should disciplinary action become necessary; however, the letter must be approved, prior to issuance, by the servicing personnel specialist.



RICHARD J. KANYAN, Director
Office of Administrative Services

2 Attachments

1. Sample Letter, Termination of Employment During Probation
2. Sample Letter, Notice of Demotion/Removal/Suspension

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SECR 6-18, Attachment 1, Feb 28, 1985

MEMORANDUM

TO:

FROM:

SUBJECT: Termination of Employment During Probation

This is a formal notice of my decision to terminate your employment during probation as an attorney, GS-13, Division of Attorneys, SEC effective April 24, 1984. This action is being taken for the following reason(s).

Reason: (See sample in attachment 2).

You may request this decision be reviewed only if you believe it is motivated by partisan political reasons, marital status, or for reasons of discrimination in addition to one of the above mentioned reasons.

Your request may be made orally, in writing, or both within five work days of receipt of this notice; and should be made to the Executive Director. Subject to the conditions in the preceding paragraph, full consideration will be given to any request you submit. In making a response, you may be represented by an attorney or other representative. A written response from the Executive Director will be issued at the earliest practicable date.

SECR 6-18, Attachment 2, Feb 28, 1985

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MEMORANDUM

TO:

FROM:

SUBJECT: Notice of Demotion/Removal/Suspension

This is a formal notice of my decision to demote/remove/suspend you effective April 27, 1984. This action is based on the following reason(s):

Reason: You have been insubordinate in refusing to submit work products or provide input on certain projects assigned to you.

On September 1, 1983, you received a performance appraisal rating and your overall performance was rated minimally acceptable. At the time you received this performance appraisal, you were also given a memorandum from J. Doe, Assistant Director indicating that unless the deficiencies noted in your performance were corrected it may be necessary to institute formal action, including, if required, action to relieve you of your position. Unfortunately, during the period which you received the performance appraisal rating, your job performance has not improved; instead, your conduct and job performance have deteriorated substantially.

Since September 1, with only two exceptions, you have refused to turn in work and have refused to offer analysis, oral or written, on projects to which you have been assigned, even upon request. This is not based on any lack of ability on your part to perform this work; it reflects a conscious decision on your part not to perform work or provide input on projects assigned to you. Such conduct is totally unacceptable.

You were assigned responsibility for preparing comments on a brief filed by Disney Products. On October 4, 1983, you met with J. Doe to discuss the brief and committed to completing comments within two weeks. After more than a month passed, in response to an inquiry from J. Doe, you indicated that you would not turn in any work product on this (or any other) project assigned to you.

You were assigned responsibility for a proposed rule. This required you to prepare a notice of the filing and the subsequent Commission order taking action on the proposed rule. You prepared the notice for this filing, but you did not subsequently submit a draft of the order to approve the proposed rule change (or in any way indicate why you felt such approval was inappropriate).

Finally, on two occasions since September 1, the staff held meetings on an industry proposal (File 1234). On both occasions, your input was specifically sought on any issues raised by the filing. In each instance, you responded that you did not have any views to express.

Your refusal to submit work products has required other staff members to assume the burdens of your workload in these areas. Thus, your refusal to submit work on the proposed rule necessitated its reassignment to, and completion by, other staff attorneys. Your refusal to turn in work on the Disney Products brief will also necessitate its reassignment.

In view of statutory requirements for the SEC to take action within specific time limits, your failure to submit work products directly and adversely impacts on the responsibilities of the Commission and is, therefore, unacceptable. In this regard, your failure to submit work on this industry proposal caused the Commission to fail to meet deadlines on both filings.

- - - - -

You do not have the right under 5 U.S.C. 7511 as amended, to appeal this decision to the Merit Systems Protection Board, as those rights are extended only to excepted service employees who are veterans.

You may request that this decision be reviewed by replying, orally, in writing, or both within five work days of receipt of this notice. Your reply should be made to the Executive Director. Full consideration will be given to any reply you submit. In making the response, you may be represented by an attorney or other representative. A written response from the Executive Director will be issued at the earliest practicable date.

Section I Chapter 1 SEC Grievance Procedures

Overview

1. Introduction This chapter describes ways that an SEC employee can seek to resolve workplace-related issues and the SEC's procedures for resolving them.

In this chapter This chapter contains the following topics.

<i>Topic</i>	<i>See Page I-1-</i>
Policy	2
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• Chart showing flow for informal and formal process	2
• Who can submit a grievance?	3
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Supersession: Replaces POPPS 771.A dated July 8, 1992

Authorities: 5 U.S.C. 571- 584

Contact: Employee Relations Specialists, Employee Relations and Development Branch
Office of Administrative and Personnel Management

Policy

2. Policy statement

SEC employees have a right to a fair process for raising employment- or workplace-related concerns with management. Consequently, the SEC's procedures for resolving grievances emphasize direct communication between employees and management. We at the SEC encourage employees to resolve grievances informally and expeditiously.

3. Summary of the grievance process

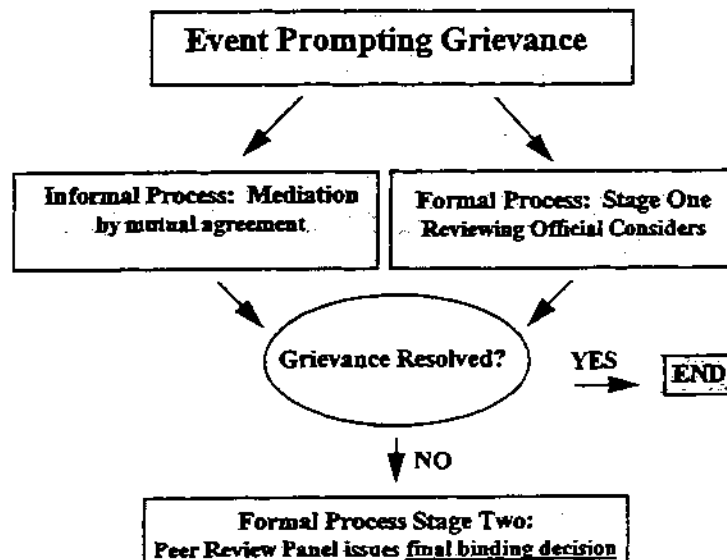
An individual employee can file a grievance through either the informal or formal grievance process or both if necessary. However, a group of employees can submit a grievance only through the Formal Grievance Process.

In the *Informal Grievance Process*, a mediator is selected to help resolve a concern between an employee and the applicable supervisor/manager. If the employee is not satisfied, he or she can use the Formal Grievance Process.

The *Formal Grievance Process* has two stages.

In Stage One, an employee submits a written account of the grievance to the applicable supervisor/manager. If the disputants cannot reach an agreement, the employee then may take the grievance to Stage Two of this process. In certain cases, an employee can skip Stage One of the Formal Grievance Process and go directly to Stage Two (see 17. Progressing through the stages, page 10).

In Stage Two, an employee submits a written account of the grievance to the Associate Executive Director of OAPM. The Associate Executive Director conducts a procedural review and, in most cases, refers the grievance to a Peer Review Panel. The Peer Review Panel consists of a "neutral" designated by the Associate Executive Director and two SEC employees selected by the disputants from a pool of qualified employees. The Peer Review Panel reviews the grievance and makes a final and binding decision.



Continued on next page

Policy, Continued

4. Who can submit a grievance?

Any current or former SEC employee may submit a grievance. An employee who is part of a bargaining unit (union) can submit a grievance as long as it is not covered under a valid negotiated contract.

5. Filing timeframes

An informal grievance may be pursued at any time with the agreement of the parties involved. However, a formal grievance must be initiated within 20 days of the event that triggers the grievance, or at any time in the case of a continuing situation. To proceed to the next stage, or to go from the informal to the formal process, the grievance must be filed within 10 days of completing mediation/stage one. The official considering the grievance may extend a filing deadline for good cause.

Timeframes for formal grievances are described below and in the sections describing procedural steps.

The filing timeframe is:	After:	To begin:
20 calendar days	<ul style="list-style-type: none">the specific event or occurrence leading to the grievancereceipt of a reprimand or effective date of a suspension	Stage One Stage Two
10 calendar days	<ul style="list-style-type: none">conclusion of the informal grievance process (mediation)receipt of a written decision in stage one of the formal grievancereceipt of a performance or summary rating reconsideration decision	Stage Two

6. Group grievances

Employees may submit a grievance as a group only if the issues in the grievance and the remedy sought are identical for each grievant. Grievances about performance evaluations or disciplinary actions may not be filed as a group grievance.

A group grievance is processed as a single grievance in the name of one employee designated by the other grievants to act for the group. However, all employees joining in the grievance must:

- be identified by name; and
- sign a written grievance, indicating their voluntary participation in the process and their agreement to accept any final decision rendered on the group grievance.

A final decision on the group grievance is provided to each member of the group. An employee may withdraw from a group grievance at any time. However:

- the withdrawal must be documented in writing before a final decision is issued; and
- once an employee withdraws from a group grievance, he or she may not then initiate the same or a substantially similar grievance under the SEC's grievance process.

Coverage

7. What types of grievances are covered?

Most matters of concern or dissatisfaction between an employee and SEC management are covered under the SEC's grievance process. Any employment-related matter can be mediated under the Informal Grievance Process; however, some matters cannot be brought up under the Formal Grievance Process.

8. What issues are not covered?

The following matters cannot be grieved under the Formal Grievance Process:

- any separation or termination action, including any affecting an employee serving in a probationary or trial period;
 - the content of established SEC policy or regulation;
 - a counseling notice or preliminary warning notice of an action that has not yet taken place;
 - failure to receive a promotion either through a competitive or noncompetitive process;
 - the substance of job elements and job performance standards;
 - the granting of, failure to grant, or the amount of a quality step increase, performance award, special act or service award, or other incentive award;
 - the adoption of or failure to adopt an employee suggestion or invention;
 - the payment of, failure to pay, or the amount of a recruitment and relocation bonus, retention allowance, or supervisory differential;
 - the expiration of a temporary or term appointment or promotion, or a Senior Executive Service (SES) limited emergency or term appointment, on the date specified as a condition of employment at the time the appointment or promotion was made;
 - any SES performance-based actions or any decision regarding SES pay or awards;
 - an employee move from one geographical location to another under the terms of a formal mobility agreement to which the employee has voluntarily agreed;
 - a matter for which the employee has filed a complaint or other challenge under another review or reconsideration process within the SEC;
 - an action for which the employee has filed an appeal or other formal challenge to the U.S. Merit Systems Protection Board (MSPB), the U.S. Office of Personnel Management (OPM), or the Equal Employment Opportunity Commission (EEOC); or
 - a matter administered by the General Accounting Office (GAO) or the Office of Workers Compensation Programs.
-

Definitions

9. Terms used Definitions for certain terms as used in this chapter follow.

Word(s)	Definition
day	Calendar days, unless otherwise stated. If a time limit expires on a weekend, holiday, or other non-work day, it will be extended to the next regular work day.
disputants	Parties to the grievance.
grievant	An employee who files a grievance.
grievance	A concern about an employment- or workplace-related matter that is under the control of SEC management.
mediation	A form of alternative dispute resolution in which employees voluntarily agree to meet with a trained, impartial third-party to seek a mutually acceptable solution to their dispute.
mediator	An experienced, impartial person who assists disputants to resolve their conflict in the informal grievance process.
neutral	An experienced, impartial person who facilitates decision-making by the Peer Review Panel. A qualified neutral is identified by the Associate Executive Director of OAPM with the concurrence of the disputants.
representative	A person designated by a grievant to advise, assist, or act for the grievant during the grievance process.
Peer Review Panel	A decision-making body for resolving workplace disputes. The Panel is comprised of a neutral and two SEC employees. The employees are selected by the disputants from an OAPM-maintained pool of qualified employees.

Responsibilities

10. Responsibilities of those involved in the grievance process are described below.
- Responsibilities**

Position/ Title	Responsibilities
Managers	<ul style="list-style-type: none"> • Consider employee grievances fairly and expeditiously, and • resolve grievances informally when possible.
Grievants	<ul style="list-style-type: none"> • Comply with the stated time limits in this policy, • state the grievance and the relief sought clearly, • obtain advance approval of official work time for the preparation and presentation of his or her grievance, • provide any material requested by the Peer Review Panel or any other management official involved in the grievance in a timely manner, • submit written notification to the official or Peer Review Panel considering the grievance and to the Associate Executive Director of OAPM when designating or changing a representative, and • file a written request for reconsideration of any decision disallowing a choice of representative to the Associate Executive Director of OAPM within 5 calendar days of the decision.
Peer Review Panel	<ul style="list-style-type: none"> • Give fair and expeditious consideration and resolution to the grievance brought before it.
Associate Executive Director of OAPM, directly or through the Employee Relations staff	<ul style="list-style-type: none"> • Develops and implements the overall direction of this policy, • provides guidance and technical assistance during the grievance process, • maintains a pool of qualified SEC employees to serve on the Peer Review Panel, • arranges for the services of mediators and neutrals, • makes final decisions on any issues pertaining to the grievance process, • maintains appropriate files and records, • monitors and evaluates the compliance and effectiveness of the grievance process, and • issues a final written decision regarding any decisions to disallow a grievant's choice of representative within 10 days of receiving the grievant's reconsideration request.

Employee Procedural Rights

11. Employee rights

An employee raising a grievance has the following rights:

- freedom from restraint, interference, coercion, discrimination, and reprisal in presenting or mediating a grievance;
 - to be accompanied, represented, and advised by a representative of his or her own choosing unless the representative is rejected by SEC management for good cause (see paragraph 13 below);
 - to challenge any decision disallowing his or her chosen representative for any reason;
 - a reasonable amount of official work time to present or mediate his or her grievance as long as the use of official time is arranged in advance with the supervisor (also applies to a grievant's authorized representative if also an SEC employee); and
 - to communicate with and seek procedural guidance from OAPM personnel staff and other SEC counselors.
-

12. Rules for mediating informal grievances

In addition to the responsibilities and employee rights outlined above, the following four rules apply during the Informal Grievance Process.

- The parties involved may choose an SEC mediator or a mediator from outside the agency.
 - A manager who participates in mediation must have the authority to make decisions about the issue(s) raised.
 - An employee does not waive any formal grievance rights by participating in mediation.
 - All parties in mediation must honor the confidentiality provisions set out in the Administrative Dispute Resolution Act (5 USC 571) and the SEC's dispute resolution policies.
-

Continued on next page

Employee Procedural Rights, Continued

13. Employee representative

A grievant may appoint a person, including another SEC employee, to accompany, represent, and advise him or her in a grievance. The grievant must notify the management official/Peer Review Panel considering the grievance in writing, with a copy to OAPM, of the name of the representative he or she has appointed or any change in representative.

SEC management may reject a representative if it would result in:

- a conflict of interest or position;
- the appointment of a SEC employee in one of the following offices: OAPM, Office of Equal Employment Opportunity, or the Office of the General Counsel's Office of Litigation, Ethics and Administrative Practice;
- a conflict with the priority needs of the SEC; or
- unreasonable costs to the U.S. Government.

The grievant's representative shares the same rights and responsibilities as the grievant.

14. Canceling or suspending a grievance

Under the Informal Grievance Process, any party to the mediation may cancel or suspend a grievance at any time by notifying the Associate Executive Director of OAPM in writing.

Under the Formal Grievance Process, the Associate Executive Director of OAPM may cancel or temporarily suspend the processing of a grievance, in whole or in part, when a grievant:

- specifically requests, in writing, such action;
 - submits a grievance(s) not covered by the SEC's grievance system;
 - fails to provide sufficient information about a grievance or the outcome or remedial action he or she is requesting;
 - requests that disciplinary or other action be taken against another employee;
 - or his or her representative fails to comply with set timeframes and procedures as prescribed by this policy; or
 - files an appeal, complaint, or other formal challenge on the same matter once the SEC grievance process is underway.
-

Informal Grievance Process

15. Steps

This table shows how the Informal Grievance Process works.

Step	Action						
1	An employee with a grievance contacts the Employee Relations staff in OAPM to initiate the Informal Grievance Process.						
2	OAPM provides information about the mediation process to disputants.						
3	<table border="1"> <thead> <tr> <th>If the parties involved...</th><th>then...</th></tr> </thead> <tbody> <tr> <td>agree to mediate the dispute</td><td> <ul style="list-style-type: none"> parties will sign a written mediation agreement, OAPM will arrange for a mediator acceptable to the parties, and mediation begins. </td></tr> <tr> <td>decide not to mediate the dispute</td><td> <ul style="list-style-type: none"> grievant can pursue the grievance through the Formal Grievance Process beginning at Stage One (<i>must submit the grievance within 20 days of the decision not to mediate</i>). </td></tr> </tbody> </table>	If the parties involved...	then...	agree to mediate the dispute	<ul style="list-style-type: none"> parties will sign a written mediation agreement, OAPM will arrange for a mediator acceptable to the parties, and mediation begins. 	decide not to mediate the dispute	<ul style="list-style-type: none"> grievant can pursue the grievance through the Formal Grievance Process beginning at Stage One (<i>must submit the grievance within 20 days of the decision not to mediate</i>).
If the parties involved...	then...						
agree to mediate the dispute	<ul style="list-style-type: none"> parties will sign a written mediation agreement, OAPM will arrange for a mediator acceptable to the parties, and mediation begins. 						
decide not to mediate the dispute	<ul style="list-style-type: none"> grievant can pursue the grievance through the Formal Grievance Process beginning at Stage One (<i>must submit the grievance within 20 days of the decision not to mediate</i>). 						
4	During mediation: <ul style="list-style-type: none"> the mediator explains the mediation process; the disputants present their views; and the mediator helps the parties develop a solution. 						
5	At the end of the mediation process <table border="1"> <thead> <tr> <th>If the parties involved...</th><th>then...</th></tr> </thead> <tbody> <tr> <td>resolve the grievance</td><td> <ul style="list-style-type: none"> they implement the agreed-upon solution(s). </td></tr> <tr> <td>cannot resolve the grievance</td><td> <ul style="list-style-type: none"> they may identify any unresolved issues in writing during the final mediation session, and grievant may begin the Formal Grievance Process at Stage Two by submitting the formal grievance <i>within 10 days after the mediator notifies the parties of the end of mediation</i>. </td></tr> </tbody> </table>	If the parties involved...	then...	resolve the grievance	<ul style="list-style-type: none"> they implement the agreed-upon solution(s). 	cannot resolve the grievance	<ul style="list-style-type: none"> they may identify any unresolved issues in writing during the final mediation session, and grievant may begin the Formal Grievance Process at Stage Two by submitting the formal grievance <i>within 10 days after the mediator notifies the parties of the end of mediation</i>.
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Formal Grievance Process

16. Information that must be included in a formal grievance

A formal grievance must be submitted in writing and include:

- the relevant issues (must meet Formal Grievance coverage requirements as found in paragraph 8);
- all background information leading up to filing the grievance;
- the specific relief requested;
- any documentation or evidence to support the grievant's case;
- documentation of previous efforts to resolve the matter, including the grievant's reasons for disagreeing with any previous ruling; and
- the name of the grievant's representative, if applicable.

If the grievance went through the Informal Grievance Process, material from the informal process may be used but only if all parties agree to its use.

17. Progressing through the stages

An employee filing a grievance under the Formal Grievance Process must begin at Stage One unless the grievance:

- was considered but not resolved through mediation;
- challenges a performance or summary rating reconsideration decision (as provided in POPPS Chapter 430.A/G-1); or
- challenges an official written reprimand or a suspension of 14 days or less.

If any of the above apply, the employee begins the formal process at Stage Two.

An employee may proceed to Stage Two of the Formal Grievance Process if:

- the grievance was not resolved during Stage One of the Formal Grievance Process; or
 - the Formal Grievance Reviewing Official failed to make a decision at Stage One of the Formal Grievance Process within the required time (including authorized extensions).
-

Two Stages of a Formal Grievance

18. STAGE

This table shows how to proceed with the first stage of a formal grievance.

ONE: Steps

Step	Action								
1	An employee, or the employee's authorized representative, must submit a written grievance <i>within 20 days of a specific event or occurrence, or anytime for a continuing situation</i> , to: <ul style="list-style-type: none"> the supervisor/manager whom the grievant believes to be responsible for the matter grieved (that individual will serve as the Formal Grievance Reviewing Official); and the Associate Executive Director of OAPM. 								
2	The Formal Grievance Reviewing Official reviews the grievance and within 20 calendar days provides a copy of a written decision to: <ul style="list-style-type: none"> the grievant; and the Associate Executive Director of OAPM. <p><i>Note:</i> The Associate Executive Director of OAPM may extend the 20-day response deadline for good cause.</p>								
3	<table border="1"> <thead> <tr> <th>If the written decision is...</th><th>then...</th></tr> </thead> <tbody> <tr> <td>agreed to by the grievant</td><td> <ul style="list-style-type: none"> grievant and Formal Grievance Reviewing Official sign the decision, and forward a copy of the signed agreement to the Associate Executive Director of OAPM. </td></tr> <tr> <td>not agreed to by the grievant</td><td> <ul style="list-style-type: none"> Formal Grievance Reviewing Official informs the grievant of how to proceed with filing a formal grievance under Stage Two, and grievant must file a grievance under Stage Two of the Formal Grievance Process (<i>within 10 days after receipt of the Stage One grievance decision</i>). </td></tr> <tr> <td>not received by the grievant within the 20-day response time and no extensions were granted to the Formal Grievance Reviewing Official</td><td> <ul style="list-style-type: none"> grievant can proceed with filing the grievance under Stage Two of the Formal Grievance Process. </td></tr> </tbody> </table>	If the written decision is...	then...	agreed to by the grievant	<ul style="list-style-type: none"> grievant and Formal Grievance Reviewing Official sign the decision, and forward a copy of the signed agreement to the Associate Executive Director of OAPM. 	not agreed to by the grievant	<ul style="list-style-type: none"> Formal Grievance Reviewing Official informs the grievant of how to proceed with filing a formal grievance under Stage Two, and grievant must file a grievance under Stage Two of the Formal Grievance Process (<i>within 10 days after receipt of the Stage One grievance decision</i>). 	not received by the grievant within the 20-day response time and no extensions were granted to the Formal Grievance Reviewing Official	<ul style="list-style-type: none"> grievant can proceed with filing the grievance under Stage Two of the Formal Grievance Process.
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agreed to by the grievant	<ul style="list-style-type: none"> grievant and Formal Grievance Reviewing Official sign the decision, and forward a copy of the signed agreement to the Associate Executive Director of OAPM. 								
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not received by the grievant within the 20-day response time and no extensions were granted to the Formal Grievance Reviewing Official	<ul style="list-style-type: none"> grievant can proceed with filing the grievance under Stage Two of the Formal Grievance Process. 								

Continued on next page

Two Stages of a Formal Grievance, Continued

19. STAGE TWO: Steps

This table shows how to proceed with the second stage of a formal grievance.

Step	Action
1	The employee submits the grievance to the Associate Executive Director of OAPM, along with documentation showing any previous attempts to resolve the grievance.
2	The Associate Executive Director of OAPM will: <ul style="list-style-type: none"> • conduct a procedural review of the grievance; • appoint a neutral from either inside or outside of the SEC, as appropriate, for the Peer Review Panel; • oversee the appointment of two other individuals, willing and able to serve as panel members, selected by the disputants from an OAPM-maintained pool of qualified SEC employees; and • refer the grievance to the panel.
3	The appointed neutral will: <ul style="list-style-type: none"> • chair the Peer Review Panel; • facilitate the Stage Two decision-making process; • participate in deliberations; and • vote on issues <u>only</u> if the other two panel members cannot reach agreement.
4	All parties involved, including Peer Review Panel members, will sign a confidentiality agreement.
5	The Peer Review Panel will: <ul style="list-style-type: none"> • review the grievance; • determine if additional information is needed; and • if necessary, obtain and assess additional information through: <ul style="list-style-type: none"> • informal interviews with the parties involved, • informal group meetings, • documentary evidence, or • a formal hearing (if other means for gathering evidence is insufficient).
6	Within 20 days from the date the Peer Review Panel convenes, the neutral will issue the Peer Review Panel's written decision on the grievance and submit copies to: <ul style="list-style-type: none"> • the grievant; and • the Associate Executive Director of OAPM. <p><i>Note:</i></p> <ul style="list-style-type: none"> • The Peer Review Panel's written decision will not reveal the vote count nor the reasons for the members' decision. • The neutral can extend the grievance resolution period, for good cause, with the permission of the Associate Executive Director of OAPM.
7	The Peer Review Panel's decision is final and binding in terms of administrative processing within the SEC.

OAPM Records

20. Grievance file

The Employee Relations and Development Branch of OAPM develops and maintains a file for each grievance that is filed at Stage Two of the Formal Grievance Process. The grievance file contains copies of all documents related to the individual grievance.

All information in the file is accessible by all parties involved in a grievance and will be available for review upon request.

Protection and release of information in the grievance file is subject to the requirements of the Privacy Act and Freedom of Information Act.

Policy
Approved by

Date:

1/25/99



JAYNE L. SEIDMAN

Associate Executive Director

Office of Administrative and Personnel Management

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-792.A
January 7, 1992

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 792.A

SMOKING POLICY

1. **PURPOSE.** This chapter prescribes the Commission's policy on smoking in the headquarters buildings and in regional and branch offices. In the April 22, October 28 and December 12, 1991 memoranda, the Executive Director announced that the Commission is working toward a "smoke-free" environment to protect employees from the effects of environmental tobacco smoke, and established January 1, 1992 as the date that the headquarters buildings become "smoke-free".

2. **POLICY.**

A. **SEC Headquarters and Operations Center.** The SEC Headquarters building and the SEC Operations Center building in Virginia are "smoke-free" workplaces. Smoking is prohibited in these buildings. All employees are responsible for ensuring that these environments are monitored and maintained "smoke-free".

B. **SEC Regional and Branch Offices.**

1. Regional Administrators have delegated authority to designate smoking areas in their regional and branch offices consistent with applicable laws, ordinances and regulations regarding smoking in public buildings. In reaching such determinations, designated smoking spaces must be configured to limit the involuntary exposure of non-smokers to second-hand smoke to a minimum (e.g., the space must be large enough and sufficiently ventilated to provide separate smoking and non-smoking sections which protect the non-smokers against involuntary exposure to smoke).

2. By government-wide regulation, smoking is prohibited in the following spaces:

- * General office space;
- * Auditoriums;
- * Classrooms, testimony rooms, conference rooms, hearing rooms;
- * Elevators;
- * Corridors, stairways;
- * Lobbies, restrooms;
- * Medical care facilities;
- * Libraries;
- * Hazardous materials areas

2

POPPS 6-792.A January 7, 1992

3. **SCOPE.** This policy applies to all SEC employees, and persons who visit SEC controlled facilities.

4. **DEFINITIONS.**

A. **Smoking.** GSA regulations define smoking as a lighted cigar, cigarette, pipe, or any other lit tobacco product.

B. **General Office Space.** General office space is space occupied by personnel performing their daily functions; this includes, but is not limited to, automatic data processing (ADP) areas, mail rooms, duplicating areas, hearing rooms, and individual offices.

5. **REQUESTS FOR ACCOMMODATION.** Persons with a documented medical condition which would be adversely affected by this policy may submit a written request for accommodation to the Director of the Office of Human Resources Management (OHRM), who will review the request and make a determination consistent with procedures and criteria applied to a request for accommodation for a disabling condition. See POPPS Chapter 720.A, Affirmative Action for Individuals with Disabilities, for further information.

6. **REPORTING VIOLATIONS.** Violations of the smoking policy should be reported to the management official senior to the individual who violates the policy. Alternatively, the violation may be reported to the Chief, Branch of Employee Development and Performance Management, OHRM.

7. **CORRECTIVE ACTIONS.** If this smoking policy is violated, the agency will take appropriate corrective and/or disciplinary actions consistent with actions taken for violations of other administrative policies.

8. **EFFECTS ON OTHER DOCUMENTS.** POPPS Chapter 792.A dated September 9, 1991 and its attachment, SECR 6-6 dated January 4, 1988, are superseded.

9. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Employee Development and Performance Management Branch.


John Innocenti, Director
Office of Human Resources Management

1/7/92
Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

POPPS 6-792.B
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 792.B

EMPLOYEE ASSISTANCE PROGRAM

1. **PURPOSE.** This chapter describes the policies and procedures governing the Commission's program for assisting employees with alcohol, drug abuse, and other personal problems. Attached is a copy of the SECR 6-5, dated June 28, 1982 and amended on December 28, 1987, which remains in effect until superseded by a revision to this chapter. The policy will undergo review and likely revision within the next year.
2. **EFFECTS ON OTHER DOCUMENTS.** The attachment to this chapter is incorporated by reference into this policy. The records described in this policy are subject to the provisions of the Privacy Act, which limit access and establish accountability procedures for authorized disclosure of personal information.
3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management, Employee Development and Performance Management Branch.


John Innocenti, Director
Office of Human Resources Management

9/9/91
Date

Attachment:

SECR 6-5, dated June 28, 1982, as amended

SECURITIES AND EXCHANGE COMMISSION
Office of Personnel
Washington, D.C. 20549

CHANGE 1
SECR 6-5
Dec 28, 1987

Personnel

ALCOHOL AND DRUG ABUSE PROGRAM

*This regulation describes policies and procedures for the Commission's Alcohol and Drug Abuse Program (A & DA). Authority for this program is provided by section 201 of Public Law 91-616, 84 Stat. 1849, as amended and transferred to section 2(b)(13) of public Law 98-24 (42 U.S.C. 290dd-1) and section 413 of Public Law 92-255, 86 Stat. 84, as amended and transferred to section 525 of the Public Health Services Act by section 2(b)(16)(A) of Public Law 98-24 (42 U.S.C. 290ee-1).

The purpose of this plan is to provide (1) management with a plan that will help increase the productivity of the SEC staff and decrease the expenditures allocated toward sick leave; (2) supervisors with guidelines to assist them in dealing with employees whose job performance is declining as a result of a personal problem such as alcohol or drug abuse, and (3) employees with encouragement to voluntarily seek confidential rehabilitative assistance.

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OPR: PD/Stephen Johnston
Approved by: James C. Foster
Editor: Stephen Johnston
DISTRIBUTION: B

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SECR 6-5, Jun 28, 1982

1-1

CHAPTER 1

GENERAL POLICIES

1-1. Alcoholism. The Commission recognizes alcoholism as a preventable and treatable disease and will provide the organizational mechanism for employees whose work performance is deteriorating to obtain necessary assistance.

1-2. Drug Abuse. The term drug abuse is regarded by the Commission as a treatable health problem in which the employee's job performance is impaired as a direct consequence to the use of drugs. Employees whose performance is deteriorating and who have engaged in drug activities directed exclusively towards themselves will receive the same offer of assistance accorded employees with any other illness; however, the Commission cannot condone employee drug activity and is not bound to extend such assistance where a criminal violation is involved and may deal with such circumstances by disciplinary means.

1-3. Policy.

a. The Commission will provide, to the maximum extent possible, employee assistance by referring the employee for treatment to outside, local community resources such as; Alcohol Treatment Programs, Family Counseling Services, and Community Drug Treatment Programs, many of which are available free, or at nominal cost. Such referrals may be made by the program administrator or counselor appointed to assist the employee.

b. Employees with job performance problems who are offered the services of the A & DA Program bear the responsibility for returning their performance to an acceptable level and maintaining it at that level regardless of whether they utilize the program.

c. No employee will have his or her job security or promotion opportunities jeopardized by a request for counseling or referral assistance for an alcoholism problem, except as limited by Public Law 91-616, Section 201(c) relating to "sensitive positions".

d. No employee will have his or her job security or promotion opportunities jeopardized by a request to designated personnel for counseling and referral assistance for a drug abuse problem except as limited by Public Law 92-255, Section 413(c)(2) relating to "sensitive positions".

e. Employees who have elected to undergo a prescribed program of treatment will be granted leave of absence from work as required.

1-4. Responsibilities.

a. The Executive Director has overall responsibility for this program and for assuring that there is a continuing coordination and assessment of the activities designed to effectuate its purpose.

b. The Director of Personnel:

(1) Is responsible for issuing, overseeing and coordinating all of the implementing procedures and activities Commission-wide. The Director of Personnel will furnish appropriate information and advice to counselors, supervisors and employees, and assist in developing and making referrals to appropriate treatment and rehabilitation facilities.

(2) Is responsible for selecting and training two counselors for the Headquarters Offices, one from among the AFGE Locals' nominees and one representing the professional staff.

(3) Is responsible for appointing a qualified employee as Program Administrator to issue information to the Counselor(s), schedule appropriate training and meetings, and prepare statistical reports (see para 1-4e).

(4) Is responsible for conferring, consulting, and where appropriate, negotiating with recognized labor organizations with regard to the development, and implementation of this program.

c. Regional Administrators are authorized to take necessary steps to implement this program in their respective organizational units. Each Regional Administrator shall appoint member(s) of his or her staff who will serve as Counselor(s) and coordinate local operations of this program in his or her region. The Regional Administrator is responsible for insuring that the Office of Personnel has a current listing of the name(s) of the Counselor(s) in his or her region and for insuring that those nominated receive counselor training.

d. Division Directors, Office Heads and Supervisors are responsible for being alert to observing when poor work, errors in judgment and performance, excessive and/or unauthorized absences, suggest the possibility that an employee could be afflicted with alcoholism or a drug abuse problem, and, in consultation with designated counselors and with the Director of Personnel, for determining what specific steps should be taken to confirm whether an employee actually is afflicted with a drug or alcohol abuse problem. While the immediate supervisor, as the person with the closest relationship to an employee is in the best position to recognize the possible existence of a problem that may be caused by drinking or drug abuse, he or she is not responsible for diagnosing drug abuse or alcoholism, but rather for putting in motion an appropriate referral to competent medical authority to make such a diagnosis. Specifically, supervisors should:

(1) Document specific instances where an employee's work performance, behavior or attendance fails to meet minimum standards or where the employee's pattern of performance appears to be deteriorating.

(2) Advise medical and/or counseling personnel of the employee's problem, and the possibility of a referral to them. Supervisors must be able to describe behavior to these personnel but should not attempt to diagnose or draw conclusions. This is a medical and/or counseling responsibility.

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(3) Conduct an interview with the employee focusing on poor work performance and inform the employee of available counseling services in the event poor performance is caused by any personal or health problem.

(4) If the employee refuses help, and performance continues to be unsatisfactory, provide a firm choice between accepting Commission assistance through counseling or professional diagnosis of his or her problem, and cooperation in treatment if indicated, or accepting consequences provided for unsatisfactory performance.

(5) Supervisors are in a position to realize the existence of a problem dealing with alcohol or drugs; however, supervisors should not diagnose or label an employee's problem. This is the function of the physician. In exercising their responsibilities, supervisors must focus on job performance. However, direct confrontation or discussion of a drug or alcohol problem with an employee would be appropriate under the following circumstances:

(a) When an employee does not appear to be in full control of his faculties. The supervisor should immediately inquire about his or her physical condition but should be aware that appearance symptoms usually related to alcohol or drug use can apply to other health problems as well. Information on such cases should be relayed to the health unit and the employee should be referred to the health unit for diagnosis and emergency treatment. Where indicated, the employee should be referred to a private physician or community health services. In the event such cases ultimately are determined to have stemmed from abuse of alcohol or drugs, supervisors should discuss the facts of the situation with the employee and refer him or her for counseling.

(b) When an employee is apparently involved in illegal activities related to drugs or engaged in:

1 Criminal conduct directed exclusively toward himself or herself - such as the use of drugs or alcohol while on the job causing a deterring effect on their work capacity - supervisors shall inform the employee of the facts known, similarly apprise the counselor or program administrator, and refer the employee for counseling. Supervisors should be careful not to elicit or entertain from the employee any specificity or detail as to the nature of any illegal activity or conduct involved;

2 When management has good reason to believe an employee is involved in criminal conduct directed toward or potentially harmful to the person or property of others - such as selling drugs or stealing to support a drug habit - supervisors have an obligation first to these persons or properties, and then to the employee. They may therefore, first report the facts known to law enforcement authorities; such reports should be made through their Division Director/Office Head or Regional Administrator who will advise the Director of Personnel of the action(s) being taken. Subsequently, supervisors should take appropriate action; first insuring that this action will not interfere with the efforts of law enforcement authorities.

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(6) Be aware that Public Law 92-255 requires agencies to maintain treatment and rehabilitation programs; it does not charge agencies or their personnel with any responsibility for seeking out information on illegal employee activities for the purpose of reporting it to law enforcement authorities. Neither, however, does the statute justify supervisory failure or, indeed, failure of any Federal employee to report such activity to responsible authorities, when it is directed against or potentially harmful to the person or property of others.

e. Program Administrators. Each A & DA Program shall be managed by a program administrator. The program administrator may be a regular employee assigned on a full-time or part-time basis. In the absence of a regular employee with the necessary skills who is able to make a portion of his or her time available, the program will be completely maintained by the Office of Personnel. Individuals appointed as program administrator must be allocated sufficient official time to effectively implement the policy and program, including establishing liaison with community treatment and rehabilitation facilities, arranging for supervisory training and conducting counseling sessions with employees and supervisors as required. The program administrator will be responsible for:

(1) Developing and maintaining a list of local community resources for the referral of employees seeking assistance.

(2) Ensuring an orderly and speedy referral to treatment of employees referred, or voluntarily seeking assistance.

(3) Assuring that all necessary training for supervisors and counselors is conducted.

(4) Monitoring and evaluating the operation of the program.

(5) Maintaining necessary records and filing reports as required.

f. Counselors. Depending upon the number and locations of employees, and whether the program administrator is full-time or part-time, A & DA counselors may be appointed. The counselor is responsible for:

(1) Referring employees identified as showing declining work performance to professional rehabilitative assistance.

(2) Advising supervisors of employee progress, if the employee was referred by the supervisor, without breaking confidence with the employee.

(a) In the case of drug abuse counseling, counselors shall not disclose information concerning the illegal activities of their clients to law enforcement authorities, and should not seek to obtain information relating to crimes or criminal conduct from their clients. Penalties for such disclosures are contained in 42 CFR Part 2 (see attachment 1, Section 2.14).

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(b) Counselors are not required to accept individuals who persist in discussing illegal activities. If information is disclosed on a planned illegal activity against others, the counselor should advise the employee that continued disclosure will result in termination of counseling. Should termination occur, the counselor shall, if the employee was referred by management, advise management of the termination of services.

g. Employees who suspect they may have an alcohol or drug abuse problem, even in the early stages, are encouraged to voluntarily seek counseling information on a confidential basis by contacting the individuals designated to provide such services. They are responsible for working cooperatively with the management officials concerned in undertaking the rehabilitation treatment or services made available to them.

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2-1

CHAPTER 2

CONFIDENTIALITY

2-1. General. For the purpose of confidentiality this regulation is intended to strike a balance between the recognized need for privacy and anonymity on the part of those who obtain treatment, on the one hand, and other values that sometimes conflict with the achievement of this goal. They are applicable, not only to Federal alcoholism and drug abuse programs, but also, in most cases, to community resources utilized by the Commission (see attachment 1, Section 2.12).

a. The law requires that information relating to the identity, diagnosis, prognosis or treatment of any patient, which is maintained in connection with an alcohol or drug abuse prevention function, is confidential and may be released only under such circumstances and for such purposes as authorized by PL 93-282.

b. Two types of disclosure of information are covered by this regulation:

(1) Disclosure with patient consent (attachment 1, Subpart C), and

(2) Disclosure without patient consent (attachment 1, Subpart D, including disclosure authorized by court order Subpart E.)

c. As a general rule, information covered by 42 CFR Part 2 should be treated as confidential. It may only be disclosed as authorized in this regulation, and may not otherwise be divulged even in any civil, criminal, administrative, or legislative proceeding.

2-2. Communications Not Constituting Disclosure. The following types of communications do not constitute disclosure of records:

a. Communications within a program between or among personnel having a need for such information in connection with their official duties. Generally, this would include communications among medical or health personnel, counselors, and program administrators.

b. Communications between a program and a qualified service organization or information needed by the organization to perform its services to the program. Some examples of such service organizations would be:

(1) A consortium which has contracted to offer diagnostic, rehabilitative and/or referral services for employees, and

(2) A laboratory performing urinalysis services.

c. Communications which include neither patient identifying information, identifying numbers, nor symbols assigned by the program to patients (e.g., the annual report to the Office of Personnel Management).

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2-3. Disclosure Without Consent. Whether or not the patient gives his or her written consent, the content of the record may be disclosed:

a. To medical personnel to the extent necessary to meet a bona fide medical emergency (see attachment 1, Section 2.51).

b. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner (see attachment 1, Section 2.52).

c. If authorized by an appropriate order of a court (attachment 1, Section 2.61), or competent jurisdiction granted after application showing good cause therefore. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

2-4. Disclosure With Consent.

a. Circumstances in which disclosure may be made with the patient's consent. These circumstances are described in the following sections of attachment 1.

- (1) 2.16 - Incompetent and deceased patients
- (2) 2.33 - Diagnosis, treatment and rehabilitation
- (3) 2.34 - Prevention of certain multiple enrollments
- (4) 2.35 - Legal counsel for patient
- (5) 2.36 - Patient's family and others
- (6) 2.37 - Third-party payers and funding sources
- (7) 2.38 - Employers and employment agencies
- (8) 2.39 - Criminal justice system
- (9) 2.40 - Situations not otherwise provided for

b. Form of Consent. Consent for disclosure must be in writing and must contain the following:

- (1) The name of the counselor or program administrator which is to make the disclosure.
- (2) The name or title of the person or organization to which disclosure is to be made.
- (3) The name of the patient.
- (4) The purpose or need for the disclosure.
- (5) The extent or nature of information to be disclosed.

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(6) A statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and a specification of the date, event, or condition upon which it will expire without express revocation.

(7) The date on which the consent is signed.

(8) The signature of the patient.

NOTE: Attachments 2 and 3, included in this regulation, contain SEC Form 1994, Consent for Release of Patient Information, and, SEC Form 1995, Release of Patient Information Form Letter. Both of which must be used to record and release confidential patient information.

2-5. Role of the Supervisor. Supervisors' notes are not subject to the requirements of 42 CFR Part 2 (Confidentiality Regulations) since supervisors, as such, are not performing an alcohol abuse or drug abuse prevention function; their main concern is deterioration of job performance. Discussion of employee problems by supervisors with persons not having a need to know, is however, discouraged on grounds of ethics and good supervisory practice. Title 42 CFR Part 2 prohibits persons performing an alcohol abuse or drug abuse prevention function (i.e., medical staff, Alcohol & Drug Abuse Program Administrator, counselor(s), and Personnel Specialist(s) from disclosing information obtained as a result of the performance of that function to unauthorized persons (which includes supervisors) without the written consent of the employee. In other words, a supervisor, after referring an employee to the program administrator or counselor, cannot expect feedback on the employee's progress without his or her written consent (see attachment 2, SEC Form 1994). If consent is given, the supervisor may not pass on the information received as a result of that consent to any other unauthorized person (which includes his or her supervisor) without the signing of a separate consent (attachment 3, SEC Form 1995). More than one consent, however, may be contained in a single consent form as long as the requirements for consent are met (see attachment 1, Section 2.31). Supervisors may, and should, continue to provide program personnel with information about the job performance of employees referred to the program, regardless of whether or not consent is obtained for feedback from the program.

2-6. Relationship to Disciplinary Actions. Attachment 1, Section 2.13(a) provides that patient information may be disclosed only as authorized, and may not otherwise be divulged in any civil, criminal, administrative or legislative proceeding conducted by any Federal, State or local authority. Therefore, management may not require an alcohol or drug abuse prevention function to release patient information for use in a disciplinary situation. However, attachment 1, Section 2.40 permits the release of such information in such proceedings, with the patient's prior written consent, when in the judgement of the alcohol or drug abuse program administrator the consent was voluntarily given, the disclosure will not be harmful to the patient, the program, or their relationship. Thus, the patient may have pertinent information released in a disciplinary proceeding where these criteria are met. Conversely, management must presume that, where an employee does not present such a disclosure in a disciplinary situation, the criteria for release have not been met. In any case, disciplinary action should always be based on job behavior or performance problems, not progress, or lack thereof, in a rehabilitative program.

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2-7. Eligibility for Disability Retirement. Title 42 CFR Part 2, Section 2.40 allows for the release of information with the patient's written consent when in the judgment of the alcohol or drug abuse program administrator, the consent was given voluntarily, and the disclosure will not cause harm to the patient, the program, or their relationship. Circumstances which might properly occasion disclosure under this section includes establishing eligibility for disability retirement benefits.

2-8. Employment Consideration. Attachment 1, Section 2.38, allows for the release of information to a prospective employer with the patient's written consent. Such information may be requested only when the applicant is otherwise known to the employer as having a history of alcohol or drug abuse. It may not be requested for the purpose of ascertaining whether an applicant has ever had such problems.

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3-1

CHAPTER 3

RECORDS AND REPORTS

3-1. Supervisor's Performance Notes. In order to deal fairly with an employee whose performance is deteriorating, it is essential that supervisors maintain day-to-day documentation focusing on the employee's job performance. Such documentation allows patterns and frequencies to be factually determined and accurately recalled in later discussions with the employee. Such records are not for personnel files, but are merely references for supervisors. These records must be destroyed by the supervisor when they have served their purpose.

3-2 Program Administrator/Counselor(s) Records. Program administrator and or counselor(s) will maintain statistical data on OPM Form 1210, (Federal Employee Health & Counseling Programs - Annual Report) to be submitted to the Director of Personnel semi-annually (by January 10 and July 10 of each year). This report should contain the following information:

a. The number of employees referred for counseling and rehabilitative assistance, categorized by problem areas as follows:

- (1) Alcohol.
- (2) Drug Abuse.
- (3) Mental or Emotional.
- (4) Other.

b. The number of employees whose performance improved because of assistance in each of the above categories.

c. Care must be taken to ensure that these records are purely statistical and do not identify individuals.

d. Additional records with regard to employee referrals may be necessary and may be established by the program administrator or counselor(s) to record appointments made for the employee, whether they are kept and if referred by management, and whether they have notified the supervisors of progress (see attachment 4, SEC Form 1993, Alcohol and Drug Abuse Confidential Client Record). In any event, only minimum amount of records absolutely necessary for reporting and follow up should be maintained. These records are subject to the requirements of Public Law 92-255, Section 408 as amended by Public Law 93-282 if they deal with drug counseling, and Public Law 91-616 Section 333 as amended by Public Law 93-282 if they deal with alcohol abuse counseling. They must be destroyed when they have served their purpose, but in no case should such records be maintained longer than two years after the employee is considered to be rehabilitated.

3-3. Medical Records. Medical records of employees are maintained by the health units or by the employee's own physician.

a. Records containing medical information and reports must be maintained according to requirements prescribed by FPM Chapter 293, Subchapter 3-3.

b. Records on employees who have been referred for counseling whether by medical personnel, or other counseling specialists must be maintained in the strictest confidence and afforded the same security accessibility restrictions provided for medical records.

c. Maintenance and disclosure of medical/counseling records are governed by the requirements of Public Law 92-255, Section 408 as amended by Public Law 93-282, Section 333 of Public Law 91-616 as amended by Public Law 93-282 and implementing regulations issued by the Public Health Service (see attachment 1).



RICHARD J. KANYAN, Director
Office of Administrative Services

CONSENT FOR RELEASE OF PATIENT INFORMATION U.S. Securities & Exchange Commission Alcohol & Drug Abuse Program	
I, _____ (name of patient)	hereby consent that
_____ provide the (program administrator/counselor making disclosure)	
following information: _____	

to _____ (name/title of person/organization receiving information)	
and that this information is necessary for _____ (reason(s))	

This consent will expire on: _____ (date, event, or condition)	
I realize that this consent is subject to revocation at any time except to the extent that action has been taken in reliance upon this consent.	
_____ (Signature of patient)	_____ (Date)
_____ (Signature if required of: Parent or Guardian/Attorney or Legal Counsel) (Date)	

SECR 6-5, Attachment 3, Jun 28, 1982

A3-1

RELEASE OF PATIENT INFORMATION
U.S. Securities & Exchange Commission Alcohol & Drug Abuse Program

FROM: _____
(official making the disclosure)

TO: _____
(name and title of the person and organization disclosure is being made to)

In accordance with the attached SEC Form 1994 "Consent for the Release of
Patient Information," we have released information to you on:

(patient's name) (date)

This information has been disclosed to you from records whose confidentiality is
protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from
making any further disclosure of it without the specific written consent of the
person to whom it pertains, or as otherwise permitted by such regulations. A
general authorization for the release of medical or other information is NOT
sufficient for this purpose.

SECR 6-5, Attachment 4, Jun 28, 1982

A4-1

CONFIDENTIAL CLIENT RECORD	
U.S. Securities & Exchange Commission Alcohol & Drug Abuse Program	
<p>The solicitation of this information is authorized by the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 (42 USC 4582) and the Drug Abuse Office and Treatment Act of 1972 (21 USC 1175), and is voluntary. The information will be used in the Securities and Exchange Commission's Alcohol and Drug Abuse Program, and will be kept confidential in accordance with the Privacy Act of 1974 (5 USC 552a) and Confidentiality of Alcohol and Drug Abuse Patient Records regulation (42 CFR Part 2). Failure to Provide the information may detrimentally affect the employee's participation in the Program.</p> <p>Accounting, handling and storage of this document shall be in accordance with the Privacy Act Security Regulations for Systems of Records. As a minimum, it should be stored when unattended in a lockable cabinet or enclosure.</p>	
1. Employee Identifier: _____	2. Division/Office: _____
3. Phone Number: _____	4. Opening Date: _____
5. Primary referral made by: _____ 6. Date: _____	
<input type="checkbox"/> Supervisor <input type="checkbox"/> Co-worker <input type="checkbox"/> Personnel Office <input type="checkbox"/> Other _____	
<input type="checkbox"/> Self <input type="checkbox"/> Family <input type="checkbox"/> Health Unit	
7. Reason referral was made: _____	
<input type="checkbox"/> Unsatisfactory work performance <input type="checkbox"/> Other _____	
8. Employee primary problem on initial interview with Program Administrator/Counselor: _____	
<input type="checkbox"/> Alcohol Related <input type="checkbox"/> Mental Health <input type="checkbox"/> Other _____	
<input type="checkbox"/> Drug Related <input type="checkbox"/> Undetermined	
9. Referred to: _____ Date referred: _____ (organization)	
10. Employee primary problem as diagnosed by referral center _____	
<input type="checkbox"/> Alcohol Related <input type="checkbox"/> Mental Health <input type="checkbox"/> Other _____	
<input type="checkbox"/> Drug Related <input type="checkbox"/> Undetermined	
11. Sixty day evaluation. Performance reported by: (please comment)	
a. Referral Service:	
b. Supervisor:	
c. Program Administrator:	

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

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was cancelled on November 17, 2015.

SECURITIES AND EXCHANGE COMMISSION
Office of Administrative and Personnel Management
Washington, D.C. 20549

POPPS 6-920.B
September 7, 1993

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 920.B

**SENIOR EXECUTIVE SERVICE
PERFORMANCE APPRAISAL SYSTEM**

1. **PURPOSE.** This Chapter describes the Securities and Exchange Commission's policies and procedures for appraising performance of Senior Executive Service (SES) employees.
2. **POLICY.** The SES Performance Appraisal System provides for active participation by senior executives in establishing standards, periodic appraisals of job performance, and use of performance appraisal results as a basis for decisions to give awards and bonuses, train, reassign, adjust base pay, retain, recertify, and remove senior executives from the SES.
3. **SCOPE.** This Performance Appraisal System applies to all senior executives who occupy SES positions including career, noncareer, and SES limited appointees.
4. **AUTHORITY.** Title 5, U.S. Code 5 U.S.C. 4311-4314 provides for the establishment of SES performance appraisal systems and for appraisal of the performance of senior executives (as defined in 5 U.S.C. 3132(a)). In addition, 5 CFR 430, Subpart C and FPM Supplement 920-1 describe requirements for SES performance appraisal systems.
5. **DEFINITIONS.**
 - A. **Appraisal Period.** Normally the 12 month fiscal year from October 1 through September 30, or the part thereof in which the senior executive served in the SES. Final appraisals and performance awards are based on performance rendered during the rating period. A senior executive must have served a minimum of 120 days in an SES position before being eligible for a rating. Where an adequate basis exists on which to appraise and rate a senior executive, the Chairman may terminate the normal rating period to permit the assignment of a rating. When a rating of record cannot be prepared on September 30, the appraisal period shall be extended for the amount of time necessary to meet the minimum appraisal period, at which time a rating of record shall be prepared.
 - B. **Critical Job Element.** A 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.

C. Initial Rating. The summary rating assigned to the senior executive by his or her rating official and provided to the Performance Review Board (PRB).

D. Non-Critical Job Element. A component of an employee's position which does not meet the definition of a critical element but is of sufficient importance to warrant written appraisal. Non-critical elements are optional.

E. Official Rating. The final summary rating assigned by the Chairman, as the appointing authority, or his or her designee, after the recommendations of the PRB have been considered. The official rating is the rating of record.

F. Performance Plan. The aggregation of all of the senior executive's written critical and non-critical job elements and performance standards developed in writing for each position for the appraisal period or any detail or temporary assignment of 120 days or longer.

G. Performance Standards. The written performance standards that identify the level of achievement required for minimally satisfactory, fully successful, and exceeds fully successful performance established by management for the duties and responsibilities of the position or group of positions. Performance standards may include, but are not limited to, factors such as quantity, quality, cost efficiency, timeliness, and manner of performance.

H. Progress Review. A review of the senior executive's progress toward achieving the performance standards, which is not in itself a rating.

I. Rating Official. The official, usually the immediate supervisor, who initially appraises the employee's performance and recommends the initial rating of record or summary rating.

J. Summary Rating. The written record of the appraisal of each critical and non-critical job elements and the assignment of an overall rating level. An "interim" summary rating normally is given when a senior executive is detailed or changes positions within a rating period, and it is used as input to the annual official rating.

6. RESPONSIBILITIES.

A. The Chairman is responsible for all final performance ratings of senior executives and for providing overall direction to the SES Performance Appraisal program.

B. The Executive Resources Board (ERB) provides overall direction for the SES program and applicable policies and reviews the operation of the performance appraisal system in the context of the total SES program.

C. The Performance Review Board (PRB) makes recommendations to the Chairman on the performance of senior executives in the agency and assures consistency, stability and objectivity in the performance appraisal process. The PRB consists of three principal members appointed by the Chairman. At least one alternate member also will be appointed to serve in the event a principal member cannot serve due to absence or disqualification. As required by law, the appointment of individuals who serve as members of the PRB will be published in the Federal Register.

D. The Office of the Executive Director (OED) is responsible for overseeing the SES program under the direction of the Chairman and for coordinating operations of the ERB and the PRB.

E. The Office of Administrative and Personnel Management (OAPM) is responsible for providing training, orientation, and information on the performance appraisal process to all senior executives. OAPM will evaluate the system for effectiveness periodically, as part of the Personnel Management Evaluation (PME) program (see POPPS Chapter 275.A). A copy of any written program evaluation will be furnished to the Chair of the ERB and the OED.

F. Supervisors, as rating officials, are responsible for establishing job-related performance plans and expectations/standards for senior executives under their supervision and for communicating them to these senior executives.

G. Senior executives must provide input in the setting of individual and organizational standards with their rating official.

7. CONTENT OF PERFORMANCE PLANS. The performance appraisal period will be from October 1 through September 30 of each year, unless adjusted due to individual circumstances. Performance plans will be developed in advance of or within 30 days of the beginning of each appraisal period, or within 30 days of assignment to a new position. Job elements and performance standards shall be established for each senior executive, consistent with the assigned duties and responsibilities of the position. Performance plans may differ for positions which have similar duties and responsibilities, but the plans must be job related and appropriate for each senior executive. For senior executives new to a position, the rating official is responsible for discussing performance plans with the senior executive at a reasonable time after the employee begins work normally no later than 30 days after the senior executive begins working for the rating official. Each performance plan must identify:

A. **Job Elements.** All jobs will have at least three critical elements, with four to eight elements being the norm. Identified critical elements will include those

required for a given rating period by the SEC (e.g., EEO/HRM critical element, as required by POPPS Chapter 430.B) and/or by the major organizational unit within the agency. Additional elements will be specified by the rating official or proposed by the employee. Non-critical elements are optional.

B. Priority Weights. The priority weight of each element will be determined by the rating official such that the sum of the weights of all elements (critical and non-critical) equal 100%. Critical elements must be given more weight than any non-critical elements.

C. Performance Standards. The performance plans will specify what factors (e.g., quantity, quality, cost efficiency, timeliness, and manner of performance) the rating official will use in judging performance. The plans should indicate these factors in as objective, explicit and measurable terms as possible. Each element must have at least three written performance standards, describing the minimally satisfactory, fully successful, and exceeds fully successful levels of performance.

8. STEPS AND RESPONSIBILITIES FOR DEVELOPING PERFORMANCE PLANS.

A. Job elements and performance standards of each senior executive will be established and documented on SEC 2331 (Page A), Section I, Job Elements and Performance Standards Worksheet. Performance plans will include individual and organizational performance requirements. Accomplishment of organizational objectives must be included in performance plans by incorporating objectives, goals, program plans, work plans, or by other similar means that account for program results. When developing performance plans, the following factors should be considered:

1. **Criticality/Relevance.** Have appropriate critical elements been identified? Are the elements derived from the overall mission of the work unit?
2. **Comprehensiveness.** Does the plan cover all of the senior executive's major duties and responsibilities?
3. **Clarity.** Are critical elements and performance standards clearly and fully described?
4. **Measurability.** Can achievements be measured (i.e., quantified or judged on quality or program impact) against the standards identified?
5. **Realism.** Is it likely that opportunities will be there to perform at the different levels?

B. When the rating official provides the final performance plan to the senior executive, the senior executive should sign and date SEC 2331 (Coversheet), acknowledging that he or she has received the performance plan.

C. It is management's responsibility and right to determine the contents of the performance plan. If the senior executive and rating official disagree on the contents of the performance plan, the rating official and senior executive should attempt to resolve the disagreement on an informal basis. If this is not possible, the senior executive may request a review by the PRB. If the PRB does not agree with the performance plan, it will be returned to the rating official for modification.

D. Each senior executive must be informed orally or in writing of the approved performance plan at the beginning of each appraisal period. A written copy of the plan must be provided to the senior executive, normally within 30 days of the beginning of the period.

E. The original performance plan should be maintained by the Administrative Contact. A copy of each approved performance plan also must be submitted to the Associate Executive Director, OAPM at the same time it is provided to the senior executive.

9. ON-GOING PERFORMANCE AND PROGRESS REVIEWS.

A. To be effective, the performance management process should be a continuous one carried on in a spirit of open, frequent and constructive communication between the rating official and the senior executive. Senior executives must be given at least one formal progress review during the rating period, during which the rating official provides oral and/or written feedback on each job element and how the senior executive's work compares with the established performance standards. Circumstances may require more frequent progress reviews. Rating officials are to document all progress reviews on SEC 2331 (Coversheet) which should then be initialed by both the rating official and senior executive.

B. If circumstances affecting the work situation (e.g., changes in agency priorities and available resources) arise during the performance period, expectations of performance for the remainder of the period may be added to, deleted from or modified in the performance plan.¹

¹ Examples of circumstances that do not constitute changes that require 120 days under the new plan are changes to weights, deleting of standards for lack of opportunity to perform, delay of specified due dates for work assignments, and elaboration on or clarification of existing standards.

10. TIME LIMITATIONS FOR SUMMARY RATING AND RATING OF RECORD.

A. Appraisal Period. Generally, a senior executive is considered to be ratable during an appraisal period if he or she has performed under at least one performance plan for 120 days or more during the period. Senior executives who complete at least 120 days under the same performance plan during the rating period must be given a summary rating for that period when they move out of the position for any reason other than changing pay plans.² Also, rating officials who move out of their position must complete summary ratings for each employee they supervise, provided the employee has completed 120 days under the same elements and performance standards. Such summary ratings shall be used in deriving the next rating of record.³

1. If the senior executive has not performed under a plan for at least 120 days by the end of the appraisal period, the appraisal period shall be extended until 120 days is reached. At that time, a rating of record must be prepared.

2. Senior executives who are reassigned from one SES position to another SES position and have performed under a performance plan for 120 days will be given a summary rating by the losing supervisor, and the gaining supervisor will complete the rating of record at the end of the rating period.

3. Senior executives who have a change of supervisors and have performed under a performance plan for 120 days will be rated by both the previous and current rating official. This means that any supervisor who plans to leave the SEC or move to another position within the SEC will appraise in writing his or her subordinates prior to exit clearance/transfer. The employee's supervisor of record (i.e., permanent supervisor) at the end of the appraisal period will be responsible for determining the employee's rating of record for the appraisal period.

4. Senior executives who are on detail for 120 days or more during the appraisal period also will be rated on their performance while on detail. When a senior executive is detailed outside of the agency, the Commission will make a reasonable effort to obtain appraisal information from the outside organization. Any information that is obtained shall be considered in deriving the senior executive's next rating of record.

5. In the case of a career appointee, an appraisal and rating may not be made within 120 days after the beginning of a new Presidential Administration.

² This also applies to executives who have been reassigned or transferred to a new agency.

³ For reduction in force purposes only, a summary rating is required after an employee is demoted or reassigned for unacceptable performance. This summary rating is due after the employee has performed for 120 days under elements and standards in the new position.

11. EVALUATING PERFORMANCE FOR SUMMARY RATING AND RATING OF RECORD.

A. The rating official will review the previously determined performance standards of each critical and non-critical job element and will then review the information documenting the senior executive's actual performance. Senior executives should provide their rating officials with input concerning their performance and the factors impacting on their performance as a means of enhancing the dialogue between the rating official and the senior executive. The rating official will consider this when preparing the narrative summary of the senior executive's performance accomplishments, which will be recorded on SEC 2331 (page B).

1. At the end of the rating period, each job element weight (as assigned at the beginning of the rating period or modified during progress reviews) will be multiplied by the performance level rating score for that element. The sum of the products will be used to determine the senior executive's initial rating for the appraisal period. This will be recorded on SEC 2331 (page C). Ratings should be completed within 30 days of the end of the rating period.

2. Five official rating levels are established under the system. The summary ratings and scores are shown below:

<u>Individual Element Numerical Score for Each Rating Level</u>	<u>Rating Level</u>	<u>Numerical Summary Rating Level Score For Each Rating Level</u>
5	Outstanding (O)	450 to 500
4	Exceeds Fully Successful (E)	380 to 449
3	Fully Successful (FS)	285 to 379
2	Minimally Satisfactory (MS)	200 to 284
1	Unsatisfactory (U)	100 to 199 or U in any critical element

B. **Forced Distributions.** The agency may not prescribe a distribution of ratings for any group of employees, including employees covered by the SES performance appraisal system.

C. **Consideration of Summary Ratings and Progress Reviews.** When determining the rating of record, rating officials must give consideration to all appropriate summary ratings given throughout the rating period. In addition, rating officials also should consider all progress reviews for the current position given throughout the rating period. Such consideration may include percent of rating period in each position, relative importance of each position or other appropriate criteria.

D. **Feedback.** The rating official should discuss the initial rating with the senior executive and must provide him or her with a preliminary copy. The rating official also may want to discuss and document areas for future emphasis or training and development. The senior executive may indicate any intention to provide a

written response relating to any aspect of the rating and/or to request a review by a higher level official.

12. REQUEST FOR HIGHER LEVEL REVIEW. Senior executives may request a higher level review of an initial rating,⁴ unless the rating official is the Chairman.⁵

A. The request for a higher level review must be submitted to the Executive Director within 10 calendar days for the date the senior executive receives his or her initial rating.

B. The Executive Director will appoint a senior executive at a higher level than the rating official to conduct a review, prior to PRB review. A senior executive in a higher level is identified as being either a senior executive in a higher organizational level than the rating official, or the Chairman.

C. If the Chairman is the only employee at a higher executive level than the rating official, the Chairman may designate an executive to perform the review, but must completely assess and approve any recommendations made by the designee. The final recommendations will carry the same weight as if the Chairman had personally conducted the review. This designee must be at a higher organizational level than the senior executive requesting review and may not be subordinate to the rating official.

D. Reviewing officials must complete their review within 15 calendar days and written recommendations will be provided to the senior executives, rating officials and PRB.

13. PROCESS FOR APPROVING APPRAISALS.

A. Rating officials who have subordinates occupying SES positions assign initial ratings to these persons and submit written recommendations addressed to the Chairman of the PRB regarding proposed adjustments in salary and/or the granting of monetary performance awards. These recommendations must be prioritized and the package is to be submitted to the Executive Director.

B. The PRB reviews and evaluates initial ratings by rating officials, written responses by senior executives, if any, and written reviews of initial ratings by higher-level executives, if such reviews were made.

1. The rating official who furnished the initial appraisal of a senior executive or conducted a higher level review may not serve on a PRB which is evaluating the senior executive, nor may a PRB member participate in making

⁴ Senior executives may not request a higher level review of interim summary ratings or transfer of ratings.

⁵ The executive may provide a written response which will be considered during the PRB review process.

recommendations about his or her own appraisal or those of his or her division or office. Any PRB member may disqualify himself or herself for any reason.

2. At least a majority (two of the three) of the members of the PRB acting on any given appraisal must be SES career appointees. To maintain PRB membership, PRB members must themselves have current performance summary ratings of at least "Fully Successful."

C. The PRB will send the ratings to the Chairman accompanied by its recommendation concerning the rating of each senior executive as follows:

1. The Chairman should accept the proposed rating; or
2. The Chairman should request that the rating official re-rate the employee because the rating principles he or she used are inconsistent with those of other rating officials.

D. With respect to senior executives initially rated by the Chairman, the Board's role is to review the rating and any response by the senior executive, and to provide advice as to whether the Chairman's rating is procedurally adequate and is consistent with initial ratings by other rating officials in the agency.

E. The Chairman, or designee, issues or approves all final ratings and decides all salary adjustments.

14. DISTRIBUTION OF RATING FORM AND RECORDS MAINTENANCE.

A. A copy of SEC 2331 will be provided by the rating official to the senior executive. The original SEC 2331 for each employee will be sent to the Associate Executive Director, OAPM by the due date established each year by the PRB Chair. The SEC is required to report SES ratings to the Office of Personnel Management through the automated Central Personnel Data File by December 31 of each year.

B. An Employee Performance Folder (EPF) will be maintained for each senior executive by OAPM. Ratings of record and performance plans, as well as other performance related information, covering the most recent five years will be retained in the senior executive's performance folder. If he or she leaves the agency, performance ratings and the plans on which the most recent five years ratings were based will be transferred with the individual or sent to the National Personnel Records Center.

15. APPEALS. A performance appraisal and/or rating received by a senior executive, a reassignment to another SES position, or removal from the SES for reasons of performance cannot be appealed or grieved. However, a career appointee may request, and is entitled to, an informal hearing before an official designated by the Merit Systems Protection Board (MSPB). A request for an informal hearing must be made at least 15 days before any removal for reasons of performance. The

granting of this hearing does not give the career senior executive the right to initiate a formal appeal action with the MSPB or in any way delay the action being taken by the Chairman.

16. USE OF APPRAISAL AND RATING INFORMATION.

A. Impact Of Ratings On Recognition. The immediate purpose of the Performance Appraisal System is to identify levels of job performance and to recognize fully successful or higher levels by increasing base salary, granting monetary performance awards, and/or recommending senior executives for rank awards.

B. Impact Of Ratings On Recertification. Supervisors consider performance ratings for the three preceding years, along with any awards and developmental activities, when deciding whether or not to recommend recertification for senior executives. Refer to POPPS Chapter 920.C, Senior Executive Service Recertification Plan, for additional information.

C. Training.

1. Supervisors may request training to improve performance in a senior executive's present job and for developmental purposes. The performance appraisal process should identify areas where remedial or developmental training may be necessary for an employee to meet or exceed specified performance standards. Refer to POPPS Chapter 410.A for additional information.

2. The decision as to whether formal training would be appropriate to bring about needed improvement in job performance is made by the supervisor, subject to authorization by the OAPM Training Officer. Such formal training should be provided only when there is reasonable assurance that the training would improve performance in specific aspects of the job.

D. Unacceptable Performance. Supervisors must aid those senior executives rated below the fully successful level in improving performance. For those persons for whom additional training, assistance, or experience may not sufficiently overcome serious deficiencies, 5 U.S.C. 4314 requires several corrective forms of action:

1. Any senior executive who receives an "unsatisfactory" rating of record must be reassigned or transferred within, or removed from, the SES.

2. Any senior executive who receives two "unsatisfactory" ratings of record in any period of five consecutive years must be removed from the SES.

3. Any senior executive who twice in any period of three consecutive years receives less than a "fully successful" rating of record must be removed from the SES.

POPPS 6-920.B September 7, 1993

11

17. EFFECTS ON OTHER DOCUMENTS. This Chapter supersedes POPPS Chapter 920.B, dated September 9, 1991 and its Attachment, SECR 6-21, dated September 30, 1987 as amended. This Chapter is consistent with POPPS Chapter 430.A, but is tailored for the Senior Executive Service. Refer to POPPS Chapter 430.B, for the required EEO/HRM Job Element and Performance Standards.

18. OFFICE OF PRIMARY RESPONSIBILITY. Office of Administrative and Personnel Management.



Fernando L. Alegria, Jr.
Acting Associate Executive Director
Office of Administrative and Personnel Management

September 7, 1993
Date

Attachment: SEC 2331, Performance Management Record

**U.S. SECURITIES AND EXCHANGE COMMISSION
PERFORMANCE MANAGEMENT RECORD
AND INSTRUCTIONS**

Position Review

• Performance Plan

• Progress Review

• Performance Appraisal

• Performance Recognition

Employee's Name: _____ Social Security #: _____

Position Title: _____

Pay Plan, Series, Grade/Step: _____

Organization: _____

Rating Period: _____

Covered By:

☐

Senior Executive Service

☐

General Schedule

☐

Performance Management
and Recognition System

☐

Prevailing Rate

☐

Paper copy of job elements and performance standards and/or work objectives attached.

or

☐

Electronic copy of job elements and performance standards and/or work objectives were transmitted on _____ and receipt by employee was verified electronically on _____

SUPERVISORY POSITION CERTIFICATION AND AUTHORIZATION OF PERFORMANCE PLAN

☐

I have reviewed the position description of record and certify that it is (see instructions):

Accurate:

☐

Less than 4 years old

Inaccurate:

☐

Minor pen and ink changes attached.

☐

Over 4 years old; send
new coversheet to the Office of
Human Resources Management.

☐

Major changes; rewrite must be submitted to the
Office of Human Resources Management (OHRM)
within 45 days. (If this box is checked, please send a
photocopy of this page to OHRM as soon as
signatures are obtained.)

☐

This performance plan is a complete and accurate statement of the work that will be the basis of the employee's performance appraisal.

Name and Title of First Line Supervisor/Rating Official

Signature

Date

APPROVAL

I agree with the certification of the position description and approve the performance plan.

Name and Title of Reviewing Official

Signature

Date

EMPLOYEE ACKNOWLEDGEMENT

My signature only acknowledges discussion of the position
description and receipt and discussion of the performance plan,
and does not necessarily signify agreement.

Signature

Date

PROGRESS REVIEW

During this progress review each job element has been discussed. At least one progress review is required.

Note: Attach written documentation to this form as needed.

1st Progress Review

Initials	Date
Emp.	Supv.

2nd Progress Review (Optional)

Initials	Date
Emp.	Supv.

3rd Progress Review (Optional)

Initials	Date
Emp.	Supv.

PRIVACY ACT STATEMENT - Disclosure of your Social Security Number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

INSTRUCTIONS FOR COMPLETING THE PERFORMANCE MANAGEMENT RECORD

Supervisory Position Certification and Authorization of Performance Plan

If the position description (PD) is accurate and it is less than four years old, please check the appropriate box and no further action is required (make sure each employee has a copy of his or her position description).

If the PD is accurate and over four years old, contact your servicing classification specialist for recertification procedures. If the PD is inaccurate, the rating official must prepare a redescription and send it to the classification representative for his or her review within 45 days.

Section I - Job Elements and Performance Standards Worksheet

1. Attach the performance standards and/or work objectives for each job element (employees should normally have 5-8 elements).
2. Identify the job element of the employee's job.
3. Specify if the element is critical or non-critical (check appropriate box).
4. Assign a weight to the job element to show the time devoted to accomplishing the element and/or its importance. The total weight of all job elements in the plan must equal 100 (see space provided at top of page).
5. Define what the element is intended to accomplish, focusing on the overall result, and identify the major activities or results needed to accomplish the performance element. For every job element there must be three written performance standards "Minimally Satisfactory," "Fully Successful," and "Exceeds Fully Successful." These standards are to be written in outline or paragraph format, and should describe work products or results expected at each of the performance levels. The standards may include, but are not limited to, factors such as quantity, quality, and timeliness.

Section II - Performance Accomplishments

Attach a description of the accomplishments made by the employee on each job element, by citing actual performance compared to the performance standards.

Section III - Performance Summary and Rating

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it. If an employee has not had a chance to perform in all of the elements, the rating official should reallocate the weights to those elements in which the employee has had an opportunity to perform.
2. Assign a rating level for each element: (5) Outstanding, (4) Exceeds Fully Successful, (3) Fully Successful, (2) Minimally Satisfactory, and (1) Unsatisfactory. The Rating Codes are as follows: O=Outstanding, E=Exceeds Fully Successful, FS=Fully Successful, MS=Minimally Satisfactory, and U=Unsatisfactory.
3. Score each element by multiplying the weight (sum of individual weights must total 100) by the rating level. The Score is equal to the Element Rating Score multiplied by the Priority Weight for each Performance Element. The Total Score is the sum of the Individual Scores.
4. After each element has been scored, compute the total score by summing all individual scores. The total score can range from 100 to 500. NOTE: If any critical element is rated unsatisfactory, the overall rating is unsatisfactory.
5. A completed copy of this form must be sent to OHRM along with the performance accomplishments.

The Performance Rating is completed by the rating official and the reviewing official concurs before the rating is discussed with the employee. All of the information documented is discussed with the employee at the formal appraisal meeting and a copy of the rating is given to the employee. The employee signs the form only to acknowledge that an appraisal meeting was held.

If the employee is dissatisfied with the initial rating, he or she must request written reconsideration by the reviewing official within ten calendar days of receipt. If the reviewing official changes a rating, he or she must document the reasons. A copy of the new rating must be given to the employee.

Section IV - Performance Recognition

The rating official completes any recommendations for performance awards and forwards it through the reviewing official to the proper channels for processing the award.

Section V - Performance Recognition for SES Employees

The rating official completes any recommendations for performance awards and, once the proper signatures have been obtained, forwards it to the proper channels for processing the award.

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

SECTION I - JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET

Assigned Weight _____

☐ Critical ☐ Non-Critical

Element No. _____ of _____

(Use one form for each element. Use reverse side to continue content.)

For historical purposes only; the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Element No. _____ of _____

SECTION I - JOB ELEMENTS AND PERFORMANCE STANDARDS WORKSHEET (Continued)

For historical purposes only: the POPPS Manual
was cancelled on November 17, 2015.

Name: _____ Division/Office: _____

Section II - PERFORMANCE ACCOMPLISHMENTS: Please discuss employee's accomplishments in terms of each element. Continue on reverse and attach additional sheets if necessary. A completed copy of this page must be sent to the OHRM at the end of the rating period along with the completed page C.

Name: _____ Division/Office: _____

Section II - PERFORMANCE ACCOMPLISHMENTS (Continued)

Name: _____

Division/Office: _____

Title: _____

Section V - SES Employees Only Initial Performance Rating _____ Total Score _____

1. Rating Official Recommendation(s) [Check appropriate block(s)].

☐ Performance-related pay adjustment (rate) _____ ☐ SES Bonus \$ _____ or % _____

Rating Official Signature and Title

Date

2. Optional Higher Level Review (at employee's request)

Comments:

Higher Level Reviewer Recommendations:

Higher Level Reviewer Signature and Title

Date

3. PRB Review

PRB concurs with initial rating ____ Yes ____ No (explain below)

PRB concurs with other recommendations ____ Yes ____ No (explain below)

PRB Chairperson Signature

Date

4. Appointing Authority

____ Agree ____ Disagree with PRB recommendations. If disagree, explain.

Final Rating of Senior Executive

☐ Outstanding ☐ Exceeds Fully Successful ☐ Fully Successful ☐ Minimally Successful ☐ Unsatisfactory

Appointing Authority Signature (or Designee)

Date

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549


POPPS 6-920.C
September 9, 1991

SECM 6-1, Personnel Operating Policies and Procedures (POPPS)

Chapter 920.C

**SENIOR EXECUTIVE SERVICE
RECERTIFICATION PLAN**

1. **PURPOSE.** This chapter describes the Commission's policies and procedures for recertifying career appointees in the Senior Executive Service (SES). Attached is a copy of SECR 6-22, dated August 30, 1991, which is incorporated by reference into this policy.
2. **EFFECTS ON OTHER DOCUMENTS.** The recertification forms are subject to the Privacy Act, which limits access to and establishes accountability procedures for authorized disclosure of personal information. Chapter 920.B on the SES performance appraisal describes a separate but complementary process.
3. **OFFICE OF PRIMARY RESPONSIBILITY.** Office of Human Resources Management.



John Innocenti, Director
Office of Human Resources Management

9/9/91

Date

Attachment:
SECR 6-22, dated August 30, 1991

SECURITIES AND EXCHANGE COMMISSION
Office of Human Resources Management
Washington, D.C. 20549

SECR 6-22

Aug 30, 1991

Human Resources Management

SENIOR EXECUTIVE SERVICE RECERTIFICATION PLAN

This regulation prescribes policies and procedures governing the Commission's recertification of career appointees in the Senior Executive Service. This regulation is intended to provide consistency and fairness in the recertification process. It implements section 506 of the Ethics Reform Act of 1989 (Public Law 101-194, November 30, 1989), which requires recertification every third year. (Title 5 U.S.C. 3393a) (5 CFR 213, 317, 359, 842). It applies to all career SES appointees at the Commission.

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Senior Executive Service Employees, 1 copy

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Attachment

SEC Form 2300, Senior Executive Service

Recertification CY_____	A1-1
--------------------------------------	-------------

Form Prescribed

SEC Form 2300 Senior Executive Service

Recertification CY_____	4-1
--------------------------------------	------------

SECR 6-22, Aug 30, 1991

1-1

CHAPTER 1

GENERAL INFORMATION

1-1. Policy. It is the policy of the Securities and Exchange Commission (SEC) that the recertification plan ensures that the performance of career appointees demonstrates the excellence needed to meet the goals of the Senior Executive Service (SES).

1-2. Relationship to Annual Performance Appraisal Process. The SEC's annual performance appraisal process and recertification process for SES members are complementary but separate processes. The annual performance appraisal focuses on how well the executive has met the specific standards for his or her position during the year. The recertification process looks at the executive's overall performance during a three year period.

1-3. Coverage.

a. SES career employees who have been continuously employed in the SES for 156 weeks preceding the end of the recertification period are subject to recertification. This period includes any service as an SES noncareer or limited appointee. It also includes service in any agency. Recertification occurs only every third calendar year. Therefore, if individuals do not have 156 weeks of continuous SES service at the end of the recertification calendar year, the individual would not be subject to recertification until the next triennial process (e.g., 1991, 1994, 1997).

b. One or more breaks in SES service of a total of six months or less do not interrupt the 156 weeks of continuous employment. A break is defined as a time period during which the SES career appointee, was not being officially counted against the agency's SES position allocation.

c. SES career appointees who are on extended assignment or absence from their positions at the time of recertification are subject to recertification, generally, as long as they are officially occupying an SES position at the end of the recertification period as a career appointee and meet the 156-week length of service requirement.

d. This recertification plan does not apply to SES noncareer or limited appointees. Nor does it apply to former SES career appointees who took Presidential appointments at Executive Level V or higher with Senate confirmation and elected to retain SES benefits.

1-4. Training. Before the beginning of each recertification determination process, executives who supervise SES career appointees, and members of the Performance Review Board (PRB), will be given training on the objectives and procedures of the recertification process. Also, during this same time period, the SEC will inform SES career appointees about its recertification plan provisions.

1-5. Records. Recertification documentation shall be maintained in the SES career appointee's Employee Performance Folder (EPF) for five years from the date of the recertification determination. If an individual is conditionally recertified, documentation for the final recertification determination shall be maintained for five years from the date of the conditional recertification. EPF's shall be maintained in accordance with provisions in the SES Performance Appraisal Plan. Information contained in the EPF is protected under the provisions of the Privacy Act of 1974.

1-6. Reports and Evaluation. The SEC will report to the Office of Personnel Management (OPM) such information, and take such corrective action as OPM may direct as a result of its oversight and evaluation responsibilities.

SECR 6-22, Aug 30, 1991

2-1

CHAPTER 2

RECERTIFICATION PERIOD

2-1. Recertification Period.

a. The initial recertification period shall end on September 30, 1991, coincident with the end of the annual performance appraisal period. Subsequent recertification shall take place every third calendar year thereafter. September 30 shall serve as the date for calculating the 156-week employment period. Recertification decisions must be completed by December 31st.

b. If an individual is recertified in another agency and then transfers to the SEC during the calendar year, the individual is not subject to a decision on recertification at the SEC until the next recertification period.

c. If an individual transfers from another agency during the calendar year and no recertification decision was made in that agency, a recertification decision must be made at the SEC. All necessary relevant information on the executive's performance during the recertification period, in addition to performance ratings completed, will be requested of the executive's previous agency.

2-2. Reserved

SECR 6-22, Aug 30, 1991

3-1

CHAPTER 3

STANDARDS FOR RECERTIFICATION

3-1. Standards for Recertification.

a. The SES career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated over the recertification period that he or she has achieved excellence in:

(1) Planning for, advancing substantially, and attaining Presidential, SEC, or organizational goals and objectives that required a sustained superior effort;

(2) Taking specific initiatives that advanced a major policy and/or improved significantly the delivery of services;

(3) Taking the necessary actions to ensure the achievement of a quality product in a timely manner; and

(4) Making significant technical, scientific, or professional contributions.

b. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:

(1) Achieving substantial savings in the execution of programs under his or her direction;

(2) Maintaining the high quality and effectiveness of programs under his or her direction with reduced resources; or

(3) Providing strong leadership to enhance the development, utilization and achievements of subordinate personnel, including achievement of equal employment opportunity goals.

3-2. Reserved.

SECR 6-22, Aug 30, 1991

4-1

CHAPTER 4

RECERTIFICATION RECOMMENDATION AND DETERMINATION PROCEDURES

4-1. Recommendation by the Supervising Official.

a. The supervising official of the SES career appointee shall submit to the PRB a recommendation, on SEC Form 2300, Senior Executive Service Recertification CY____, as to whether the individual's performance justifies recertification as a senior executive. (See attachment 1.) The recommendation shall be based on the executive's overall performance during the recertification period in relation to the standard for recertification in Chapter 3, including consideration of factors such as:

(1) The career appointee's SES performance ratings for the three preceding years. SES career appointees do not have to have received annual performance ratings above Fully Successful to be recertified, and Fully Successful ratings do not guarantee recertification.

(2) Any award or other recognition received by the appointee. These include awards from both inside the government (e.g., Presidential rank awards and superior accomplishment incentive awards) and outside the government. Awards recognizing performance over a period of years that are received during the recertification period even though some of the achievements recognized may have occurred before the recertification period are included. Also included are awards received after the recertification period, but before the recertification determination, if the award recognizes performance that took place during the recertification period.

(3) Any developmental activities of the appointee. These include professional, educational, or self-developmental activities. Supervising officials should consider funding availability and the stage of the executive's career; that is, seasoned executive or newly appointed executive, when evaluating the extent to which an executive participates in developmental activities.

b. The factors identified above should be used as a measure of whether the standard for recertification has been met in relation to the written performance requirements for the career appointee's senior executive position. Supervising officials may not make a recommendation solely on the basis of performance ratings.

c. If a supervising official has not served as the senior executive's supervisor for at least 120 days, he or she will make reasonable efforts to obtain pertinent information from the prior supervisor(s).

d. Prior to making a recommendation, supervising officials may request a written statement of accomplishments from the executive in relation to the standard for recertification.

e. If the supervising official recommends recertification, no written justification is required. However, a recommendation proposing conditional recertification or non-recertification shall include a narrative justification. The narrative should specify those aspects of the standard for recertification that have not been met. Supervising officials should contact the SES Coordinator for technical advice and assistance prior to preparing such a narrative.

f. The SES career appointee shall be given a copy of the recommendation provided on SEC Form 2300, in attachment 1. The appointee shall be requested to acknowledge receipt of the form, and advised of the right to submit to the PRB, a statement of accomplishments and other documentation, giving evidence of the quality of the appointee's performance in relation to the standards provided in Chapter 3. The statement of accomplishments provided to the PRB may be the same, as that provided in subparagraph d above, or amended at the executive's discretion.

g. The recertification form and any appropriate written documentation, (e.g., the executive's statement of accomplishments if provided to the supervising official; a narrative justification for a recommendation other than to recertify) shall be forwarded to the PRB.

4-2. Recommendation by the Performance Review Board.

a. More than one-half of the members of the PRB shall consist of SES career appointees. No PRB members may take part in any deliberations or actions regarding recommendations on their own recertification.

b. After receiving the recommendation of the supervising official and any information provided by the career appointee under paragraph 4-1d, the PRB shall submit to the Chairman a recommendation on SEC Form 2300, as to whether the appointee should be recertified, conditionally recertified, or not recertified. (See attachment 1).

c. If the PRB needs more information to make its recommendation, it may request additional information from the supervising official or request that he or she appear before the PRB.

d. If the PRB proposes to recommend conditional recertification or not to recertify, the appointee must:

(1) Be notified in writing, of the rationale, for the proposed recommendation. If the PRB chooses to use the same rationale as provided by the supervising official, it need only indicate, its concurrence on the supervising official's justification.

(2) Have the opportunity to appear before the PRB prior to its forwarding the recommendation to the Chairman. The appointee shall be given five business days advance notice of the proposed scheduled appearance. If the appointee requests, he or she may be given a reasonable amount of official time to prepare for his or her appearance.

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e. If the PRB recommends recertification, it also may recommend that the appointee's rate of basic pay be increased to a higher ES pay rate. If the PRB recommends conditional recertification, it also may recommend that the appointee's rate of basic pay be reduced to the next lower ES pay rate. These recommendations may be documented on the recertification form.

f. In addition to its recommendation, the PRB shall provide the Chairman with the recommendation from the supervising official and any information received from the appointee under paragraphs 4-1d or 4-2d of this chapter.

4-3. Determination by the Chairman.

a. The Chairman of the SEC shall determine whether the SES career appointee shall be recertified, conditionally recertified, or not recertified.

b. If the Chairman determines that the appointee's performance warrants recertification, he or she will record the decision on the recertification form along with the appropriate annotation if a positive pay rate change is decided upon.

c. Written reasons must be provided for any recommendation or decision to conditionally recertify or not recertify a career appointee. The reasons must be specific enough so that the SES career appointee will be able to understand why the proposed action was taken and adequate to support a case if the SES career appointee appeals a removal action. The Chairman may concur without providing additional reasons if he or she agrees with and deems sufficient the reasons provided by the recommending official.

d. The Chairman may provide the executive an opportunity to make a presentation in writing and/or in person to the Chairman or his or her designee before making the determination.

e. Determinations will not be based on a prescribed distribution of how many or what percentage of executives will be recertified, conditionally recertified, or not recertified.

4-4. Decision to Recertify.

a. If the Chairman determines that the SES career appointee's performance warrants recertification, the appointee shall continue in the SES.

b. The appointee's rate of basic pay may not be reduced at the time of recertification.

c. If the decision is made to increase the appointee's rate of basic pay, the statutory restriction that an SES member's pay level may be changed only once in a 12 month period remains applicable.

4-5. Decision to Conditionally Recertify.

a. If the Chairman determines that the SES career appointee's performance warrants conditional recertification, the appointee:

(1) Shall be notified in writing enclosing a copy of the completed recertification form and necessary supporting documentation.

(2) Shall remain a career appointee in the SES.

(3) Shall be subject to continuing close review of the appointee's performance by the supervising official in coordination with the Executive Resources Board (ERB).

(4) Shall be subject to a one-year performance improvement plan (PIP) developed by the supervising official, subject to the approval of the ERB, and provided to the appointee within 30 days of his or her notification of conditional recertification. The performance improvement plan should include a description of the deficiencies in the executive's performance, what constitutes satisfactory completion of the plan, a statement of the support and assistance to be provided by the supervising official, and any training initiatives planned. It shall consider the performance standards the executive is required to attain during the period. Periodic progress review discussions shall be held and documented at 120-day intervals.

(5) May, if the Chairman so determines, be reduced to the next lower ES pay rate, once 12 months have elapsed since the appointee's last pay adjustment.

(6) May not appeal to the Merit Systems Protection Board, as the law does not provide such a right.

b. At the end of the 12 months following conditional recertification, the agency shall make a new recertification determination. The process for making the new determination shall be the same as for the initial recertification decision, including review and recommendation by the PRB.

(1) The individual shall be retained in the SES if recertified and shall have any reduction in ES pay level made under paragraph 4-5a(5) restored as of the beginning of the first pay period following recertification when 12 months have elapsed since the pay reduction. The year that was subject to a PIP does not remove the individual from the regular recertification cycle. (See paragraph 4-5a).

(2) The individual shall be removed from the SES if not recertified at the end of the 12-month period following the conditional recertification. (See paragraph 4-6a.) An SES career appointee cannot be conditionally recertified a second time after the one-year performance improvement period.

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4-6. Decision not to Recertify.

a. If the Chairman determines that the SES career appointee's performance does not warrant recertification or conditional recertification, the appointee shall be removed from the SES in accordance with applicable law and regulation (5 CFR 359).

b. The appointee shall be notified in writing before the effective date of the action. If the appointee has completed the SES probationary period, or was not required to serve a probationary period, the notice shall be at least 30 calendar days before the effective date of removal from the SES.

c. The notice shall include the completed recertification determination form and advise the appointee of:

(1) The basis for the action as outlined in 5 CFR 359.

(2) The appointee's placement rights provided under 5 CFR 359.701-705. The position to which the appointee will be assigned shall be identified either in the advance notice or in a supplementary notice issued no later than 10 calendar days before the effective date of the action.

(3) The appointee's right to appeal to the Merit Systems Protection Board, the office to which an appeal should be sent, including the time limit for appeal, and that there is no provision for a stay in the removal action pending the appeal process.

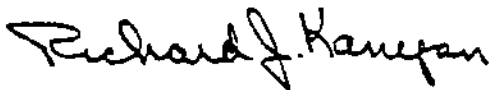
(4) The effective date of removal from the SES.

(5) When applicable, the appointee's eligibility for immediate discontinued service retirement, in lieu of placement rights, with no annuity reduction based on age (CSRS) and eligibility for an annuity supplement regardless of age (FERS).

d. Removal from the SES as a result of not being recertified may not be made effective within 120 days after:

(1) The appointment of a new agency head; or

(2) The appointment in the agency of the career appointee's most immediate supervisor who is a noncareer appointee and has the authority to remove the career appointee.



RICHARD J. KANYAN, Director
Office of Administrative Services

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SENIOR EXECUTIVE SERVICE RECERTIFICATION CY _____	
Name of Executive:	Current Pay Rate: <u>ES-</u>
Position Title and Organization	Recertification Period: From: _____ To: _____
Standards for Recertification	
<p>a. The career appointee must perform at the level of excellence expected of a senior executive. Excellence means that over the recertification period, the executive has demonstrated and achieved excellence in:</p> <ul style="list-style-type: none"> (1) planning for, advancing substantially, and attaining Presidential, agency, or organizational goals and objectives that required a sustained superior effort; (2) taking specific initiatives that advanced a major policy and/or improved significantly the delivery of services; (3) taking the necessary actions to ensure the achievement of a quality product in a timely manner; and (4) making significant technical, scientific, or professional contributions. <p>b. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:</p> <ul style="list-style-type: none"> (1) achieving substantial savings in the execution of programs under his/her direction; (2) maintaining the high quality and effectiveness of programs under his/her direction with reduced resources; or (3) providing strong leadership to enhance the development, utilization and achievements of subordinate personnel, including achievement of equal employment opportunity goals. 	
<p>The following recommendations and decision are based on an assessment of the executive's overall performance during the recertification period. Assessments are to be made in relation to the Standards for Recertification as stipulated in law, regulation, and agency procedures; and in consideration of the executive's performance rating, awards and recognition, developmental activities, and other relevant factors related to performance.</p>	
Supervising Official's Recommendation	
<input type="checkbox"/> Recertify <input type="checkbox"/> Conditionally Recertify <input type="checkbox"/> Not Recertify <input type="checkbox"/> Recommend pay rate adjustment to ES-_____ <input type="checkbox"/> No adjustment	
<p>If the above recommendation is to conditionally recertify or not recertify, attached is a written justification specifying the standard for recertification not met; and other relevant supporting documentation.</p>	
Supervising Official's Signature and Title:	Date: _____
Executive's Acknowledgement of Supervising Official's Recommendation	
<input type="checkbox"/> I have received a copy of my supervising official's recommendation and wish to submit a statement of accomplishments to the PRB. <input type="checkbox"/> I have received a copy of my supervising official's recommendation and DO NOT wish to submit a statement of accomplishments to the PRB.	
Executive's Signature:	Date: _____
Performance Review Board (PRB) Recommendation	
<input type="checkbox"/> Recertify <input type="checkbox"/> Conditionally Recertify <input type="checkbox"/> Not Recertify <input type="checkbox"/> Recommend pay rate adjustment to ES-_____ <input type="checkbox"/> No adjustment	
<p>If the above recommendation is to conditionally recertify or not recertify, indicate whether the senior executive appeared before the PRB.</p>	
<input type="checkbox"/> Declined appearance (documentation attached) _____ <input type="checkbox"/> Appeared Date _____	
PRB Chairperson's Signature:	Date: _____
Agency Head's (or designee) Decision	
<input type="checkbox"/> Recertify <input type="checkbox"/> Conditionally Recertify <input type="checkbox"/> Not Recertify <input type="checkbox"/> Pay rate adjustment to ES-_____ <input type="checkbox"/> No adjustment	
Agency head's (or designee) Signature (and Title of designee):	Date: _____

FOR OPTIONAL USE (to be provided by the Office of Human Resources Management)		
Annual SES Performance Ratings		
19____ Performance Rating	19____ Performance Rating	19____ Performance Rating
Awards and Other Recognition		
Developmental Activities		
Other Relevant Qualitative Factors		