



governmentattic.org

"Rummaging in the government's attic"

Description of document: Federal Mediation & Conciliation Service (FMCS)
Directives Manual, 2015

Requested date: 04-December-2016

Released date: 16-February-2017

Posted date: 18-June-2018

Source of document: FOIA Request
FOIA Program
FMCS
One Independence Square
250 E Street, SW
Washington, DC 20427
Fax: 202-606-5345
Email: foia@fmcs.gov

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



FMCS

FEDERAL MEDIATION & CONCILIATION SERVICE

JEANNETTE WALTERS-MARQUEZ
ATTORNEY-ADVISOR

JWMARQUEZ@FMCS.GOV
202.606.5488

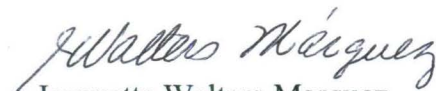
February 16, 2017

Re: FOIA 17-17

This is in response to your FOIA request of December 4, 2016, in which you seek a digital copy, on a CD or FMCS's Directives Manual. Please be advised that we are currently revising and updating all of our Directives.

Please find enclosed our response.

Sincerely,


Jeannette Walters-Marquez

Encl.

DIRECTIVE 1101. BASIC LEGAL AUTHORITIES

1. The Federal Mediation and Conciliation Service is an independent Agency created by the Labor Management Relations Act, 1947, as amended. The Director is appointed by the President with the advice and consent of the Senate.
2. The mission of the Service is to prevent or minimize the impact of labor-management disputes on the US economy, excepting the railroad and airline industries. The mission also includes the provision of joint skills training for labor and management aimed at improving the work place relationship and conflict resolution services to government agencies.
3. The following are the statutory and other legal authorities which authorize the mediation, training and conflict resolution programs.
 - a. The Labor-Management Relations Act of 1947 (Public Law 80-101, 29 U.S.C. Section 173 et. seq.) directs the Service to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes through mediation. Parties are required to notify the Service 30 days prior to a contract termination or modification date so that mediation services may be proffered. Section 158.

The Act establishes a special procedure for threatened or actual strikes which in the opinion of the President imperil national health or safety. In such a situation, the President may appoint a board of inquiry to ascertain the facts with respect to the dispute. After receipt of the Board's report, the President may seek to enjoin the strike for not more than 80 days, and a court may do so if it finds that the threatened or actual strike or lockout affects a substantial part or all of an industry and would imperil the national health or safety. Section 176.

- b. The Health Care Amendment of 1974 (Public Law 93-360, 29 U.S.C. Section 158 (d) (3) amending the National Labor Relations Act) include special responsibilities to prevent or minimize work stoppages in the health care industry. In the case of the Private Sector of this industry, FMCS must be notified 60 days before the contract termination date. A 30 day notice is required in initial bargaining situations. If, in the opinion of the Director and prior to contract termination, a strike is threatened which would interrupt the delivery of health care in a locality, the Director may appoint a board of inquiry (29 U.S.C. Section 183). The board has 15 days within which to operate and file its report and recommendations; the parties must maintain the *status quo* for 15 days thereafter while further negotiations and mediation take place. The parties are required to cooperate in any mediation efforts by FMCS.
- c. The Civil Service Reform Act of 1978 (Public Law 95-454, 5, U.S.C. Section 7119(a)) directs the Service to provide mediation assistance in disputes arising from negotiations between federal agencies and the exclusive representatives of their employees.
- d. The Postal Reorganization Act of 1970 (Public Law 91-375, 39 U.S.C. Section 1207(b)) requires the Service to establish fact-finding panels and arbitration boards if disputes between the Postal Service and the exclusive representative of its employees are not resolved prior to certain statutory deadlines.
- e. Presidential Statement, March 24, 1953 The Atomic Energy Labor-Management Relations Panel was established within the Service in March 1953, by President Eisenhower, in order to ensure the uninterrupted functioning of the Atomic Energy Program without strikes or lockouts due to labor-management disputes. This Panel was moved to the Atomic Energy Commission in

March 1956 but was returned to FMCS under President Carter in April 1980 and renamed the Energy Labor-Management Relations Panel. (ELMRP)

- f. Executive Order 11374, dated October 11, 1967, transferred the responsibilities of the Missile Sites Labor Commission (created by Executive Order 10946) to FMCS.
- g. The Federal Insecticide, Fungicide and Rodenticide Act of 1978 (Public Law 95-396, 7 U.S.C. 136(a)(c)(1)(f)(iii)) requires the Service to provide for the appointment of arbitrators to decide disputes concerning compensation for the use or development of pesticide registration data.
- h. The Labor-Management Cooperation Act of 1978 (Public Law 95-524, 29 U.S.C. 175 (a)) amended Sections 175 and 302 of the Labor-Management Relations Act and authorizes and directs the Service to encourage and support joint labor-management activities conducted by plant, area, and industry-wide committees designed to improve labor-management relationships, employment security, and organizational effectiveness. The Act authorizes the Service to provide grant funds to assist in the establishment and operation of these labor-management committees.
- i. The Administrative Dispute Resolution Act of 1996 (Public Law 104-320) 5 U.S.C., 571, et seq. authorizes and encourages agencies to use various alternative means of dispute resolution in the federal administrative process in order to avoid the time and expense of litigation. The 1996 Act amended and permanently reenacted the Administrative Dispute Resolution Act of 1990 as well as the Negotiated Rulemaking Act of 1990. The repeal of the sunset date (expiration dates) and the reporting requirements of the Acts suggest that the ADR and regulatory-negotiation

"experiments" have become well accepted processes of federal agencies.

A lead agency or interagency committee is designated by the President to facilitate and encourage the use of alternative dispute resolution. Federal Agencies are required to consult with that lead agency or committee and are now permitted to participate in binding arbitration in some situations. Under the 1996 Act, coverage has been expanded to include additional dispute resolution techniques, such as "ombudsmen" and the use of ADR in some workplace conflicts, including Hatch Act violations, retirement, insurance, certain suspensions, removals, examinations and appointments. The 1996 Act directs the lead agency or interagency committee to develop guidelines to expedite the acquisition of neutrals and to encourage use of alternative dispute resolution in the Federal government.

Lastly, this legislation amends the Labor Management Relations Act of 1947 (Taft-Hartley) by permanently adding section 173 (f) of Title 29 of the United States Code so that FMCS may provide all forms of ADR assistance to Federal agencies. Under this legislation, FMCS continues to assist agencies in negotiated rulemaking processes as well as other ADR procedures by providing training, facilitation, mediation and other neutral skills.

- j. The U.S. Code of Federal Regulations at 45 CFR 90.43 (c) issued by the Department of Health and Human Services, implementing its authority under the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., authorizes the Service to provide mediation assistance for the resolution of age discrimination charges.

- k. Executive Order 12871, dated October 1, 1993 established a National Partnership Council in the federal sector to foster a new form of labor-management relations throughout the executive branch to promote the principles and recommendations adopted by the National Performance Review. The Director of FMCS serves as a member of this Council. The goal is to foster good government through the formation of labor-management partnerships.

Executive Order 12983, dated December 21, 1995 extends the National Partnership Council in the federal sector for two more years and continues the FMCS role.

- l. The Air Traffic Management Performance Improvement Act of 1996 Public Law 104-264, 49 U.S.C. Section 40122 (a) (z)), directs FMCS to mediate disputes between the Administrator of Federal Aviation Administration and its employee representatives if these bargaining parties fails to reach a negotiated agreement.

DIRECTIVE 1102. PROGRAM STRUCTURE

1. Introduction. The major objective of the Service is to provide the labor management community with the following services: Dispute Mediation, Preventive Mediation, Arbitration Services, Labor-Management Cooperation Grants programs, Alternative Dispute Resolution and Education, Advocacy and Outreach activities.
2. Dispute Mediation.
 - a. Private Sector. The service provides assistance in the negotiation or renegotiation of a collective bargaining contract. Added attention may be placed on disputes having the potential to effect national safety, health or commerce.
 - b. Public Sector. Dispute mediation in the public sector is comprised of federal sector bargaining and state and local sector bargaining.
 - (1) Federal Sector. The service provides assistance to federal agencies and labor organizations in the resolution of negotiation disputes. The rules and regulations governing mediation assistance are published at 29 CFR 1425.
 - (2) State and Local Sectors. In the State and Local Sectors, the Service is responsible for:
 - (a) Encouraging development of independent dispute resolution capability by state, county, and municipal governments.
 - (b) Directly participating in dispute resolution in state and local jurisdictions where adequate mediation service is not available.
 - (c) Where jurisdictions have adequate mediation services, assisting upon request by the parties, the chief executive of the

jurisdiction, or the interested state or local mediation service.

- (3) Health Care Industry. The Service, provides assistance in labor-management dispute mediation in the negotiation or renegotiation of collective bargaining contracts involving private (profit and nonprofit) health care institutions. Employees of Federal, State, and Municipal health care facilities are excluded. Where needed special attention will be given.

Boards of Inquiry Prior to contract expiration, the Service may appoint a board of inquiry in health care industry labor-management disputes where the threat of a work stoppage may interfere with the delivery of health care services. Findings of fact and recommendation must be made within 15 days.

3. Preventive Mediation.

- a. Preventive Mediation Program. Preventive mediation services promote and enhance the labor-management relationship. The objective of preventive mediation is to encourage the parties to improve their relationship and resolve problems away from and without the pressure of a strike or contract expiration.
- b. Implementation. The Service designs and implements techniques to promote peaceful labor-management relations. Programs help management and labor enter into joint approaches to effectively solve problems.

4. Arbitration Services.

- a. Providing Panels of Arbitrators. The Service provides panels of skilled outside arbitrators from which the parties select an individual arbitrator. Arbitration assists parties as the final step in resolving grievances. Through the system of voluntary

arbitration, thousands of contractual disputes are resolved annually by a timesaving and inexpensive procedure.

- b. Special Requests. The Service also responds to requests for arbitrators particularly skilled in selected industries or issues. Special requests may involve imminent or actual work stoppages with major community, state, or national impact. In such cases, the Service acts immediately in the selection of a panel or the designation an arbitrator to provide services to resolve the dispute.
5. Labor-Management Cooperation Grants Program. The Labor Management Cooperation Act of 1978 authorizes FMCS to support the establishment and operation of plant, area, and industry labor-management committees through a program of grants and contracts. The objective of this program is to promote labor-management cooperation.
6. Alternative Dispute Resolution. ADR is the application of mediation/problem solving techniques in non-labor relations situations. The Service assists other Government agencies to resolve their disputes by providing mediation and technical assistance. ADR projects range from mediation of age discrimination complaints to facilitation of regulatory negotiations. ADR projects reduce litigation costs and speed federal processes.
7. Education Advocacy and Outreach. This term is used to describe the variety of activities in which mediators and managers participate to inform the public about the Service. They include lectures, seminars, and conferences, as well as routine meetings with local leadership of the collective bargaining community. Through outreach activity, both the labor-management community and general public gain an understanding of all areas relevant to the Service, including the uses of mediation, arbitration and the collective bargaining process. The public is educated as to the growing number of services offered by FMCS that enhance labor-management cooperation. These activities benefit the

community by providing an understanding of the collective bargaining process, labor-management relationships, and the value of neutral participation to dispute resolution and relationship building.

DIRECTIVE 1103. DESCRIPTION OF THE ORGANIZATION AND FUNCTION

The FMCS is composed of a National Office structure and a Field structure, as follows.

1. The National Office.

The Director, appointed by the President with the advice and consent of the Senate, has the responsibility for establishment of policy and for the overall administration of the Service. The Director serves as agency liaison with the White House, members of the President's Cabinet and the Congress, and also provides direction for and participation in the mediation of major disputes.

The Deputy Director of Field Operations is responsible for assisting the Director in all aspects of management of the Service. The Deputy Director participates in the mediation of labor disputes of national scope and significance when necessary. The Deputy Director is responsible for the operation and implementation of FMCS policies and procedures for dispute mediation, preventive mediation activities, and other activities of the field structure of the service.

The Deputy Director for National Office Operations serves as the principal operations officer in the internal administration of the Service, responsible for managing the daily operations and implementing policies for the program and support functions of the agency. The Deputy Director serves as an advisor and provides long term planning for internal and external activities as required by the Director.

a. Director's Office.

The National Representative functions as the representative of the Director and as an agency spokesperson in various private and public sector labor-management forums. Tracks, monitors and

represents the Director in labor disputes of national scope and significance. Heads major collaborative projects with other entities, as directed.

The Director of Communications provides internal and external information about the activities of the service and acts as the public information voice for the agency in significant dispute cases, handling questions and information requests from the news media and issuing official statements from the FMCS Director. The office also coordinates the agency's communication with business and union customers, with members of congress, and provides public information and communication skills training for field mediators.

b. Deputy Directors' Office

The Office of the General Counsel provides legal support and advice necessary for the Service to carry out its mission. The General Counsel represents the agency in proceedings before the MSPB, EEOC, Special Counsel, FLRA, and other administrative bodies, and in cooperation with the Department of Justice, represents the Service in all matters arising in the Federal courts, and coordinates with the Director of Legislative Affairs regarding all activities involving legislation.

The Office of Budget and Finance develops budget estimates and supporting material for the financial needs of the Service, coordinates and assists in the presentation of the budget to the Office of Management and Budget and the Congress, and ensures that enacted appropriations are properly executed. Budget and Finance has the additional responsibility of providing an Integrated system of records and reports to meet management's needs and ensure compliance with applicable laws, rules, and regulations. (See Directives 4101-4105, Financial Management and Budget,

for more detailed information.)

The Office of Human Resources is responsible for providing human resource programs to meet the Service's needs and ensuring compliance with applicable laws and regulations. Major programs include hiring of qualified employees, classification of all positions, implementation and monitoring of appraisal systems, and coordination of employee relations programs. Additional responsibilities include administering the agency's payroll system.

The Office of Arbitration Services provides the labor-management community with lists of qualified outside arbitrators to settle disputes arising during the life of a labor contract. Functions of this Division include the developments of improved roster maintenance techniques, establishment of case administrative services, and responses to new developments in the arbitration process. Additional functions include providing permanent umpires to meet the needs of the parties. Outside education advocacy and outreach to the arbitrator and arbitration customers is provided as well.

The Office of Labor-Management Grants and Projects administers the Labor-Management Cooperative Program of the Service. This program established in Fiscal Year 1981 under the authority of the Labor-Management Cooperation Act of 1978 (PL 95-524), the program provides grants to support the establishment and operation of joint labor-management committees at the plant level, on a community or area-wide basis, within a particular industry, and for public sector employees.

The Office of Alternative Dispute Resolution (ADR)/International Affairs provides training and technical assistance in conflict resolution to domestic

organizations and foreign governments. Services include systems design, facilitation, mediation and evaluation services in ADR which includes rulemaking and regulatory activities.

The ADR/International Affairs Office serves as liaison with the international labor-management community, embassy officials and visiting dignitaries and coordinates the Service's international programs.

This includes hosting briefings and training programs in Washington, DC for labor-management and government leaders from other nations as well as coordinating the activities of mediators traveling abroad to provide technical expertise and international training.

The Office of Education and Training supports and drives a continuous learning environment for mediators, managers, and the national office staff consistent with the FMCS vision. The office identifies and develops training materials and programs that support the professional staff acquiring core competencies and national office staff the highest levels of competencies in their jobs.

The Office of Information Systems and Administrative Services has responsibility for the implementation of the agency's technology plan and the operation and maintenance of current equipment. This office also administers all of the ADP programs of the agency and is also responsible for work of the notice processing unit which screens and enters all official collective bargaining notices into the FMCS information system, and transmit this information to the regions. The office provides technology support for all FMCS facilities throughout the country. Other responsibilities of this office include providing space, records and forms management, supplies, printing

and reproduction, mail and distribution services. It assists the Director and Deputy Directors by compiling program statistics and reports, as requested.

2. The Field.

The Field structure of the Service consists of five Regions, encompassing the entire United States. Within this structure are some seventy-five field stations employing approximately 200 Federal mediators. For a detailed description of locations of FMCS facilities please refer to Directive 1301.

The Regional Directors are the managers of the Field structure. They are the channel of communication between the Field and the National Office. They report to the Deputy Director for Field Operations and through the Deputy to the Director of the Service. The Regional Directors are responsible for leadership within the Region; customer outreach, developing working relationships with appropriate members of Congress, state and local government representatives, professional associations and educational institutions; executive oversight of the human resource and supervisory functions of the region's Directors of Mediation Services (DMS); case administration by working through the regional DMS and administrative staff on case assignment, data entry and various other administrative and clerical functions of the region; dispute mediation activity on significant cases where involvement of the Regional Director can make a positive contribution in a dispute; and serves as a policy advisor to the Director.

The Directors of Mediation Services (DMS) As the immediate supervisor of field mediators they will work closely with them to assure high quality performance, productivity and customer satisfaction with FMCS mediation services. They provide counseling/advice and support to mediators for dispute mediation, preventive mediation, alternative dispute resolution and education advocacy and outreach. The DMS will

panel with mediators to make observations on the delivery of services and assess the knowledge and skill levels of mediators in order to provide feedback and coaching on their performance. They will review and discuss the quality of mediation services with a representative sample of FMCS customers to assure satisfaction and to learn how to improve services and performance. Their supervisory human resource function includes recruitment, selection, education, training and professional development, performance evaluation and case assignment and management.

The Regional Administrative Staff supports the operation of the Region by providing secretarial, clerical, and administrative assistance in case management, program preparation, liaison with the national office for, human resources, financial, equipment and physical surrounding needs.

The Federal Mediators are the essential component, upon which all operations of FMCS depend. It is the work of the Mediators, dealing directly each day with labor and management disputants, that upholds the mission and the success of the Service.

DIRECTIVE 1104. OVERALL FMCS DELEGATION OF AUTHORITY

1. Introduction. The Labor Management Relations Act of 1947 (Taft-Hartley Act) establishes the Federal Mediation and Conciliation Service and gives the Director the overall authority and responsibility for the establishment of policy and the general administration of the Service. The Director may, by order subject to revocation at any time, delegate any authority and discretion conferred upon this official by the Act to any officer or employee of the Service.
2. Purpose. The purpose of this directive is to state the overall FMCS delegation of authority.
3. Authority.
 - a. Director. The Director has overall authority for the establishment of policy and the general administration of the Service.
 - b. Deputy Director(s). The Deputy Director(s) have the authority to implement established Service policy and to ensure that the operations and programs of the Service are carried out in accordance with those policies. If the position of Director is vacant, or in the absence of the Director, all authority and discretion, not otherwise delegated, is delegated to the Deputy Director(s).
 - c. Other FMCS Officials. As may be specified within this Directives Manual, subordinate FMCS officials are delegated certain authorities to administer and fulfill operational and administrative functions of the Service as deemed appropriate by the Director or a Deputy Director.

OFFICE OF THE GENERAL COUNSEL

DIRECTIVE 1201. DISCLOSURE OF INFORMATION

- 1) Introduction. This directive establishes the policy of the Service for determining the availability of information about its activities, consistent with the requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended, and Part 1401 of the FMCS regulations, published in Title 29, Chapter XII, Code of Federal Regulations.
- 2) General Policy on Information. It is the policy of the Service to make available general and factual information to the public to the fullest extent possible in compliance with state and federal laws. Any brochures or general information shall be furnished, free of charge, so long as the supplies shall last. The FMCS Form F-7 notices filed pursuant to Sections 8(d) and (g) of the Taft-Hartley Act, 29 U.S.C. 158 et seq., will be available in accordance with federal law.
- 3) Confidentiality of Mediation. It is the mandate of the Service to keep information learned during the course of a mediation process confidential. This policy is crucial to labor and management's confidence in the mediation process, the neutrality of the mediator, and the neutrality of the Service. Likewise, fulfillment of the Service's mission requires neutrality of both the Service and the mediator. Accordingly, all information learned by a mediator in the course of a mediation is confidential and the mediator shall keep it confidential. The mediator shall maintain the confidentiality even after leaving the Service. Disclosure of information regarding information learned during the mediation process will be authorized only if compelled by lawful process and authorized by the Director pursuant to 29 CFR § 1401.2.
- 4) Responding to Subpoenas. No employee, former employee, or other person connected in any capacity with the Service, currently or formerly, shall, in response to a subpoena, subpoena duces tecum, or other judicial or administrative order, produce any material contained in or related to the files of the Service, disclose any information acquired in connection with his or her official duties or status, or testify in any matter pending whatsoever, including any judicial, arbitral or administrative proceeding, without the prior approval of the Director pursuant to 29 CFR §1401.2. In the event any such person is served with a subpoena or subpoena duces tecum, he or she must immediately forward the subpoena to the Office of General Counsel and, if an employee, also provide a copy to his or her manager. Pursuant to law and these directives, the Service will attempt to prevent the individual from being compelled to testify or from testifying. In the event the Service in

OFFICE OF THE GENERAL COUNSEL

unsuccessful, the individual will be so notified by the Director in writing. In no event shall the employee, former employee, or other individual produce any information in response to a subpoena without prior written approval from the Director.

- 5) Former Employee Subpoenas or Requests for Collective Bargaining Case Material or Other Official Papers. All information, whether written or not, obtained in the course of official duties or by virtue of the employee's official capacity, shall, upon termination of the employee's connection with the Service, be treated by former employees with the same confidentiality as if the individual were still connected with the Service. Employees terminating their employment with the Service are required to turn in to their supervisor all documents, files, records, and other materials and papers prepared while employed by the Service. If a former employee is subpoenaed, he or she must take the actions set forth in paragraph 4, above.
- 6) Tape Recordings. The use of tape recordings or recorded transcripts of joint conferences is prohibited by the Service, since they are likely to inhibit free discussion or impede sound collective bargaining.
- 7) Requests for Information on Internal Operations. With regard to requests for information on the Service's internal operations, employees shall:
 - a) Make general and factual information available in the form of brochures, annual reports, and other such materials published by the Service for general dissemination; and
 - b) Forward to their supervisors, who shall forward to a FOIA Officer in the National Office, all other information requests for reply or approval.

DIRECTIVE 1301. REGIONAL GEOGRAPHICAL JURISDICTION

1. Introduction. The Service is divided into five regions within the United States. Each region has a number of field stations. The Regional Office is usually located in a principal city. There are no overlapping field stations. The specific states, counties, and territories served by each FMCS field office are detailed in the Service's document entitled County Designations by Field Office or Assignment Area. There is a further division of offices into sub-regional locations. They are designated as 1A, 1B, 2A, 2B, etc. Five (5) of the ten (10) sub-regional offices are co-located in Regional offices. The five (5) shared locations, (with Cleveland having two (2) sub-regions), are: Newark, Cleveland, Minneapolis, and Los Angeles. The remaining sub-regional offices locations are; Philadelphia, St. Louis, Orlando, Chicago, and Seattle.

2. FMCS Regional Offices**REGION 1 (NEWARK, NJ)****1A Sub-Region (NEWARK, NJ)**

Albany, New York
Boston, Massachusetts
Hartford, Connecticut
Newark, New Jersey
New York, New York
Portland, Maine
Providence, Rhode Island
Woodbridge, New Jersey
Worcester, Massachusetts

REGION 2 (CLEVELAND, OHIO)**2A Sub-Region (Cleveland, Ohio)**

Amherst, New York
Detroit, Michigan
Erie, Pennsylvania

1B Sub-Region (Philadelphia, Pennsylvania)

Baltimore, Maryland
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Syracuse, New York
Trenton, New Jersey
Wilkes Barre, Pennsylvania

Grand Rapids, Michigan
Kalamazoo, Michigan
Pittsburgh, Pennsylvania
Saginaw, Michigan

2B Sub-Region (Cleveland, Ohio)

Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Dayton, Ohio
Parkersburg, West Virginia
Toledo, Ohio

REGION 3 (ATLANTA, GEORGIA)**3A Sub-Region (Birmingham, Alabama)**

Atlanta, Georgia
Baton Rouge, Louisiana
Charleston, West Virginia
Chesapeake, Virginia
Houston, Texas
Knoxville, Tennessee
Miami, Florida
Orlando, Florida
San Antonio, Texas
Washington, DC

3B Sub-Region (St. Louis, Missouri)

Birmingham, Alabama
Dallas, Texas
Kansas City, Missouri
Louisville, Kentucky
Memphis, Tennessee
Springfield, Missouri
St. Louis, Missouri
Wichita, Kansas

REGION 4 (MINNEAPOLIS, MINNESOTA)**4A Sub-Region (Chicago, Illinois)**

Chicago, Illinois
Indianapolis, Indiana
Milwaukee, Wisconsin
Peoria, Illinois
Rockford, Illinois
South Bend, Indiana

4B Sub-Region (Minneapolis, Minnesota)

Cedar Rapids, Iowa
Des Moines, Iowa
Green Bay, Wisconsin
Minneapolis, Minnesota
Omaha, Nebraska

REGION 5 (ORANGE, CALIFORNIA)**5A Sub-Region (Seattle, Washington)**

Boise, Idaho
Oakland, California
Portland, Oregon
San Francisco, California
Seattle, Washington
Spokane, Washington

5B Sub-Region (Orange, California)

Denver, Colorado
Honolulu, Hawaii
Las Vegas, Nevada
Long Beach, California
Los Angeles, California
Orange, California
Phoenix, Arizona
San Diego, California
Tucson, Arizona

DIRECTIVE 1501. PROCESSING OF GRANT APPLICATIONS

1. Purpose. This directive establishes the policies and procedures to be used in the processing of grant applications under the authority of the Labor-Management Cooperation Act of 1978 29 U.S.C. 175a.
2. Procedures. The following procedures will be followed in the processing of grant applications:
 - a. The Grants Management Specialist (GMS) will be responsible for ensuring that the following actions occur:
 - (1) Ensure that all required components are completed and included in submitted applications to FMCS;
 - (2) Complete the administrative denial of applications, as appropriate (e.g., submitted after the deadline, concept totally outside of guidelines, ineligible applicant, etc.);
 - (3) Forwarding an email to each applicant acknowledging receipt of each application. The GMS will allow three (3) business days for applicants to address minor deficiencies within the proposal. If the applicant does not finalize the application in the allotted timeframe, the application will become ineligible.
 - b. A Grant Review Board (GRB) will be assembled and will typically consist of three individuals selected by the Chief Financial Officer (CFO) and Grants Management Specialist, who may also designate alternate board members in the event one or more members cannot serve or has a conflict. Official appointment to the GRB will be determined by the Director of FMCS or his/her designee. If needed, multiple GRB(s) may be established to review different categories of

**REVISED
JULY 2011**

applications. In the event that one board member is incapable of completing the scoring process, the scores from an appointed alternate will be used.

- c. Applications are evaluated by field review. The GRB will receive all review materials by mail or electronically, as appropriate.
- d. Members of the GRB will review and rate applications independently. GRB members will judge each application based on its own merits and the potential for project success.
- e. The GRB will return all score sheets to the GMS. The GMS will finalize the scoring and ranking of the applications.
- f. The GMS will forward a copy of all top scoring applications to the appropriate field staff for their review and comments, which will be considered by the FMCS Director prior to a final award decision.
- g. The CFO and GMS will review comments and final scoring before forwarding to the FMCS Director for final consideration. The GMS will also forward the following:
 - (1) A Funding Summary of all applications submitted; and
 - (2) A listing of all applications and final scores and ranking.
- h. Following the final selection of awardees by the FMCS Director, the GMS will prepare and forward letters and GRB score sheet comments to all unsuccessful applicants. The GMS will also notify successful applicants and will negotiate final changes and formal acceptance of the FMCS grant.

- i. The Notice of Award (LM-1) will be authorized by the CFO.
3. Exceptions. Subject to funds availability, a portion of grant funds may be designated by the Director of FMCS to be used on a non-competitive basis. Such grants will be limited to the guidelines specified in the Application Solicitation and will be governed by the same policies as competitive grants. The process may be used when the competition is for a highly specialized program, for a cooperative agreement, or when the total number of applications submitted is expected to be limited. All non-competitive competitions will be announced in the annual Application Solicitation.

DIRECTIVE 2102. FORMAL RECOMMENDATIONS BY MEDIATORS

1. Introduction. This directive formulates Service policy about the criteria and procedures which should be used if formal recommendations are contemplated in labor-management dispute cases.
2. FMCS Policy. Recommendations should be the rare exception and not the rule governing mediation efforts. Recommendations by mediators should be used very sparingly and only after a full exploration, consultation with, and approval of the Director of Mediation Services. Mediators should not hesitate to consider the feasibility of proposing solutions of the outstanding issues at a joint conference and to embody such proposals in the form of recommendations when the following prerequisites are met:
 - a. A threatened strike or the prolongation of an existing strike is having a major impact on the community involved, the defense effort, or has been attended by violence.
 - b. The parties are deadlocked and no negotiated solution appears possible in the immediate future.
 - c. The parties have rejected alternative methods of solving the issues.
 - d. The mediator has a thorough knowledge of the issues in the dispute.
 - e. The mediator has, by judicious explorations in joint or separate conferences, obtained a "feeling" for the issues and where the middle ground exists. The mediator has explored the feasibility of the parties agreeing to the recommendation.
3. Threat of Proposing a Mediator Recommendation. If the criteria in paragraph 2.a. through 2.e. above are met, the following technique has proven of assistance to the mediator. Before presenting any recommendations, the mediator should advise the parties that unless they are able to find a solution themselves by a fixed time, he or she will have to give serious consideration to the making of recommendations. In some cases, the very existence of a threat of possible recommendations has been sufficient to inspire agreement.
4. Format of Written Recommendations. While the format of

written recommendations will have to be tailored to the particular case, generally they should contain the following prefatory statements:

- a. Recitation of importance and impact of the labor-management dispute on the community, defense effort, etc.
 - b. Recitation of the number of meetings held by the mediator or panel in an attempt to help the parties resolve the labor-management dispute.
 - c. The futility of such meetings.
 - d. A statement that as long as the parties adhere to their present positions, no agreement appears possible in the immediate foreseeable future.
 - e. That in light of all these factors, the mediator, at this time, is making the recommendations as a basis for the settlement of the labor-management dispute.
5. Presenting Recommendations to the Parties. The written recommendations should be presented to the parties at a joint conference:
- a. After the parties have received the recommendations, the mediator should not permit any discussion as to the merits of the recommendations and merely entertain questions relating solely to clarification.
 - b. If no such questions are asked, he should request the parties to study the recommendations in separate caucuses and advise him or her in a prescribed time of their acceptance or rejection.
6. Making Recommendations Public. The more desirable procedure would be not to make the recommendations public. However, some mediators have found it advantageous to announce to the parties, at the time of presentation, that they are reserving the right to make such recommendations public. Despite the threat to make the recommendations public, we have found that it is seldom necessary to do so.
7. Press Statements Concerning Accepted Recommendations. If the recommendations are accepted, the preferable practice would be to issue a public statement that recommendations have been
-

made but not to disclose the terms of the recommendations pending the ratification meeting.

DIRECTIVE 2103. MEDIATION OF WORK STOPPAGES

1. Introduction. This directive describes the policy for mediation of work stoppages.
2. Policy. Active mediation of assigned labor-management disputes involving work stoppages is a fundamental and very important responsibility of the Service, and includes:
 - a. Maintaining communication with the parties and bringing them together in a timely fashion.
 - b. Exerting affirmative efforts to bring the parties into agreement.
 - c. Terminating the stoppage.
 - d. Complying with the reporting procedures for work stoppage cases as soon as possible.

DIRECTIVE 2104. COOPERATION BETWEEN FMCS AND NLRB

1. Introduction. This directive outlines the general policy for cooperation between the National Labor Relations Board (NLRB) and FMCS.

Statutory Provisions. Title of the Labor Management Relations Act of 1947, vests jurisdiction in the National Labor Relations Board for the determination of questions of bargaining representation, the prevention of unfair labor practices (including that of failing to bargain in good faith) and the interpretation of the law pertaining to notices to FMCS (Section 8(d)).

2. Representation Questions.

- a. Card Checks and Elections. The NLRB has the exclusive statutory jurisdiction to determine questions concerning representation of employees for the purpose of collective bargaining in the private sector. When mediators are asked to assist parties in non-NLRB elections or card checks, the mediator must obtain permission from the Director of Mediation Services and follow the agency's published guidelines.

- b. Challenging NLRB Determination of Bargaining Representative. No direct appeal can be made to the courts after an NLRB determination regarding bargaining representative. A party, however, may challenge in an indirect way such a determination by refusing to bargain with a bargaining representative certified by the NLRB. If the other party then files an unfair labor practice charge with the NLRB, the decision of the NLRB on this charge, including the underlying question of the appropriate bargaining representative, can be appealed to the courts.

- c. Mediation in Cases When a Question Concerning Representation (QCR) Arises. The FMCS will proffer mediation in disputes when there is a collective bargaining relationship. A union that has been certified by the NLRB as the bargaining representative, or one that has been recognized as such voluntarily by the employer, is generally presumed to be the bargaining representative while there is a contract in effect. The resolution of a question concerning representation is a matter for the NLRB to resolve. Just the fact that a petition has been filed or that the employer offer a "good faith doubt", however, does not necessarily end the parties requirement to bargain.

Since questions concerning representation may raise complex legal issues, consult with the Office of General Counsel and the Director of Mediation Services in all such cases. However, if both parties wish to continue in mediation, there is no reason to cease activity just because a petition has been filed with the NLRB. Mediation could continue until the NLRB has held an election and another union is certified. Contact the Office of General Counsel in regard to any such situations.

3. Liaison and Information Procedure -- FMCS and NLRB. The FMCS Regional Director shall be responsible for close liaison with the Regional Directors of NLRB operating within his or her region. Prompt exchange of necessary and pertinent non-confidential information at the field level should be provided in such a manner as to protect confidential information.

- a. Obtaining Information. Mediators may obtain information from the NLRB as to whether or not a petition or a charge has been filed, the procedure that the NLRB will use in handling the case, and the time-frame for an election or a determination on a case pending and other relevant information.

- b. NLRB Certifications. The NLRB has agreed to furnish

the FMCS with copies of certification of representation so that the FMCS may have advance information concerning the possibility of a dispute in initial contract situations. The NLRB has further offered to cooperate by furnishing information on each certificate as to the number of employees in the business establishment (if known), and the city and state in which the certified unit is located. FMCS Regional Directors are encouraged to contact local offices of the NLRB to develop working relationships and cooperation in this area.

- c. Mediator Confidentiality. FMCS has a policy of mediator confidentiality which has been respected by the NLRB. The mediator may under certain circumstances give information orally to the NLRB. However, Mediators are not permitted to divulge any information learned in the course of their duties, nor furnish any written statements relating to their case assignments. In any such situation, or upon receipt of a subpoena or written request for information, mediators should contact their Director of Mediation Services and the General Counsel's Office.
4. Unfair Labor Practice Charges. An unfair labor practice (ULP) charge filed with the NLRB alleges violation of law. Although there are situations in which the parties through collective bargaining are able to resolve toe basis of the ULP charge case pending before the NLRB, a request to withdraw the ULP charge is subject to the approval of the NLRB. Accordingly, if during the negotiations the parties reach a settlement if the issues contained in an ULP charge, the mediator should, if asked, advise the parties that they may wish to seek the approval of the NLRB to withdraw the pending charge. The NLRB encourages the parties to resolve their disputes either informally through private adjustment which could lead to a withdrawal or through an NLRB settlement agreement. Mediation may be able to assist in these settlement efforts.
 - a. Mediation and ULP Charges. The filing of ULP charges with the NLRB, other than noted in paragraph (1) (c)

and(d) above, does not require that collective bargaining and mediation cease. Even if the bargaining dispute involves issues which are the subject matter of the unfair labor practice charges, mediation usually may be applied at least to the bargaining issues other than those contained in the charges. All questions concerning the appropriateness of continued mediation should be directed to the General Counsel's Office, and should then be coordinated with the NLRB as shown below.

5. Thirty-day Dispute Notices. Section 8(d)(3) of the LMRA requires the party seeking to strike or lock out in support of demands to terminate or modify a contract to give 30 days notice to FMCS. When one party has given proper notice, this provides the opportunity for either party to request modification of the contract. When the bargaining involves employees of health care institutions, the notice is 60 days, and a 30-day notice of dispute must be given in cases of bargaining for an initial agreement. In addition, prior to a health care institution strike or picketing, a labor organization must give FMCS a 10-day notice pursuant to Section 8(g).
 - a. Legal Aspects of Dispute Notices. Upon the filing of an appropriate charge, the NLRB has the responsibility for determining the necessity, validity, and effect of such notices and for enforcing compliance. FMCS personnel at all levels may not offer opinions regarding the validity of any notice, or the consequences of actions by either party in the absence of a valid notice.
 - b. NLRB Requests to FMCS for Information on Dispute Notices. A request from a representative of the NLRB for information concerning the filing of or failure to file dispute or strike notices by a party of interest shall be referred to the Office of the General Counsel. Once approved by the General Counsel, the appropriate FMCS official may disclose which dispute notices, if any, were received. A certified copy of a written dispute notice may be delivered to the NLRB upon written request of the NLRB Regional Director. If the NLRB desires some other proof, the appropriate FMCS official shall submit the request to the General

Counsel.

CHAPTER 2100 - GENERAL MEDIATION INFORMATION 2105.1

DIRECTIVE 2105. STATE AND LOCAL MEDIATION AGENCIES

1. Introduction. This directive determines the policy and procedures of the Service to be followed in its relationships with state and local mediation agencies.
2. General Policies. The policies of the Service shall be:
 - a. If, under state or local law, a state or local mediation agency must offer its "facilities" in a labor-management dispute in which the Federal Mediation and Conciliation Service is proffering its services, the interests of such agencies will be recognized and their cooperation will be encouraged in order that all efforts may be made to prevent or to effectively minimize industrial strife.
 - b. If, in a labor-management dispute, there is reason to believe that the labor-management dispute will not threaten to cause a substantial interruption to commerce or that there is only a minor effect upon interstate commerce and state or other conciliation services are available to the parties, the Service will endeavor to work out suitable arrangements with the state or other conciliation or mediation agency for mediation of the labor-management dispute.
 - c. The 1974 Health Care Amendments to the Labor-Management Relations Act establishing a mandatory role for the Federal Mediation and Conciliation Service with regard to the proffering of mediation assistance in the health care industry. This, in turn, is keyed to discretionary imposition of a fact-finding procedure. These amendments clearly express the intent of Congress to include private and not-for-profit health care institutions within the coverage of the Labor-Management Relations Act of 1947, as amended.
 - d. If requested by a state or local mediation agency or the chief executive of a state or local government, the Federal Mediation and Conciliation Service may make its services available in a labor-management dispute which would have only a minor effect upon interstate commerce when, in the judgment of FMCS, the effect of the dispute upon commerce or the public welfare, health, or safety justifies making available its mediation facilities.

CHAPTER 2100 - GENERAL MEDIATION INFORMATION 2105.2

Decisions in such cases will take into consideration the desires of the parties, the effectiveness and availability of the respective facilities, and the public welfare, health, and safety.

DIRECTIVE 2106. LAST OFFER BALLOT

1. Description. The service policy on this topic implements Section 203(d), Labor-Management Relations Act, 1947, which provides that:

"If the Director is not able to bring the parties to agreement by conciliation within a reasonable time, he shall seek to induce the parties voluntarily to seek other means of settling the dispute without resort to strike, lockout, or other coercion, including, submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the Director shall not be deemed a violation of any duty or obligation imposed by this Act."

2. Definition of Terms Used in Section 203(c).

- a. The term "reasonable time" means when negotiations reach a point where strike, lockout, or other coercion is imminent.
- b. The term "other means of settling the dispute" includes arbitration and fact-finding.
- c. The term "seek to induce" includes a suggestion made either privately in separately conference with each party, or in a joint conference.
- d. The term "last offer" means that the mediator is reasonably certain that the offer is, in fact the final and last offer of the employer.
- e. The term "employees in the bargaining unit" means the entire bargaining unit, and that the ballot may not be restricted or limited to union members.
- f. The sentence "the failure or refusal of either party to agree to any procedure suggested by the Director shall not be deemed a violation of any duty or

obligation imposed by this Act" means that there is no legal implication to be drawn from the refusal of either party to agree to a last offer secret ballot or any other procedure suggested by the Service.

3. FMCS Policy. In the event a mediator desires to formally request a party to a labor-management dispute to conduct a "Last Offer Ballot," the mediator shall first discuss the request with his or her Director of Mediation Services, and if FMCS participation is anticipated, this official will discuss the matter further with the Regional Director.

The Service, except in extreme circumstances, shall neither conduct or supervise balloting. In the event that a last-offer ballot is taken among all employees in the bargaining unit in a case to which a mediator was assigned, the Final Report should include mention of the facts concerning it and the results of such ballot.

DIRECTIVE 2201. FEDERAL SERVICE

1. Introduction. The Federal Service Labor-Management Relations Statute gives FMCS jurisdiction over labor-management relations in the Federal Service. 5 U.S.C. 7119 states:

"The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance."

2. Policy.

- a. The Service, through its national and regional management, shall assist all mediators in their attempt to service and accommodate both sides in the process of negotiations in achieving an agreement.
- b. Mediators, upon the request of the parties, or by unilateral action by the Service, shall convene meetings as are deemed necessary, both in the matter of negotiations and grievance mediation.
- c. Grievance mediation shall be handled by the Service based on the availability of the Service to provide mediation at that time.

3. Procedures.

- a. Thirty-Day Dispute Notice. After the Federal Mediation and Conciliation Service receives the 30-day dispute notice from the parties, which is required by 29 CFR Part 1425, a mediator will be assigned to the case.
- b. Time Limits. Mediators may set time limits for the Service's participation and may make recommendations for settlement to the parties where appropriate. Such actions shall be taken after consultation with appropriate district management.
- c. Referral. When mediation efforts have been exhausted, the mediator shall notify the Director of Mediation

Services. The Director of Mediation Service's responsibility is to notify the Federal Service Impasses Panel that "the Service" has completed its work with the parties. The Panel is then free to assume jurisdiction over the case once the parties have requested impasse assistance.

4. National Office Assistance. Assistance to the mediators will be furnished by the Director of Mediation Services.

DIRECTIVE 2202. U. S. Postal Service (39 USC 1207)

1. Introduction. In the event the parties are unable to reach a new agreement, Section 1207 of the Postal Reorganization Act provides a method for resolving the labor dispute by establishment of a fact-finding panel and an arbitration board.
2. Policy. The Service shall assist the parties in their attempt to achieve an agreement.
3. Procedures.
 - a. Ninety-Day Dispute Notice. Section 1207(a) of the Act provides for a 90-day notification of intent to terminate prior to the expiration of the existing agreement. FMCS is to be notified of the existence of the labor-management dispute 45 days before the expiration of the contract.
 - b. Fact-finding Panel. Section 1207(b) provides that if the parties do not reach agreement or adopt procedure for a binding resolution by the expiration date, the Director of the FMCS shall direct the establishment of a three-member fact-finding panel. The Director submits a list of not less than 15 names from which each party within 10 days selects one person. The two selected then choose a third from that list who serves as chairperson. If either party fails to select a person or if the two chosen fail to select a third within three days, the Director shall make the selection.
 - c. Fact-finding Report. After investigation, the fact-finding panel issues a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.
 - d. Arbitration Board. Section 1207(c) (1) provides that if no agreement is reached within 90 days after expiration of the contract, or if the parties agree to go to arbitration but do not agree on procedures, an arbitration board is to be

established. It shall consist of three members, none of whom were members of the fact-finding panel; one to be selected by the Postal Service, one by the bargaining representative, and the third by the two selected. If either party fails to select a member, or if the two chosen fail to select a third within five days after their first meeting, the Director of FMCS or his designee will make the selection. If the parties cannot agree on framing the issues for submission, the fact-finding panel shall do so.

- e. Arbitration Decision. Section 1207(c) (2) provides for the parties to get a full and fair hearing, including the opportunity to present evidence and the case in person or by counsel. The arbitration board is to render a binding decision within 45 days after appointment.
- f. Section 1207(c) (3) provides that the costs of fact-finding and arbitration are to be shared equally by both parties.

DIRECTIVE 2301. AGE DISCRIMINATION ACT

1. Introduction. The Age Discrimination Act (ADA) of 1975 (42 USC 6101-6107) prohibits discrimination on the basis of age in Federally funded programs (excluding employment, which is covered in a separate statute). Government-wide regulations provide that all age discrimination complaints will be sent to mediation in an attempt to reach a prompt and acceptable settlement. The Secretary of the Department of Health and Human Services, with the agreement of the Director, has designated FMCS as the Agency to carry out this task. There are twenty-nine Federal funding agencies which are required to refer ADA complaints to FMCS for mediation, although to date not all agencies have done so.
2. FMCS Policy.
 - a. Designation of ADA Mediators. It shall be the policy of FMCS to mediate ADA cases with designated FMCS mediators. Depending upon program needs, an appropriate number of such mediators will be nominated by the Field Directors and approved by the Deputy Director.
 - b. National Office ADA Program Coordination. Coordination of the ADA program at the national level shall be the responsibility of the ADR/International Services Office. The ADA Coordinator will be responsible for service-wide case administration procedures, including agency relationships with funding agencies. In addition, the Coordinator will be available to consult with mediators concerning mediation aspects of case assignments.
 - c. Field Coordination of ADA Program. Directors of Mediation Services shall be responsible for the administration and coordination of ADA activities within their respective sub-regions. At their discretion, the operating responsibility for the program may be delegated to an ADA mediator.

- d. Release of Information on FMCS Mediated ADA Cases.
Consistent with the FMCS policy of Mediator Confidentiality, information of FMCS mediated cases will be provided only to funding agencies. All reports and information given to the mediator during the course of mediation is confidential.

DIRECTIVE 3101. GENERAL INFORMATION ON THE FMCS CASE AND CONTENT
MANAGEMENT SYSTEM (CCMS)

1. Description. The FMCS Case and Content Management System is a set of computer-based operations, managed by the Office of Information Technology (IT), which: (1) receives information from parties involved in collective bargaining contract expirations or modifications and transforms it into electronically recorded data which become the basis for work assignments for mediators, and (2) records reports from mediators which provide data on the disposition and control of their work assignments.
2. Purpose. The FMCS Case and Content Management System, and the reports generated from it, serves to:
 - a. Provide information to the Director and other managers by which they can determine the level of effectiveness of the agency's assignment policies and procedures in executing the FMCS statutory mission(s).
 - b. Provide information necessary for operations planning, budget and staffing functions, and organizational reviews.
 - c. Implement the transmittal of assignment-related data among the mediators and the various levels of supervision.
 - d. Provide information for reporting Service activity to Congress, the Office of Management and Budget, and the public.
 - e. Provide a record of Service activity in labor-management affairs.
 - f. Provide information which may identify emerging changes in the labor-management relations environment.

DIRECTIVE 3102. NOTICE PROCESSING UNIT (NPU)

1. Description. The Notice Processing Unit (NPU) is the primary receiving point of the FMCS for all written and electronically submitted notifications of potential labor-management disputes received pursuant to the Labor Management Relations Act of 1947, as amended and such other legislation which has assigned statutory responsibilities to the agency. (NPU is located in the Office of Arbitration Services and is linked within the CCMS to each of the Regional Offices.)
2. Purpose. Notice Processing (NPU) serves to:
 - a. Perform the desk-review procedures for transforming all written and electronically submitted notifications into viable data for the field.
 - b. In accordance with the Office of General Counsel's direction, respond to inquiries from the public made pursuant to FOIA (29 CFR, part 1400) as appropriate.
 - c. Give certain written notifications priority for entry into the system by industry or stage of dispute.
 - d. Work with Regional Management and others as appropriate to create consolidated case assignments consisting of multi-employer and/or multi-union parties, and/or area or industry-wide bargaining situations.
 - e. Key-in data in order to electronically transmit the notifications to the appropriate Regional office locations for disposition.
 - f. Maintain all written communications received and served as a repository for such communications.

DIRECTIVE 3103. THE OFFICE OF INFORMATION TECHNOLOGY (IT)

1. Responsibilities and Functions of IT Regarding the FMCS Case and Content Management System.
 - a. The design and technical documentation of the structure and processes involved in the computer operations of the system.
 - b. Selecting and making provision for the installation and maintenance of appropriate hardware and software at the various work sites throughout the system,
 - c. In accordance with standards, specifications and scheduling jointly developed with IT, programming and executing the daily operation of the system, and
 - d. Implementing requirements specified and coordinated by IT or requested by management.

DIRECTIVE 3104. THE REGIONAL OFFICES

1. Description. The Regional Offices constitute the central operational level of the FMCS Case and Content Management System (CCMS). The Regional Offices are the decision centers for the review and assignment of notices, certifications, and requests to mediators. They are also the points for receiving and monitoring the case reports from mediators.
2. Responsibilities and Functions of the Regional Offices Regarding the FMCS Case and Content Management System. Regional Managers are authorized to manage the FMCS CCMS within their Region including:
 - a. Consulting with the Notice Processing (NPU) staff on their potential consolidations and other NPU preparations for proper entry of notifications affecting their respective region.
 - b. Analyzing daily electronic summaries and individual cases within CCMS and making decision regarding their disposition in assigning cases to mediators.
 - c. Implementing assignment changes necessitated by operational factors such as consolidations and separations, transfers, duplications, etc.
 - d. Reviewing and approval of mediator case reports.
 - e. Alerting IT as soon as any deviation is identified from normal case administration processing.
3. Policies Relating to the Management of the FMCS Case and Content Management System.
 - a. Proffering of FMCS services is to be in accordance with the legislative intent of the Labor Management Relations Act of 1947 and other statutory requirements by using, in the judgment of Regional Management, the most appropriate assignment reason.

- (1) A substantial volume of commerce is involved;
- (2) Multiple employers are involved;
- (3) The establishment is a bellweather, pattern-setter, or flag-ship for the industry or area;
- (4) The work of the bargaining unit involved is crucial to the continuity of production within the affected or other establishment;
- (5) The employer is a major supplier of raw material or semi-finished products to other establishments which would be affected by a work stoppage;
- (6) A work stoppage would have an adverse impact on defense procurement;
- (7) A work stoppage would destabilize the economic well-being of the nation, a substantial community, or international trade;
- (8) A work stoppage in the bargaining unit involved would trigger action from other units within the establishment or the community, such as sympathy strikes, boycotts, lockouts, or other spillovers;
- (9) A work stoppage would interfere with essential communication systems, energy supplies, or transportation facilities serving the community;
- (10) Local government services are threatened and there is no alternative mediation agency available, and there is no statutory bar to FMCS participation;
- (11) A Federal agency of instrumentality is involved;
- (12) A health care establishment is involved;
- (13) Community health and well-being is threatened by a

work stoppage of private employer's workers;

- (14) No state service exists, or if it exists, it is not available when the parties need assistance;
 - (15) A last resort and exceptional circumstance grievance is involved.
- b. Regional Management decisions regarding disposition of new case entries in CCMS shall be made on a timely basis with due regard not only to the above reasons for assignments, but also for:
- (1) balancing the workload and insuring availability of mediators to promptly service customers.
 - (2) when appropriate, packaging the cases as regional consolidation cases and taking whatever other actions which will facilitate mediator handling of assignments;
 - (3) minimizing travel costs for cases; and
 - (4) selecting the appropriate mediator to match the unique needs of particular cases.
- c. Active monitoring of mediator case reporting is to be maintained to insure that:
- (1) prompt and adequate attention is being given by mediators to case assignments; and
 - (2) the possible needs for case transfers, consolidations, dividing out of cases, elimination of duplicate assignments, and readjustments of assignments among mediators are being met.
- d. Regional Management review, approval, and transmission of mediator case reports will be maintained on a timely, continuing basis to insure that:

- (1) the data in the case reports are complete and accurate for indicating the mediator accomplishments in case activities; and
- (2) the timely and correctly transmitted case data will preserve the integrity of the agency's automated data base and provide an accurately updated and complete account of the regional case activities.

DIRECTIVE 3105. THE FIELD OFFICES, INCLUDING THE MEDIATOR STAFF

1. Description. The field offices, the centers of mediator activity, constitute the organizational level most directly involved in fulfilling the mission of the agency. The responsibilities and functions of the other units in the FMCS Case and Content Management System (CCMS) come to a focus and exist for the support of mediator activities at this level.

In brief, these mediator activities consist of:

- (1) developing and maintaining a positive relationship with their respective labor-management communities;
- (2) responding to the various case assignments received from their Regional Management and professionally implementing them; and
- (3) reporting the results of their case activities to their Regional Management.

2. Responsibilities and Functions of Mediators within the FMCS Case and Content Management System.

- a. Developing and maintaining an appropriate and responsible Federal presence within their respective labor-management communities and alerting Agency management of significant developments.
- b. After investigation and judgment on acceptance of case assignments, being available and responsive to the needs of the parties involved in case assignments.
- c. Being a resource upon whom the parties may draw and, when appropriate, being prepared to provide both procedural and substantive suggestions and alternatives which will assist the parties in successful negotiations, or for other purposes depending upon the type of case assignment.

- d. Maintaining prompt, accurate and sufficiently complete reporting to keep Regional Managers informed of significant developments and trends in their case activities.
3. Policies and Procedures Relating to Mediator Functions within the FMCS Case and Content Management System. (NOTE: Detailed instructions covering reporting may be found in the FMCS Case and Content Management Manual.)
- a. Case Assignments. Case assignments are made by the use of the Case and Content Management System (CCMS). This electronic form, based on data from Notice Processing (NPU), documents the assignment decision of the Regional Management and is transmitted to the assigned mediator.
 - b. Requests. Mediators receiving requests for assistance from the parties shall complete an electronic case entry and transmit it to their Regional Management. Regional Management will be responsible for making disposition.
 - c. Case Reporting. In addition to mediator reporting by telephone or other means, there are three formal types of case reporting within the FMCS Case And Content Management System:
 - (1) Collective Bargaining Mediation Initial Reports;
 - (2) Status Reports for all Collective Bargaining Mediation, Relationship Development and Training, and Grievance Mediation
 - (3) Final Reports for all Collective Bargaining Mediation, Relationship Development and Training, EAO, and resolved cases.

The following policies are not intended to limit the right of Regional Management to make early assignments or pre-assignments, and to provide for unusual assignment needs within their specific areas, or to maintain their own reporting requirements, but they are intended to provide a minimum Service-wide standard for

reporting.

- (1) Dispute Initial Reports. In normal assignment situations, mediators are expected to contact the parties involved in assigned cases and record the official activity within ten days of the assignment, or not less than twenty days before the contract expiration, or modification date of the case. (In requests cases, use of the entry eliminates the need for the mediator to file a Dispute Initial Report.)

The Initial contact activity is to be based upon contact with both parties which gives the mediator an opportunity to discuss and analyze the situation with the parties and to determine the probably degree of assistance necessary and the way the most effective assistance can be rendered.

In addition to the mediators recommendations for the disposition and servicing of the case, the mediator should validate and complete, if necessary, the data elements in the Case Information Form (CIF) while filing the Initial Report.

- (2) Status Reports for Collective Bargaining Mediation, Grievance Mediation and Relationship Development and Training Cases.
 - (a) Collective Bargaining Mediation Status Reports. Such reports provide information regarding the status of case assignments, progress being made toward settlement, mediator activity, and obstacles or problems being encountered.

Use.

- (I). Normal. The mediator shall record an

activity as the Collective Bargaining Mediation Status Report to the Regional Management:

1. Promptly after making contact with the parties not more than five (working) days before the contract expiration, or within five days prior to a work stoppage deadline;
2. In work stoppages, not more than fifteen days following the last previously written report on the case;
3. Each time a significant development occurs;
4. Immediately following each conference or meeting; and
5. Not less than once every thirty days.

(II). Exceptions.

1. Series of meetings held close together. When a series of meetings follow each other so closely that written reports at the conclusion of each meeting would be impractical, the mediator shall record the activity immediately upon the conclusion of the series.

2. Recess or little case activity. If negotiations have recessed, or activity has been suspended and no meeting(s) or activity is expected for more than fifteen days in work stoppages, or more than thirty days on other case assignments, and the facts are clearly stated in the Initial Report or in a prior Status Report, no further report shall be required until the date stated for the resumption of activity; provided that a report shall be required at that time regardless of whether any meeting(s) or other activity occurs.
- (b) Relationship Development and Training Status Report. This report is designed to provide for interim reporting of mediator activity and case developments to the Regional Management. It should be submitted at least once every thirty days.
- (3) Final Reports for Collective Bargaining Mediation, Grievance Mediation, Relationship Development and Training and Alternative Dispute Resolution Cases.
 - (a) Collective Bargaining Mediation and Grievance Mediation Final Reports.
 - (I) Purpose. This report provides information to FMCS managers regarding:

1. the disposition of the case assignment,
2. the nature and scope of mediation and the manner in which performed,
3. any implications that the activity may have for other case assignments, and
4. the information needed for statistical records of FMCS activities and operations.

(II) Use. All dispute cases are to be closed by filing a Final Report in CCMS. Variation: upon assignment, a mediator can change the disposition of the case by a recommendation to transfer or consolidate it. Likewise, the mediator can effect a change in the assignment by calling to the attention of Regional Management when it is a potential duplicate.

(III) Report Schedule. The mediator shall transmit the Dispute Final Report to Regional Management within ten days after it is determined that a settlement has been reached, all activity has ceased, or when there is no further need for continuation of the case assignment.

(b) Relationship Development and Training, EAO and Alternative Dispute Resolution Final Reports. Upon termination of such assignments, Final Reports should be completed by the mediator responsible for the

case and transmitted to Regional Management within ten days. The activity of all mediators participating in the cases should be shown on the Final Reports.

DIRECTIVE 3201. REGIONAL MANAGEMENT PROCEDURES

1. Introduction. From the time the Service becomes aware of a labor-management dispute to the time it is closed, the dispute case reporting procedure of the Service permits regional management continuous review and analysis of developments which take place during the assignment.
2. Procedures. These procedures shall serve as a guide for regional management in their reviews of dispute case reports, and shall supplement the general instructions for the completion of the reports by the mediators.
3. Actions To Be Taken By Regional Management. Upon review of the dispute, Initial Report, regional district management shall either:
 - a. Permit the mediator to proceed with mediation.
 - b. Consolidation. Cases shall be consolidated when it is known that a group of employers bargain together with one or more unions or locals, or that a group of unions or locals bargain together with a single employer.
 - c. Divide out cases from a consolidation. Cases usually shall be divided when it is known that a group of employers bargain separately with one or more unions or locals, or that a group of unions or locals bargain separately with a singular employer.
 - d. If no action is taken within five days after receiving the Initial Report to notify the mediator to close an assigned case, the mediator is automatically authorized to proceed, as required, until the case is satisfactorily brought to a conclusion.

5. Actions To Be Taken By Regional Management In Closing Dispute Case Assignments.
- a. Labor-management dispute cases should normally not be closed before a contract expiration date, unless there has been a settlement achieved. Regional management shall determine the length of time the case assignment can be retained by the mediator following the contract expiration date. Each decision depends upon the facts of the case concerned.
 - b. Mediators who recommend closing case assignments after the contract expiration date, but before settlement, should offer cogent reasons for supporting such a recommendation. Regional management must review and concur with the recommendation before authorizing the closing.
 - c. Since the Final Report form is used for statistical summaries of Service activity, a careful review is essential to insure correctness and uniform compliance with established procedures.

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:1

DIRECTIVE 4101. INTRODUCTION TO FINANCIAL MANAGEMENT AND FINANCIAL MANAGEMENT SYSTEMS

1. Introduction. Chapters 4100 through 4200 prescribe the Service's policies, regulations, procedures, delegations of authorities and responsibilities, and forms to be used to ensure compliance with General Accounting Office, Office of Management and Budget, and other Federal laws, regulations, and promulgations. These chapters are also intended to provide the guidance necessary for sound internal financial management within the Service.
2. Authority. The Budget and Accounting Procedures Act of 1950, the Federal Managers Financial Integrity Act, related legislation, the Chief Financial Officers Act of 1990, and numerous other Federal promulgations provide policies and procedures to be followed by executive departments and agencies in developing, operating, evaluating, and reporting on financial management systems.
3. Delegations of Authority and Responsibility. The Director, FMCS, is responsible for ensuring that the planning, development, operation, review, and reporting on the Service's financial management system are in accordance with OMB Circular No. A-127. This responsibility has been delegated to the Chief Financial Officer (CFO).

The Office of Budget and Finance (B&F) is supervised by the CFO. B&F is responsible for budget formulation and execution, funds control, accounting, voucher examination, and cash management functions. Basic responsibilities and promulgations are presented in Chapters 4100 through 4500.

4. Financial Management Systems. (Reference OMB Circular No. A-127)
 - a. It is the policy of FMCS that the Service's financial management system meet the related objectives established in OMB Circular No. A-127.

REVISED
JULY 2011

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:2

The purpose of this policy is to:

- (1) Ensure that the Service complies with applicable law, appropriate budget and accounting principles and standards, Treasury reporting requirements, and the best financial practices.
- (2) Direct that the system developed and operated under this directive is the source for financial information used in the budget, Treasury financial statements, financial reports to Congress, and other financial reports.
- (3) Ensure that the Service maintains a single, integrated financial management system, which may be supplemented by subsidiary systems. Data needed in this system shall be entered only once and transferred automatically to appropriate accounts or other parts of the system or systems.

b. FMCS Financial Management System Objectives.

(1) General Objectives:

- (a) Provide complete disclosure of the financial results of the Service's activities.
- (b) Provide adequate financial information for agency management and for formulation and execution of the budget.
- (c) Provide effective control over revenue, expenditure, funds, property, and other assets.

(2) Specific Objectives by Category:

- (a) Systems operations - The system shall use the best of acceptably priced, contemporary technology to achieve the following objectives:

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:3

1. Provide useful information to meet user needs.
 2. Provide timely information. Data shall be available on a "real time" basis and reports for closing months on the tenth working day following the end of the reporting period. Final data shall be available in time to meet external reporting requirements.
 3. Provide reliable and complete financial management information. Information shall be verifiable and ordinarily drawn from the official records and systems, and shall be no more detailed than necessary to meet the needs of management and external requirements.
 4. Provide comparable and consistently developed information. Accounting shall be synchronized with budgeting. Consistency over time shall be maintained. New and revised systems shall adopt common, existing definitions and classifications.
 5. Efficiency and economy. The system shall be designed and operated with reasonable costs in accordance with OMB guidelines. Financial systems that are excessively costly shall be identified and phased out.
- (b) Systems integrity - The system shall feature reasonable controls designed, operated, and evaluated in accordance with OMB Circular A-123.
- (c) Support for budgets - Financial management data shall be recorded, stored, and reported to facilitate budget operation, analysis,

**REVISED
JULY 2011**

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:4

planning, formulation and execution. Data shall be classified uniformly and that classification, at a minimum, shall be at a level of detail that directly supports execution of enacted budgets and formulation of proposed budgets, without excessive aggregation or disaggregation.

Presidential and Congressional decisions shall be recorded precisely, and financial management data on results shall be classified to track such decisions. This includes detailed support for reports to OMB under Circulars A-11 and A-34. Data required for budget and management decision making on unit costs and performance shall be included in the system.

- (d) Support for management - Data shall be recorded and reported in a manner to facilitate carrying out the responsibilities of both program and administrative managers.
- (e) Full financial disclosure - Financial management data shall be recorded and reported as specifically required by OMB or Treasury, to provide full financial disclosure and accountability in accordance with appropriate budget and accounting principles and standards.

More detail on the specific objectives of the financial management system can be found in OMB Circular A-127 and in OMB's publication "Financial Management and Accounting Objectives."

The system's design and operation, including reporting, shall:

- (3) Give full consideration to the needs and responsibilities of the Congress and the Executive Branch.

**REVISED
JULY 2011**

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:5

- (4) Be in accordance with the accounting principles and standards prescribed by the Comptroller General.

The system's reporting shall include an annual report to the President and Congress on whether the Service's accounting system complies with principles and standards developed by the Comptroller General and implemented through OMB Guidelines.

c. Definitions.

- (1) Financial management information - all information on Federal spending, collections, assets, liabilities, equity, and related budgetary transactions and balances. This also includes data used to develop information for decision making regarding program costs, user charges, and reimbursable fees.
- (2) Accounting system - the system used for recording, classifying, and summarizing information on financial position and operations.
- (3) Financial management system - the total of agency financial systems, both manual and automated, for planning, budget formulation and execution, program and administrative accounting, and audit; as well as all other systems for recording and classifying financial data and reporting financial management information, including purchasing, property, inventory, etc.

- d. System Inventory and Assignment of Responsibility. Overall responsibility for the financial management system and compliance with OMB Circular No. A-127 has been delegated by the Director of FMCS to the CFO. The Service presently has a single financial system which is composed of six major components or systems, each with a number of subsystems. Listed below are the systems and the person responsible for each system.

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:6

Supervisor, Budget and Finance	Budget and Funding
Supervisor, Budget and Finance	Accounting and General Ledger
Supervisor, Budget and Finance	Accounts Payable
Supervisor, Budget and Finance	Accounts Receivable
Director, Human Resources/ National Finance Center	Payroll
Director, Office of Administrative Services	Property Management Procurement

- e. Annual System Reviews. The Chief Financial Officers Act of 1990 (P.L. 101-576), revised in November 2002, requires an independent financial audit each fiscal year. The audit is prepared in accordance with OMB Circular A-136 and in accordance with Government Auditing Standards and OMB Bulletin 07-04, Audit Requirements for Federal Financial Statements.

As directed in OMB Circular No. A-127, the systems' managers, the Director, and system users, selected by the Director, will conduct an annual review of the Service's financial management system. The review will be conducted in accordance with OMB's review guide, "Guidelines for Evaluating, Improving, and Reporting upon Financial Management/Accounting Systems," and will build upon reviews required by OMB Circular A-123.

One result of the system review will be a documented management assessment of how well the system and component systems conform to the Federal Managers Financial Integrity Act.

More detailed evaluation of the systems shall be conducted on a cyclical basis and all deficiencies will be addressed. Failures to conform to objectives implementing appropriate accounting principles and standards shall be noted and included in reports.

**REVISED
JULY 2011**

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4101:7

- f. Reporting Requirements. As required by Section 4 of the Federal Managers Financial Integrity Act, the Director shall report to the President and Congress on whether the Agency's financial systems conform to appropriate established principles and standards. Systems that conform to the provisions of OMB Circular A-127 shall be considered as meeting the requirements of the Act. These reports shall be made by December 31 of each year for the year ending September 30.

REVISED
JULY 2011

DIRECTIVE 4102. ACCOUNTING

1. Purpose. This directive delegates responsibility for continued development, maintenance, and operation of the Service's accounting system.
2. Authority. The Accounting and Auditing Act of 1950 requires that the head of each agency establish and maintain systems of accounting and internal controls that conform to the principles, standards, and related requirements prescribed by the Comptroller General of the United States. The Act also requires the agency's accounting system be approved by the Comptroller General. The Service's accounting principles and standards statement and accounting system design were approved by the Comptroller General on September 30, 1981.

Other authorities under which the system was designed and to which compliance must continue include: Title 31 of the U.S. Code, numerous promulgations of the Office of Management and Budget, the U. S. Department of Treasury, Office of Personnel Management, and applicable state and local government laws and regulations.

3. Delegations of authority and documentation. By delegation from the Director of FMCS, the Chief Financial Officer is responsible for the continued development, maintenance, and operation of the Service's accounting system. This general area of responsibility includes review of proposed and completed transactions, for propriety and legality, meeting financial reporting requirements, and documentation. Other facets of responsibility, authority, and documentation requirements are found in the Service's Accounting Manual.

DIRECTIVE 4103. BUDGET FORMULATION AND EXECUTION

1. Introduction. The Chief Financial Officer (CFO) has the primary responsibility for the implementation of budget formulation procedures.
2. Budget Formulation.
 - a. Preparation and Submission. The following chronology outlines the Service's budget cycle from the initial preparation of the fiscal year request for funds and staffing to the enactment of the final appropriation. The description highlights the major budgeting responsibilities of the Service. In addition, the Office of Management and Budget and the Appropriations Subcommittees of the House and Senate request numerous reports and justifications from FMCS. The path of legislation, as described, is greatly simplified and does not reflect all of the formal procedures followed by the Congress. Some of the dates are approximations. The actual dates depend on how quickly the Office of Management and Budget and the Congress complete their budgetary reviews.
 - b. Chronological Sequence of Events.
 - (1) Five Year Strategic Plan/Annual Performance Plan. The Director sets broad goals and objectives for FMCS program direction.
 - (2) Early Summer. (Call for Estimates). All National Office and Field Directors having budgetary responsibilities are required to provide the Director with budgetary information for the formulation of a new budget to be presented to OMB the following September and implemented 15 to 16 months later. Within the Government-wide budgeting system, the Call for Estimates is significant to the overall budgetary process because it is the basis of that part of the budget system that requires the Director to set broad objectives for the Service.

- (3) June/July/August. The CFO, with the assistance of other officials of the Service, prepares the new Budget Estimate. This document reflects the Director's objectives and decisions as to the specific needs of the Service. The FMCS Budget Estimate is prepared in accordance with OMB Circular A-11, which is revised and reissued annually to all Federal agencies.
- (4) September 1. The FMCS Budget Estimate is transmitted to the Office of Management and Budget.
- (5) October/November. A hearing is held with OMB at which the Director and designated officials meet with the OMB budget examiner assigned to FMCS and other OMB officials.
- (6) November. (OMB Mark). OMB presents the Service with a verbal "mark" or "pass-back" of our Budget Estimate. This "mark" covers staffing and funding decisions that OMB believes reflect the President's program for the new fiscal year. If the Director disagrees with any of these decisions, he or she may appeal to the Director of OMB and finally to the President.
- (7) December/January. The CFO, with assistance from other management officials, compiles the Congressional Submission in accordance with the final OMB allowance (the President's Budget).
- (8) January. The President presents to Congress the fiscal year budget. This Government-wide budget contains a brief summary of the Service's Budget Request. Following this, copies of the detailed FMCS Congressional Submission are delivered to the members of the Senate and House Appropriations Subcommittees (the Labor, Health and Human Services Subcommittees of the Appropriations Committee). The Director's opening statements before the House and Senate Appropriations

Subcommittees are prepared and presented at the Congressional hearings, if hearings are requested.

- (9) February. The House Appropriations Subcommittee holds hearings or briefings to review the Congressional Submissions of the Departments of Labor, Health and Human Services, and related agencies (including FMCS). Each agency has its own hearing. At the FMCS hearing, the Director, along with other designated officials, appear as witnesses. The Director presents the statement outlining the Service's budgetary needs for the fiscal year. Following the delivery of this statement, the Subcommittee members ask pertinent questions of the Director or the other FMCS witnesses.
- (10) February/March. The Senate Appropriations Subcommittee holds hearings or briefings to review the Congressional Submissions of the same agencies that the House reviewed in February. These hearings follow the same format as the House hearings. The CFO, in conjunction with other FMCS officials, reviews and edits House and Senate testimonies and provides written answers to additional questions.
- (11) Summer. The House Appropriations Subcommittee completes its review and mark-up of the FMCS appropriations bill and sends it to the full House Appropriations Committee for approval. Following the Committee approval, the bill is sent to the House floor for passage. The Senate Appropriations Subcommittee completes its review and mark-up of the appropriations bill and sends it to the full Senate Appropriations Committee for approval.
- (12) September. After both the House and Senate have passed their versions of the FMCS appropriations bill, if there are any differences the two versions must be reconciled in order to produce one bill that will be acceptable to both chambers. This reconciliation is achieved by a Conference

Committee made up of members of both the House and Senate Appropriations Committees. The Conference Committee then sends the bill back to the House and Senate floor for passage.

- (13) September/October. The Labor, Health and Human Services, and related agencies' appropriations bill then goes to the President for signature. If the President signs the bill, it becomes public law and the Service operates under the law's provisions. If the President vetoes the bill or if the Appropriations Bill is not complete by October 1, the Congress enacts a Continuing Resolution, and FMCS functions under the previous fiscal year funding level or the House or Senate recommended level until a modified bill is passed by the Congress and signed by the President.

3. Execution of the Operating Budget.

- a. Apportionment. The operating budget is apportioned quarterly at the beginning of each fiscal year and is submitted to the Office of Management and Budget.
- b. Monthly Reports. Monthly reports are prepared by the Office of Budget and Finance Office listing the status of funds:
- (1) A Statement of Transaction is prepared monthly and electronically sent to the Treasury Department.
 - (2) A Report on Budget Execution is prepared quarterly and electronically sent to the Treasury Department for the Office of Management and Budget.
 - (3) Operating Statements are prepared listing obligations to date, quarterly allowances, and balances for all object classes for use by the Director, Deputy Directors, and other National Office and Field Directors.
- c. Quarterly Reports. Quarterly Reports are prepared by the Office of Budget and Finance Office and are

prepared and distributed based on the guidelines described in OMB A-136. Agencies shall submit unaudited interim financial statements to OMB 21 calendar days after the end of each of the first three quarters of the fiscal year and 45 days at the end of the fiscal year. Agencies shall submit a draft of the Performance and Accountability Report (PAR) or Agency Financial Report (AFR) to OMB's Office of Federal Financial Management (OFFM) and the appropriate Resource Management Office (RMO) ten working days (November 3) before agencies issue the final PAR or AFR and should include all sections of the PAR or AFR. Agencies may choose either to produce a consolidated PAR or to produce a separate AFR and APR. The final report should be posted to the agency's website by November 17.

- (1) Statement of Budgetary Resources is prepared quarterly. It provides information about how budgetary resources were made available as well as their status at the end of the period.
- (2) Balance Sheet, as of a specific time, presents amounts of future economic benefits owned or managed by the reporting entity (assets), amounts owed by the entity (liabilities), and amounts which comprise the difference (net position).
- (3) Statement of Net Costs is the net cost of operations for the reporting entity, as a whole, by major program, which should relate to the major goal(s) and output(s) described in the entity's strategic and performance plans, required by GPRA.
- (4) Statement of Changes in Net Position reports the change in net position during the reporting period. Net position is affected by changes to its two components: Cumulative Results of Operations and Unexpended Appropriations.

- d. Special Analyses. Throughout the year, special analyses are completed on specific topics such as

detail of travel and training expenditures, projections of expenditures on upcoming projects, current verses original operating plans, etc.

- e. Year End Reports. Completed FMS 2108 and the Agency's pre-closing adjusted trial balances must be electronically transmitted to Treasury by the required dates. Financial Notes, as described in the OMB A-136, are required with end of year audited financial statements.

4. Administrative Control of Funds.

a. Authority.

- (1) 31 U.S.C. 665 provides for financial apportionments and reapportionments to be made by the Director, Office of Management and Budget and requires the head of each agency to prescribe, by regulation, a system of administrative control of funds designed to:
 - (a) Restrict obligations of disbursements under each appropriation or fund to the amount of the apportionment or reapportionment made therefor.
 - (b) Fix responsibility for the creation of any obligation or making any disbursement in excess of an apportionment or reapportionment. It also provides for reports of violations to be made to the President and the Congress. Detailed instructions relating to the requirements imposed on agencies by this section are contained in Office of Management and Budget (OMB) Circular No. A-34. The Director of FMCS will meet these requirements.
- (2) Budget and Accounting Act of 1921, as amended (31 U.S.C.21).

(3) Section 1311 of the Supplemental Appropriations Act of 1955 (31 U.S.C. 200).

(4) Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1020, and 1400 - 1407).

b. Scope. All organizations and funds within the Service are subject to the provisions of this regulation.

5. Delegations of authority. All delegations of fiscal authority and responsibility within the Service are made by the Director. All obligational authorities are subject to availability of funds. Unless specifically provided in this or another Chapter 4000 directive, no delegation of obligational authority may be redelegated. In the Director's absence or unavailability, the Deputy Directors may exercise the same obligational authority as the Director, except that the Director reserves the obligational authority with respect to the Service's Official Reception and Representation Fund. The CFO is responsible for maintaining the necessary budget accountability records and for reporting on the execution of the Service's budget under such apportionments and reappropriations.

Specific budget authority is delegated to the following individuals: Director of Technology Service, Director of Administrative Services, Director of Labor-Management Grants Program, Director of Education and Training, Director of Field Operations and Directors of Mediation Services.

6. Relationship to the accounting system. The administrative control of funds is an integral part of the accounting system. The accounting system will not allow any obligation without budgetary resources available.

DIRECTIVE 4104. CASH MANAGEMENT

1. Introduction. This directive states FMCS policies and procedures for compliance with the provisions of law and other Federal requirements relating to cash management.
2. Authority. The Secretary of the Treasury is responsible for prescribing policies and procedures to be followed by Federal agencies with respect to cash management. These policies and procedures are outlined in the Treasury Financial Manual (TFM). Each agency is responsible for compliance with these provisions and is authorized to establish internal policies and procedures within the regulations.

The Comptroller General of the United States is responsible for prescribing accounting standards for Federal agencies and rendering decisions on any questions involving payments.

3. Delegations of Authority. The Chief Financial Officer (CFO) is authorized to develop and monitor the Service's cash management policies and procedures, including those relating to collection of erroneous payments to FMCS personnel.

Certifying Officers, designated by the Director, and evidenced by forms FMS 210, are authorized to certify vouchers and disbursement documents to U. S. Treasury Disbursing Offices for payment.

FMCS managers are authorized to approve certain vouchers identified in other chapter 4000 directives and to certify the receipt of goods and services and other particulars as discussed later in this directive.

The CFO or Supervisor of Budget and Finance is authorized to approve travel advance requests and to collect outstanding advances.

The Supervisor of Budget and Finance is also responsible for determining that billings are properly made, ~~and~~ that all funds received are deposited promptly, and that Treasury deposit requirements are met.

4. General Provisions. An effective cash management program requires:

- a. Careful planning and close control of revenues anticipated, earned, billed, and received.
- b. A billing and collection system for prompt and continuing action to collect receivables and appropriate management effort to see that the aggregate amount of outstanding receivables is kept to the minimum amount possible.
- c. That funds collected are deposited promptly and related documents are controlled and processed as expeditiously as possible.
- d. That disbursements are made in accordance with the Prompt Payment Act and that a receipt for goods or services accompanies all payments. That due dates are met to avoid interest charges and when advantageous to earn discounts offered.

5. Documentation and Approvals.

- a. Vouchers. Receiving reports serve as a form of certification for invoices proper to be paid. Original vouchers (invoices or bills) may be signed and certified by the appropriate approving official who is cognizant of, and may truthfully certify to, the facts stated in the vouchers. Approving officials will sign and date each document, indicating receipt of goods or services. All payment documents will be certified by an authorized certifying officer to the effect that payment is proper.

The principal objectives of control over disbursements are to ensure that all disbursements are legal, proper, and correct in amount; the goods and services have been received and accepted; and, there is accurate recording and reporting in a timely and efficient manner.

Effective control over disbursements requires the audit of vouchers before they are certified for payment. This process may include a full audit or a more basic review through approved statistical sampling techniques. The principal objectives of the audit of a voucher are to determine whether: the required administrative

authorization for the procurement and approvals for payment were obtained; the payment is permitted by law and is in accordance with the terms of the applicable agreement; the amount of the payment and the name of the payee is correct; the payment will not be a duplication; the goods received or the services performed were in accordance with the agreement; the quantities, prices, and amounts are accurate; all cash, trade, quantity, or other discounts have been taken, and, if not, whether the reason therefor was shown on the appropriate document; all applicable deductions were made and credited to the proper account in the correct amount; the appropriation or fund from which the payment will be made is available for that purpose; proper forms of documentation were used; and special certificates, if required, were furnished.

- b. Certifying officer designations. The designation of a certifying officer shall be accompanied by FMS 210, "Designation for Certifying Officer," which shall be delivered to the Treasury Financial Management Center.

6. Collection of erroneous payments to FMCS Personnel.

Public Law 97-365, October 25, 1982, also known as the Debt Collection Act of 1982 and the Budget and Accounting Act of 1921, as amended, are the basic statutory authorities governing the collection of erroneous payments to FMCS personnel. In addition, the Debt Collection Act authorizes the release of information on delinquent, non-tax debts to private-sector credit reporting agencies, subject to certain procedural requirements.

DIRECTIVE 4105. COMMUNICATIONS

1. Introduction. This directive provides information pertaining to the Service's policies and procedures with respect to the procurement, use, and certification of charges for official communication equipment and services. Government-provided communication services include local and long distance telephone, the Federal Telecommunications System (FTS), commercial telegram, and telecopier. Communication devices include telephone and telecopier/fax equipment and communication lines.

This directive is intended to assist employees who are involved in the procurement process and who use these services and equipment in the performance of official duties. It is also intended to assist those who are required to certify billing documents prior to payment.

The term "certification" is used in this directive to describe the process by which billing documents are reviewed for propriety and legality. The process results in a certification, or assurance, by a designated official that the charges contained in the billing document were incurred for the conduct of official business.

2. Authority. The Service is delegated the authority and responsibility, under the Federal Property Management Regulations (FPMRs) issued by the General Services Administration, to procure and use certain communication services and devices for the conduct of official business within the parameters established in the FPMRs. This directive discusses those applicable to all employees of the Service.

3. General Provisions.

- a. Official Business.

While the conduct of official business often necessitates the use of long-distance telephone services, the employee is expected to use sound judgment and prudence in the use of such facilities. This includes the requirement that FTS facilities be used instead of commercial long distance facilities whenever possible. Government-provided long distance telephone services are to be used to conduct official

business. No other calls may be placed (except in circumstances presented later in this directive) even if the employee's intention is to reimburse the Government for the cost of the call.

The use of vendor/Government-issued telephone credit cards is encouraged when FTS services are unavailable and the employee is away from the official FMCS duty station.

The use of mobile telephones is to be limited to urgent communications at locations where landline facilities are unavailable.

The use of telegram services is to be limited to urgent written transmissions that must be received sooner than mail deliveries would provide. Employees must receive approval prior to using telegram services.

b. Other Than Official Business (Personal).

The following are examples of allowable uses of Government telephone systems. They are allowable if the use: does not adversely affect the performance of official duties; is of reasonable duration and frequency; and reasonably could not have been made at another time.

- (1) Calls to notify family, doctor, etc., when an employee is injured on the job.
- (2) An employee traveling on Government business is delayed due to official business or transportation delay, and calls to notify family of a schedule change.
- (3) An employee traveling for more than one night on Government business in the U. S. makes a brief call to his/her residence (but not more than an average of one short call per day).
- (4) An employee is required to work overtime without advance notice and calls within the local commuting area (the area from which the employee regularly commutes) to advise his/her family of the change in schedule or to make alternate

transportation or child care arrangements.

- (5) An employee makes a brief daily call to locations within the local commuting area to speak to spouse or minor children (or those responsible for them, e.g., school or day-care center) to see how they are.
- (6) An employee makes brief calls to locations within the local commuting area that can be reached only during working hours, such as a local government agency or physician.
- (7) An employee makes brief calls to locations within the local commuting area to arrange for emergency repairs to his/her residence or automobile.

Employees should be particularly sensitive to the use of Government telephone facilities. If possible, such calls should be made during lunch, break, or other off-duty periods.

Abuse of government telephone systems, including abuse of the above privileges may result in disciplinary action.

Personal calls that must be made during working hours for reasons other than those listed above may be made over commercial long distance facilities, if the call is charged to the employee's home phone number; made to an 800 toll-free number; charged to the called party if a non-government number; or charged to a personal telephone credit card.

4. Delegations of Authority and Documentation.

a. Delegations of authority.

- (1) The Director of Information Systems and Administrative Services is authorized to:
 - (a) approve or disapprove all proposed installations or changes in existing equipment and service levels; and
 - (b) certify communications-related billing

documents for work previously approved by him/her prior to payment.

- (2) National Office and field managers, from whose office long-distance telephone calls originated or are billed, are delegated the authority and responsibility to:
 - (a) certify billing documents reflecting toll charges within their area of responsibility;
 - (b) clearly annotate such billings to indicate those charges which were for official business, unidentified, and personal;
 - (c) collect reimbursements, including applicable Federal excise taxes, from employees responsible for personal toll calls billed to the Government, and
 - (d) ensure the prompt submission/return of documentation and reimbursements to B&F.
- (3) Field managers are responsible for overseeing the billing review and for investigating any toll charges or other questionable charges that cannot be identified.
- (4) Field managers are delegated the authority to pay (by IMPAC card or check) telephone bills after proper review.
- (5) Field managers are authorized to approve all requests to use telegram service by employees within their respective districts.
- (6) Each employee is personally liable for charges levied on the Service for their personal or unauthorized use of communication services.

b. Documentation.

- (1) Telephone billings. B&F and field managers will send a copy of billing(s) which include itemized toll call(s) to the appropriate offices for certification prior to payment. Each employee within that office will certify, by their signature (or initials), each toll call that was made for official business. Toll call charges NOT incurred for official business must be clearly identified as either personal or unidentified. When unidentified charges are noted, the local FMCS official will ask the GSA or local telephone company office to investigate and identify the call. Unidentified calls will be investigated by the appropriate office responsible for payment. Annotations that an investigation is underway should be made on the billing document. Investigations will be performed expeditiously and a written report on the results for the record.

In those instances when a personal call was made, a check for the amount of the charge plus applicable Federal excise tax will be made payable to "FMCS" and promptly forwarded with the annotated, a copy of certified billing document to B&F.

The following certification, manually signed by a designated official, must also appear on the invoice/other billing document when toll charges are involved:

"Charges for long-distance tolls were necessary in the interest of the Government."

Signature _____

Title _____ Date _____

- (2) Telegram billings. As soon as the employee authorized to issue a telegram has done so, they will provide the authorizing official with a copy of the telegram. The authorizing official will then ratify his/her approval by annotating the copy as follows:

"Approved for Payment"

Signature _____

Title _____ Date _____

The authorizing official will then promptly send the annotated copy to B&F. Other invoices received should be similarly certified and promptly forwarded to B&F with another copy of the telegram(s) for which the billing is being made.

DIRECTIVE 4201. INTRODUCTION TO OFFICIAL GOVERNMENT TRAVEL

1. Introduction. This chapter provides information and guidance regarding FMCS policies and procedures pertaining to official travel, its authorization and performance, and submission of claims for reimbursement of expenses. It is intended to assist employees who are required to travel in the performance of their duties and personnel responsible for the administration of travel regulations.

Official government travel is either related to temporary duty away from the official duty station (TDY), related to a permanent change of station, (PCS), or local travel in and around the official duty station.

Chapter 4200 addresses the majority of official government travel subjects. There are, however, a few others, such as payment of expenses connected with the illness or death of a traveler. Information about these other subjects is available upon request from the Chief Financial Officer.

2. Authority. Federal Travel Regulations (FTRs) are issued by the Administrator of the General Services Administration, as authorized by Chapter 57, Title 5 of the U.S. Code, as amended, and Executive Orders. The FTRs are the implementing regulations based on statutes and Executive Orders. The FTRs, as statutory regulations, have the force and effect of law and may not be waived or modified by the employing agency, the General Accounting Office, or other department or agency regardless of extenuating circumstances. Title 31 of the U.S. Code, "Money and Finance," is also applicable. The Comptroller General of the United States has issued numerous decisions relative to the FTRs and the intent of

1 These other subject areas are not covered in the Chapter because of the small number of pertinent cases in which FMCS employees have been involved.

Congress in passing the various travel-related statutes. These decisions have the effect of complementing the FTRs in establishing the themes, providing interpretations, and precedent-setting decisions. Comptroller General decisions frequently relate travel and other Federal regulations, thereby providing guidance where two or more subject areas relate.

The Department of Defense has been authorized to establish certain rates for noncontinental United States travel, and the Department of State is authorized to control foreign travel. Some Department of Treasury and Office of Management and Budget promulgations are also applicable.

3. Delegations of Authority.

- a. Each employee who travels must be familiar with this chapter.
- b. The Chief Financial Officer (CFO) is responsible for and authorized to promulgate the Service's travel policies, regulations, procedures, and interpretations under the general guidance of the Director.
- c. The Service's travel policies and procedures are based on the Federal Travel Regulations (FTRs) and other applicable promulgations published by the General Services Administration (GSA), General Accounting Office, Department of the Treasury, and the Office of Management and Budget, including interpretations and decisions. In cases where the Service's directives are inconsistent with governing promulgations and in cases where there are omissions from the directives, the governing regulations will prevail.

4. General Provisions. To be official and considered for reimbursement FMCS employee travel must be authorized in advance. FMCS policy is that travel be authorized in advance and documented, usually by a Travel Authorization (FMCS Form AB-5). FMCS travel authorization policy is that annual Travel Authorizations will be issued to employees who are required to travel frequently or who may be called upon, without warning,

to travel. Otherwise, Travel Authorizations will be issued for shorter periods of time, usually on a trip-by-trip basis. Travel Authorizations will, in all cases, be as limiting as possible, but still broad enough to allow successful performance of official duties.

5. Definitions. Listed below are some of the more frequently used terms and their definitions for official government travel purposes.

- a. Calendar Day. The 24-hour period from one midnight to the next. For purposes of these directives the calendar day technically begins one second after midnight (expressed as 12:01 a.m.) and ends at 12:00 midnight.
- b. Conterminous United States. The 48 contiguous states and the District of Columbia.
- c. CONUS. CONUS refers to the "Continental United States" which is used synonymously with "Conterminous United States."
- d. Employee. An individual employed in or under an agency including an individual employed intermittently in the government service as an expert or consultant and paid on a daily when-actually-employed basis and an individual serving without pay or at \$1 a year.
- e. Government-Contract Rental Automobile. An automobile obtained from a commercial firm under the provisions of an appropriate GSA Federal Supply Schedule contract.
- f. Government-Furnished Automobile. Includes an automobile which is:
 - (1) Owned by an agency;
 - (2) Assigned or dispatched to an agency on a rental basis from a GSA interagency motor pool; or
 - (3) Leased by the government for a period of 30 days or longer from a commercial firm.

- g. Locality Rates. The maximum per diem prescribed for specific localities within the CONUS.
- h. Per Diem Allowance. A daily payment instead of actual expense reimbursement for lodging, meals, and related incidental travel expenses. The per diem allowance is distinguished from transportation expenses and other miscellaneous travel expenses. The per diem allowance covers all charges, including taxes and service charges where applicable for the following types of subsistence penses:
 - (1) Lodging. (overnight sleeping facilities; baths, charges for air-conditioners, heaters, etc., when such charges are not included in the room rate). Lodging does not include accommodations on airplanes, trains, buses, etc. The cost of accommodations furnished aboard common carriers is included in the transportation cost and is not considered a subsistence expense.
 - (2) Meals and Incidental Expenses (M&IE). Expenses for breakfast, lunch, and dinner (specifically excluded are alcoholic beverages and entertainment expenses, and any expenses incurred for other persons). Fees and tips to waiters and waitresses, porters, baggage carriers (see: 4203: 13 1.3.#2), bellhops, hotel maids, dining room stewards or stewardesses, et.al. and laundry and cleaning and pressing of clothing are included in the entitlement amount.
- i. Special Conveyance. Any method of transportation other than common carrier, government-furnished, or privately-owned conveyance which requires specific authorization or approval for the use thereof. Such transportation generally includes conveyances obtained through commercial rental means for less than 30 days.
- j. Standard CONUS Rate. Generally, the per diem rate prescribed for any location within the CONUS that is not included in one of the defined localities

("locality rates"). The standard CONUS rate is also prescribed in certain specified circumstances for ALL locations within CONUS, including the separately defined localities, e.g., in cases of relocation travel.

- k. Transportation Expenses. Expenses incurred for commercial bus, air, rail, or vessel/steamship fares which are reimbursable in addition to the per diem allowance. Transportation expenses also include local transit system and taxi fares, cost of commercial rental cars and other special conveyances, mileage, and other allowances for use of privately-owned conveyances, including fees for parking, ferries, tolls, etc.
- l. Other Travel Expenses. Expenses that are directly attributable and necessary to the travel and temporary duty as authorized and performed. Transportation between places of lodging or business and telephone calls for the conduct of official business are reimbursable when approved.

DIRECTIVE 4202. AUTHORIZATION AND APPROVAL OF OFFICIAL TRAVEL

1. Introduction. This directive presents the Service's policies and procedures to be followed, and forms to be used, for the authorization and approval of official travel. It also places responsibility for authorization or approval of travel and travel reimbursement claims.
2. Authority. The Federal Travel Regulations (FTRs) require that the head of an agency authorize or approve all travel. The FTRs allow the redelegation of this authority. The approval process of all vouchers for payment is authorized by Title 31 of the U.S. Code, the General Accounting Office, the Department of the Treasury and the Office of Management and Budget.
3. Delegations of Authority.
 - a. The FMCS System. The Chief Financial Officer (CFO) is delegated the responsibility of maintaining the Service's authorization and approval system and is responsible for ensuring compliance with all aspects of the system by Service employees.
 - b. Authorizations. Officials designated to authorize travel and approve travel claims for personnel of the Service are as follows:
 - (1) The Director may authorize travel for all personnel of the Service, to all points at which official duty will be performed on a per diem (or limited actual expense) basis.
 - (2) The Deputy Directors and CFO may authorize travel for all personnel of the Service to all points at which official duty will be performed on a per diem (or limited actual expense) basis. FMCS travel authorization policy is that annual Travel Authorizations (FMCS Form AB-5) will be issued to employees who are required to travel frequently or who may be called upon, without warning, to travel. National Office employees, field clerical

employees, and contractors without annual travel authorizations must obtain prior written authorization, via electronic mail from an appropriate supervisor or by submitting Travel Authorization form (FMCS Form AB-5) to a Director, Deputy Director, or appropriate Supervisor depending on the reporting relationship. Absent prior written authorization, the Deputy Director or the Director may orally authorize the travel and subsequently ratify by approving the traveler's expense voucher.

- (3) The Director of Field Operations must sign annual travel authorizations for all Directors of Mediation Services, Field Mediators, and Field Support Staff.
- (4) The Supervisor of Budget and Finance must sign annual travel authorizations for National Office Managers, Staff, and others who frequently or without warning are required to travel.
- (5) In addition, the Director of Field Operations must authorize or approve all travel for the following personnel:
 - (a) New mediators prior to entrance on duty.
 - (b) Employees transferred to new permanent duty stations.
- (6) The Supervisor of Budget and Finance must authorize or approve all travel for the following personnel:
 - (a) Employees temporarily detailed to the National Office.
 - (b) Members of the National Labor-Management Panel's, fact-finding boards of inquiry.

- (c) Consultants, advisory committee members, arbitrators, and other part-time employees performing travel in the interest of the Government.
- c. Approval of Travel Reimbursement Claims. Authority to approve travel vouchers, including those items requiring specific approval before reimbursement, is as follows:
 - (1) The Director has authority to approve travel claims for all personnel of the Service.
 - (2) A Deputy Director and the Chief Financial Officer has authority to approve travel claims for Director of Field Operations, Directors of Mediation Services, National Office Managers, and all employees under their supervision.
 - (3) Directors of Mediation Services (DMS) have authority to approve travel claims for all employees stationed in their respective areas on a per diem (or limited actual expense) basis. National Office Managers approve travel claims for all employees under their supervision, provided authorization has been given by a Deputy Director or the Chief Financial Officer.
 - (4) The above approvals may be delegated in writing.
- d. Responsibility of the Traveler. All employees traveling on official business must have sufficient funds for anticipated expenses and are expected to exercise the same care incurring expenses that a prudent person would exercise if traveling on personal business.
 - (1) Travel Authorization. It is the personal responsibility of the traveler to secure prior and adequate authorization or assurance before commencing official travel for which reimbursement will be claimed. A supervisor may not direct an

employee to perform official travel until approval has been received from an authorizing official.

- (2) Emergency Travel. Travel may be performed without prior authorization only in cases of emergency. In such instances, travel must be approved rather than authorized. However, it is the traveler's responsibility to include in his or her claim for reimbursement a statement acceptable to the supervisor and the approving officer justifying the travel. When adequate justification is not presented, the traveler will be required to absorb the cost of expenses incurred.
- e. Amendment To Travel Authorization. A written request to amend a Travel Authorization must be submitted to the appropriate authorizing official when it becomes necessary to change or add to the areas in which travel is to be performed. Retroactive requests for such amendments will not be required when emergency conditions make the advance submission of the request impractical and the travel, as performed, may be approved in accordance with Emergency Travel Approval above.
- f. Transfer of Official Duty Station (FMCS Form AB-6). This form must be used to obligate funds and to authorize payment of expenses in connection with a permanent change of official station. The employee to be transferred is notified of the approval of the transfer by receipt of the original of this form. Only after such approval is received is the employee authorized to make commitments necessary for the transportation cost of self, immediate family, household goods, and other expenses as authorized. All such authorizations must be approved by the Chief Financial Officer. This form is prepared by the Office of Budget and Finance. The estimated costs shown on the form will be based on information furnished by the employee on FMCS Form AB-15. The authorization form for

transfer of official duty station (FMCS Form AB-6) must be distributed as follows:

- (1) Original to employee being transferred.
- (2) Second to Human Resources.
- (3) Third to Budget and Finance.

DIRECTIVE 4203. TRANSPORTATION

1. Introduction. This directive provides the Service's policies, regulations, and procedures to be followed with respect to employees' transportation. This directive is intended to help safeguard the rights and interests of the Government and to provide guidance to the Service's travelers.
2. Authority. The Government's regulations governing transportation are prescribed by the Administrator of the General Services Administration (GSA) in 41 CFR-101-41 and the Federal Travel Regulations, as supplemented.
3. Delegations of Authority. The Director, as head of the Agency, has been delegated certain authority and responsibilities under GSA regulations. The Director has delegated his authority and responsibility for the Service's transportation policies, regulations, and procedures to the Chief Financial Officer.
4. General Provisions.
 - a. Methods of Transportation. Methods of transportation normally available for official travel include airline, railroad, ship, bus, taxicab, and automobile. Transportation expenses subject to reimbursement include, in addition to fares, such incidental expenses as baggage transfer and telephone expenses in connection with transportation reservations.
 - b. Selecting Method of Transportation. Generally, travel on official business shall be by the method of transportation which will be most advantageous to the Government, cost and other factors considered. In selecting a particular method of transportation to be used, consideration shall be given to energy conservation and to the total cost to the Government, including costs of per diem, overtime, lost work time, and transportation costs. Additional factors to be considered are the total distance of travel, the number of points visited, and the number of travelers. 5 U.S.C. 5733 requires that "The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurated

with the nature and purpose of the duties of the employee requiring such travel."

Since travel by common carrier (air, rail, or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel, this method shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler or when the total cost by common carrier would exceed the cost by some other method of transportation. The determination that another method of transportation would be more advantageous to the Government than common carrier transportation shall not be made on the basis of personal preference or minor inconvenience to the traveler resulting from common carrier scheduling.

(1) Cost Comparisons with Common Carrier.

- (a) Reimbursement for transportation and per diem, when an employee elects to use a privately-owned automobile in lieu of common carrier as a matter of personal preference shall be limited to that which would have been incurred if common carrier facilities had been used. The following guidelines shall be used for determining allowable reimbursements in such cases:
- (b) Mileage allowance shall not exceed the constructive cost of coach accommodations (or tourist or economy accommodations if a carrier uses this term instead of coach) of common carriers, when such service is provided.
- (c) A class of service is considered to be "provided" by a carrier when it is scheduled serving origin and destination points, regardless of whether space would have been available had the traveler used this transportation for the official travel.

- (d) In determining the constructive common carrier cost, there shall also be included the usual transportation costs to and from common carrier terminals.
 - (e) The constructive per diem shall be limited to the amount otherwise allowable if the traveler had used the common carrier upon which the constructive transportation costs are based.
 - (f) In making the foregoing constructive cost comparisons of transportation and per diem, scheduled departures and arrivals of planes, trains, and buses at unreasonable hours shall be disregarded. (For this purpose, "unreasonable hours" means those which would unduly inconvenience the traveler or adversely affect his or her safety, or which would result in unduly increasing the constructive per diem.) For audit purposes, the FMCS policy shall be that scheduled departure or arrival of planes, trains, and buses after midnight or before 6:00 a.m. shall be considered "unreasonable hours."
- (2) Rate Differences of Common Carriers. When two or more (non-contract air) common carriers furnishing the same mode of travel charge different rates between the same points for the same type of accommodations, the facilities of the carrier charging the lower rate should be used to the maximum extent possible, unless such use would be inadvisable for such reasons as:
- (a) It would cause increases in per diem or other costs, with the result that the Government would not gain by using the lower rate transportation.
 - (b) The routing of the carrier charging the lower rate would not meet the traveler's requirements to make official stops between the points involved.

- (c) Only the use of the carrier charging the higher rate will permit the traveler to carry out his assigned mission adequately, efficiently, and without undue hardship or inconvenience resulting from such factors as longer total travel time or additional transfers between terminals.

c. Routing of Travel.

- (1) All travel shall be by a usually traveled route. Travel by other routes may be allowed when the official necessity therefore is satisfactorily established. When a person, for his or her own convenience, travels by an indirect route or interrupts travel by a direct route, the extra expense shall be borne by the traveler.
- (2) Reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route.

5. Specific Provisions, Procedures, and Documentation.

- a. Air Transportation. The use of discount fares offered to the Government by common carriers for passenger transportation is considered to be advantageous to the Government. This includes contract and, with justification on an exception basis, non-contract discount air fares, as well as discount rail and bus fares.

Guidelines for Air Travel. FMCS personnel should observe the following guidelines:

- (1) Less than first-class accommodations are the standard for FMCS use.
- (2) When possible, reservations will be made at least one week in advance.
- (3) When available, contract air carriers must be used.

- (4) All FMCS personnel making reservations shall request accommodations less than first-class.
 - (5) Consultants and personnel on detail to the Service will be informed of these guidelines.
- b. Unused or Over-Sold Reservations. Air carrier tariffs governing most of the major scheduled air carriers specify circumstances under which penalty charges are to be paid by the carriers when they fail to furnish accommodations for confirmed reserved space. Any payment, coupon, etc., received from a carrier is a refund to the Government and is to be submitted to the Chief Financial Officer.
- c. Policy on Accommodations. Use of first-class air accommodations is prohibited, except as specifically authorized by the Director, in writing, under the following circumstances:
 - (1) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed.
 - (2) First-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used and such condition is substantiated by competent medical authority.
 - (3) First-class accommodations are required for security purposes or because exceptional circumstances, as determined by the Director or Deputy Director, make their use essential to the successful performance of an Agency mission.
 - (4) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards.
- d. Contract Air Service - City Pairs. "Contract air service" refers to contracts between the General Services Administration (GSA) and participating airlines. Participating air carriers have agreed to

provide reduced fare (designated as "YCA" or "MCA") passenger transportation service between certain cities ("City-Pairs"). In return, the GSA has mandated that Government travelers use these contract air services whenever possible. There are few exceptions, listed below, to this mandate.

At the time of the contract awards, participating carriers offered the best combination of low, unrestricted fares and frequency of service between listed city-pairs. While fares equal to or lower than contract fares subsequently may be offered by competing, non-contract carriers in some markets, the Government remains obligated to use contract carriers. When airline passenger service is available between a city-pair for which there is a contract, a non-participating carrier's "Super Saver" (promotional or restrictive), "YDG" or "MDG" fare shall not be used as justification to avoid use of the contract carrier. However, when an airline carrier, under contract to GSA, offers a fare lower than its contract fare, the lower fare should be obtained provided the traveler can meet the requirements of the stated fare and the order of carrier selection has been followed.

Contract fares apply only between the cities named and are not applicable to or from intermediate points. When there is not a direct contract fare between the traveler's duty points, contract fares should be used in conjunction with other published fares and, when applicable, in conjunction with other contract fares.

Service shall first be requested from the contract carrier offering the lowest "YCA" fare, then the contract carrier(s) offering the next lowest "YCA" fare(s). In cases where contract carriers also offer a restricted "MCA" fare, every effort should be made to purchase tickets at the "MCA" fare level, provided applicable restrictions can be met.

However, the availability of "MCA" fares shall not alter the order of carrier selection, i.e., carriers shall be selected on the basis of lowest to highest "YCA" fares only.

- (1) The use of contract air carriers between certain city-pairs is mandatory, except that those officials authorized to approve Travel Vouchers are delegated authority to authorize or approve the use of non-contract air carriers when justified under one of the following exceptions, not merely on the basis of convenience of the traveler. The three exceptions are:
 - (a) Space or scheduled flights are not available in time to accomplish the purpose of travel, or the contractor's schedule would require the traveler to incur unnecessary overnight lodging expense;
 - (b) The contractor's schedule for the travel involved is inconsistent with the Government's policy of scheduling travel to the maximum extent practicable during normal working hours;
 - (c) A cost comparison substantiates that:
 - (a) a restricted or unrestricted coach fare available to the general public is lower than the contract fare, all other cost factors being equal; or
 - (b) the use of a non-contract coach fare available to the general public plus the cost of such factors as ground transportation, lost productive time, allowable overtime, and additional overnight lodging expenses, would result in lower costs to the Government than if the same cost factors were added to the contract fare.

Note: In making cost comparisons, status fares ("MDG," "YDG," etc.) which are restricted to Government travelers and not available to the general public will not be used. However, as referenced earlier, promotional/restricted fares available to the general public by non-contract carriers may be used for cost comparison purposes under the following inclusive conditions: the traveler can meet all applicable restrictions at a lower overall cost to the Government to include both transportation and per diem expenses; and the service provided by the non-contract carriers is equal to or better than the contract service with respect to enroute travel times. One also should consider any

penalty fees that may be imposed by carriers when reservations for promotional/restricted fares are canceled or changed, which increase the cost of transportation by as much as 50 percent.

- e. Rail and Bus Transportation. Rail or bus service may be used when determined to be advantageous to the Government; cost, energy, and other factors considered and when compatible with the requirements of the official travel. In cases when the general public fare on conventional rail service is lower than the discount fare, the lower fare shall apply.

The use of discount fares offered to the Government for rail or bus service between specified city pairs is considered to be advantageous and need not be justified on the basis of cost comparison with contract air service when traveling between city pairs.

- f. Automobile. When it is determined that common carrier transportation is not appropriate, feasible or advantageous to the Government, transportation by automobile is proper.
- (1) With certain exceptions noted later, the use of a privately-owned automobile shall be authorized when such use is advantageous to the Government. A determination of advantage to the Government shall be preceded by a determination that common carrier transportation or Government-furnished automobile is not available or would not be advantageous to the Government. To the maximum extent possible, these determinations and the authorization to use a privately-owned conveyance shall be made before the performance of travel.
 - (2) Frequently, mediators performing official travel on mediation and other assignments within their assigned work areas cannot predetermine with accuracy their transportation requirements and schedules. In such instances, the use of a privately-owned automobile is determined to be advantageous to the Government and may be used without regard to the cost that would have been incurred had common carrier been used.

- (3) The reimbursement rate for privately-owned automobiles and motorcycles is set by GSA.
- g. When Common Carrier Transportation Would Be Advantageous. A privately owned automobile should not be used when the transportation schedule can be determined in advance and the use of common carrier transportation would be advantageous to the Government, but the employee prefers the use of a privately-owned automobile for personal convenience, such use may be authorized, but the amount of reimbursement for transportation may not exceed common carrier cost and per diem claims are restricted to the amounts which would have been payable had common carrier been used.
- h. Mileage Measurements.
 - (1) The authorized or approved mileage rate shall be paid from whatever point the employee begins the journey. Substantial deviations (excess due to detours and the like) from distances shown in Standard Highway Mileage Guide (Rand McNally mileage maps and charts) must be justified to the satisfaction of the authorizing/approving officer and the Chief Financial Officer or Director of Field Operations.
 - (2) If, for some reason, it is necessary to claim mileage based on Rand McNally mileage guides and charts, the reason should be stated on the voucher.
 - (3) If the first leg of any day's trip is from home to the employee's office, mileage starts at the office; if the last leg of the trip is from the employee's office to his or her home, mileage stops at the office.
- i. Mileage Allowance for Employees Traveling Together. Mileage shall be payable to only one of two or more employees traveling together on the same trip and in the same vehicle.
- j. Special Conveyance. The hire of automobile, taxicab (other than to and from terminals), aircraft, boat, or

other conveyance shall be allowed when authorized or justified and approved as more advantageous to the Government than common carrier. In the selection of commercially rented vehicles, first consideration shall be given to Government contract rental vehicles available under an appropriate GSA Federal Supply Service Contract.

Charges for the hire of a conveyance of another Government employee, of a member of the traveler's family, or a member of the family of another Government employee, shall not be allowed in the absence of a satisfactory explanation that the conveyance was not procured because of such personal or official relationship, and that the member of the family so furnishing was not dependent upon the traveler for support. The material facts shall be reported on the voucher.

k. Insurance Costs.

Damage Waiver or Insurance Costs. Commercial vehicle rental contracts customarily include full insurance coverage for property damage or injury or death to third parties resulting from the renter's use of the vehicle. Damage to the rented vehicle (collision damage), however, is often covered only by a deductible amount specified in the rental contract, renter being responsible for the cost damage below that amount. In such instances, additional insurance (collision damage waiver or collision damage insurance) to relieve the renter from liability for damage to the vehicle up to a deductible amount is available in the rental contract for an extra fee.

- (1) Agencies may not pay or reimburse an employee for the cost of collision damage or collision damage insurance when official travel in the rental vehicle is performed wholly within the continental United States, Alaska, Hawaii, the Commonwealth of Puerto Rico or the Commonwealth of Northern Mariana Islands, or a United States territory or possession. However, agencies are authorized to pay for damage to the rented vehicle up to the deductible amount contained in the rental contract

if the damage occurs while the vehicle is being used for official business.

- (2) Agencies may pay or reimburse the employee for the cost of collision damage waiver or collision damage insurance when the vehicle is rented or leased for official travel in foreign areas (areas other than those listed in paragraph (k) (l) of this section) and rental or leasing agency requirements, foreign statute, or legal procedures which could cause extreme difficulty to Government employees involved in an accident make such insurance necessary.
- (3) The cost of personal accident insurance is a personal expense and is not reimbursable.
- (4) Accident Insurance is also available to FMCS employees who used a Government VISA card.

1. Local Transportation.

- (1) Reimbursement for the usual taxicab and limousine fares between common carrier or other terminal and either place of abode or place of business will be allowed.
- (2) In addition, reimbursement may be authorized or approved for the usual taxicab fares from the employee's home to the office on the day he or she departs from the office on an official trip requiring at least one night's lodging and from the office to his or her home on the day he or she returns to the office from the trip.
- (3) In those instances where limousine fares, bus, or flat rate taxicab service between airline terminal or hotel and airport is provided at a lesser cost than the usual metered or zone taxicab fare, the amount of reimbursement shall be limited to the lesser cost. All employees are encouraged to use the courtesy (free or low-cost) transportation provided by hotel/motel when available, particularly between place of lodging and common

carrier terminal(s). Excess amounts, if incurred, must be justified.

- (4) Taxi and airport limousine fares in excess of \$75 for one-way trip, must be supported by receipt(s).
- (5) The use of taxicabs or other local common carriers to or between conference sites within permanent or temporary duty stations, and between places of lodging (hotel) and places of business at temporary duty station while in travel status, shall be allowed if authorized or approved by the authorizing official as advantageous to the Government.

m. Other Allowable Costs.

- (1) Reimbursement for the cost of automobile parking fees, ferry fares, and bridge, road and tunnel tolls shall be allowed. The fee for parking at a common carrier terminal while the traveler is away from his or her official station shall be allowed only to the extent that the fee, plus the allowable mileage reimbursement to and from the terminal, does not exceed the estimated cost for use of a taxicab to and from the terminal.
- (2) Reimbursement for the mileage incurred between home, office and common carrier terminal(s) when a privately-owned automobile is used on a voluntary basis to transport fellow travelers in connection with official travel.
- (3) Baggage checking costs - See GSA rule

For airlines that charge additional fees for checked baggage, Federal travelers are authorized reimbursement for all pertinent fees dealing with the first checked bag, which will be treated as a miscellaneous expense. Federal agencies may also reimburse their employees for excess baggage (the second and subsequent checked bags) when the agency determines that this baggage was needed for official reasons.

Travelers should verify their agencies' current policies and procedures regarding excess baggage.

§301-12.2 What baggage expenses may my agency pay?

Your agency may reimburse expenses related to baggage as follows: (a) Transportation charges for authorized excess; (b) Necessary charges for transferring baggage; (c) Necessary charges for storage of baggage when such charges are the result of official business; (d) Charges for checking baggage; and (e) Charges or tips at transportation terminals for handling Government property carried by the traveler.

- (4) Deductions - see GSA rule

§301-11.18 What M&IE rate will I receive if a meal(s) is furnished by the Government or is included in the registration fee?

(a) Except as provided in [§301-11.17](#) or in [paragraph \(b\)](#) of this section, your M&IE allowance must be adjusted for meals furnished to you by the Government (including meals furnished under the authority of [Chapter 304](#) of this Title) by deducting the appropriate amount shown in the chart in this section for travel within CONUS and the chart in [Appendix B](#) of this chapter for meal deductions for CONUS and foreign travel. The total amount of deductions made will not cause you to receive less than the amount allowed for incidental expenses.

Total M&IE	\$46	\$51	\$56	\$61	\$66	\$71
Continental Breakfast/Breakfast	.....7	8	9	10	11	12
Lunch	.....11	12	13	15	16	18
Dinner	.....23	26	29	31	34	36
Incidentals	.....5	5	5	5	5	5

(b) Your agency, at its discretion, may allow you to claim the full M&IE allowance if:

(1) You are unable to consume the furnished meal(s) because of medical requirements or religious beliefs;

(2) In accordance with administrative procedures prescribed by your agency, you requested specific approval to claim the full M&IE allowance prior to your travel;

(3) In accordance with administrative procedures prescribed by your agency, you have made a reasonable effort to make alternative meal arrangements, but were unable to do so; and

(4) You purchase substitute meals in order to satisfy your medical requirements or religious beliefs.

(c) In your agency's discretion and in accordance with administrative procedures prescribed by your agency, you may also claim the full M&IE allowance if you were unable to take part in a Government-furnished meal due to the conduct of official business.

DIRECTIVE 4204. MISCELLANEOUS EXPENSES

1. Introduction. This directive provides information concerning miscellaneous expenses deemed to be allowable for reimbursement when incurred while in official travel status. Miscellaneous expenses may be for services or goods.
2. Authority. Allowable miscellaneous expenses are identified in and subject to reimbursement or payment under the provisions of the Federal Travel Regulations. Reimbursement and payment claim vouchers are processed in accordance with applicable promulgations from the General Accounting Office, Department of the Treasury, and others.
3. Delegations of Authority. The various promulgations allow the head of an agency authority and responsibility within certain parameters. The Director has redelegated his authority as follows:

The Chief Financial Officer is authorized to issue and is responsible for the Service's promulgations and the development and maintenance of the Service's financial systems to ensure compliance with the Federal statutes and regulations.

Officials authorized to approve vouchers are charged with the responsibility of determining the traveler's need to incur the claimed expenses and judging the adequacy of supporting statements provided by the traveler. The approving official may suspend or disapprove any and all items which are not explained or justified to his/her satisfaction. This responsibility is not limited to evidence of actual receipt or use, but also includes determination of actual need. Certifying officers are required to decline certification of those items for which the justification, in their judgment, does not meet the requirements of the General Accounting Office.

Travelers are responsible for ensuring that a need for the claimed expenditure exists before incurring the expense and for providing an adequate and sufficient justification

statement upon which the approving official can base his/her decision to approve or disapprove the claim for reimbursement.

4. General Provisions and Documentation. All miscellaneous expense claims must show the dates of service, quantity, unit price, and any other particulars that may be needed for a clear understanding of the charge. The reimbursement claim will be included on the traveler's online travel voucher. No payment or reimbursement will be allowed under any agreement made by the traveler with an employee of the Government for personal services.

Receipts.

- a. A receipt for each cash expenditure in excess of \$75 is required. Receipts, regardless of the amount, are required for common carrier transportation, hotels, and cell phone charges.
 - b. A receipted bill or other form of receipt will be accepted, provided it shows the period and service rendered or articles purchased, the quantity, unit, and unit price.
 - c. All incidental expenses should be itemized by date on the Travel Voucher.
5. Allowances. Subject to the approval of the approving official and certifying officer, miscellaneous expenses, including but not necessarily limited to the items listed below, may be allowed where the voucher includes a statement of necessity and the fact that such expense was incurred in the performance of official business. Expenses which are essential to the fulfillment of the traveler's assigned task may be considered for reimbursement when fully justified and approved. However, items which provide for the comfort or convenience of the traveler are considered personal and may not be reimbursed regardless of the per diem rate.
- a. Conference Room Rental. Conference room rental will be allowed when necessary to transact official business,

when adequate free space is not available, and when specifically authorized or approved by the authorizing official (see Item 3). Travelers are cautioned to ensure that they have received prior approval for conference room rentals.

b. Telephone.

Local. Local calls will be allowed when used for the conduct of official business. Such expenses should be itemized on the travel voucher with a statement indicating that all calls were necessary in connection with official business. For those that have been issued Government cell phones, this service is most cost effective. Local calls placed from telephones installed in private residences are not reimbursable.

Long Distance. Long distance calls will be allowed in the conduct of official business. When possible, FMCS employees should locate and use Government telecommunications systems, including FTS or use their Government Issued Cell Phones. If Government services are not available, the least expensive practicable type and class of commercial service shall be used. Include on voucher for each call the date, amount paid, and a statement that calls were on official business. Supervisors are responsible for the proper management of telephone usage within their jurisdiction.

Commercial Services. Commercial services include cellular phones, phones on airplanes, pay phones, US Sprint calling card, and the like.

1. Fees or calls made on a cellular phone will be reimbursed and should be itemized on the travel voucher.
2. GSA has contracted for the use of phone calling cards and this card shall be used to the maximum extent possible.

3. An employee may be authorized to use Government telephone systems (including calls over commercial systems which shall be paid by the Government) for:
- Calls to notify family, doctor, etc., when an employee is injured on the job;
 - When delayed due to official business or transportation delay, and calls to notify family of a schedule change;
 - A brief call to his or her residence when traveling for more than one night in the U.S. (but not more than an average of one call per day);
 - When an employee is required to work overtime without notice and calls within local commuting area to advise his or her family of the change in schedule or to make alternate transportation or child care arrangements;
 - An employee makes a brief daily call to locations within the local commuting area to speak to spouse or minor children (or those responsible for them, e.g., school or day care center) to see how they are;
 - An employee makes a brief daily call to locations within the local commuting area that can be reached only during working hours, such as a local government agency or physician; or
 - An employee makes a brief daily call to locations within the local commuting area to arrange for emergency repairs to his or her residence or automobile.

Employees should be particularly sensitive to the use of Government telephone systems under these conditions,

such as listed in b.(3). If possible, such calls should be made during lunch, break, or other off-duty periods.

FMCS encourages all employees to use public telephone services whenever possible because of the significantly lower costs. If the use of public phones is not practicable, an employee may use a cell phone.

c. Travelers Checks, Money Orders, or Certified Checks.

Reimbursement for travelers checks, money orders, or certified checks purchased in connection with official travel are reimbursable. Receipts, regardless of the amount, are required for the cost of these items. The receipts shall indicate the amount of the checks or money orders purchased.

d. Baggage. Travelers are expected to limit the amount of personal baggage to that carried free by transportation companies. Any excess resulting in additional charge, for which claim is made, must be justified to the satisfaction of the authorizing official. Excess caused by transporting Government property may be authorized and approved.

Charges for checking baggage and/or Government property will be allowed. Necessary charges for the transfer of baggage will be allowed.

Charges for baggage storage will be allowed when it is shown that the storage was solely on official business.

e. Use of FAX Machines, Express Mail, and Telegrams.

Travelers should avoid the use of these methods of communication whenever less expensive, more traditional methods of communication (phones, cellular phone, email,) would suffice.

f. Tipping.

For an employee traveling under the actual subsistence expense method, tipping waiters, porters, baggage

handlers, bell captains, hotel cleaners, and dining room stewards is allowable and considered part of the actual subsistence claim, but is limited to a maximum of 15 percent of the applicable charge or the reasonable and customary amount, whichever is less. If business expenses are related to agency mission, then expenses are reimbursed directly on the travel voucher and not included in miscellaneous expenses.

- g. Lodging Taxes. When lodging is authorized and approved you may be reimbursed the lodging taxes for which travelers are unable to obtain exemption.
- h. Reasonable Laundry. Reasonable laundry expenses incurred if a traveler is in an unscheduled (unanticipated) travel status for 4 (four) consecutive days.
- i. Other Expenses. Miscellaneous expenditures not itemized above may be considered for reimbursement if necessarily incurred by the traveler in connection with the transaction of official business and approved by both the approving official and the certifying officer.

Other miscellaneous expense reimbursement claims connected with travel outside the conterminous United States, e.g., costs of conversion of currency, travel document costs, et al., will be considered by the approving official and the Chief Financial Officer.

Non Travel Miscellaneous Expenses

- a. Non Travel expenses include supplies, training and registration fees and shipments by freight or express. To claim these expenses, a Miscellaneous Expense Reimbursement form is completed and receipts are attached and forwarded to the supervisor who will approve and forward to Budget and Finance for payment. Do not submit these charges on the Travel Voucher.

DIRECTIVE 4205. PER DIEM TRAVEL EXPENSE RATES, CALCULATIONS, AND CLAIMS

1. Introduction. This directive provides information and guidance to FMCS employees regarding per diem expense reimbursements for authorized travel. The authorized per diem allowance is intended to reasonably reimburse an employee for allowable expenses incurred while in travel status over and above those that would ordinarily be incurred had the employee remained at his or her official duty station. These include meals, gratuities, and other essential personal or convenience items incident to the traveler's being absent from his or her official station. Work related items such as telephone, telegraph, meeting room rental, etc., are also reimbursable, but are not to be included in subsistence expenses.
2. Authority. The authority for authorizing and approving travel on a per diem reimbursement basis is contained in the Federal Travel Regulations and delegated to the heads of executive agencies. The head of an executive agency is authorized to redelegate this authority. The authority for processing of all vouchers for expenses associated with travel so authorized is found in 31 U.S.C., the General Accounting Office, the Department of Treasury, and the Office of Management and Budget promulgations.
3. Delegations of Authority. The Director has redelegated to the Chief Financial Officer (B&F), the authority and responsibility necessary to develop, maintain, and ensure compliance with Federal and FMCS travel promulgations.

Officials designated authority to authorize or approve official travel are authorized to approve per diem expense entitlement in accordance with the provisions of this directive.

4. General Per Diem Provisions.

- A. Per Diem Travel Situations. There are three travel situations for which per diem expense reimbursements will be the norm. They are: temporary duty travel (TDY) (see Attachment A), permanent change of station (PCS), and non-Continental United States (CONUS) TDY travel. The type of travel situation will normally determine the applicable reimbursement method and rate. The actual subsistence travel expense reimbursement method (see Directive 4508) will be authorized or approved only for exceptional situations.

The General Services Administration established the lodgings-plus per diem as the predominant reimbursement system for travel within the Continental United States (CONUS).

- B. Lodgings-Plus Temporary Duty Per Diem Reimbursement System. Under the lodgings plus per diem reimbursement system, the per diem allowance for each (CONUS) travel day is established on the basis of the actual amount the traveler pays for lodgings plus a prescribed allowance for meals and incidental expenses (M&IE) - the total not to exceed the applicable maximum per diem rate.

Maximum per diem rates for travel within the CONUS are issued to all employees by FMCS Bulletins from the Chief Financial Officer.

Maximum per diem rates include a maximum amount for lodging expenses. The traveler will be reimbursed for actual lodging costs incurred up to the applicable maximum amounts. Receipts for lodgings are required under the lodgings-plus per diem reimbursement system.

The maximum per diem rates include a fixed allowance for meals and incidental expenses (M&IE) related to subsistence. When the M&IE rate, or fraction thereof, is authorized or approved, it is payable to the

traveler without itemization of expenses or receipts. The M&IE rate will be adjusted when making necessary deductions from the per diem for meals furnished an employee without charge or at a nominal cost by the Federal Government.

5. Per Diem and Calculation Guidelines.

Dates of departure from and arrivals at residence, official duty station, common carrier terminals, and TDY locations must be shown on the travel voucher. Dates and points where duty is performed will also be shown.

A. Limitations.

No per diem allowance shall be allowed within a 25 mile radius of **both the official duty station and residence.**

No per diem allowance shall be allowed when the period of official travel is 12 hours or less. (This rule also applies to travel incident to a change of official duty station).

To determine the applicable M&IE rate and calculate the M&IE allowance, when TRAVEL PERIOD IS MORE THAN 12 HOURS, BUT NOT EXCEEDING 24 HOURS:

Step 1: When the travel period (entire trip) is more than 12 hours, but 24 hours or less, and lodging is not required, the traveler is entitled to a flat 3/4 (75%) of the appropriate M&IE allowance.

Step 2: If lodging is required, the rules for travel of more than 24 hours apply. The M&IE rate will normally be the M&IE rate applicable to the location where lodging is obtained. The actual cost of the lodging (limited to the applicable maximum amount for the location) will be added to the M&IE allowance.

B. Travel Period is 24 hours or more.

(1) The applicable maximum per diem rate for each calendar day of travel will be determined by the travel status and location of the traveler at 12:00 midnight and whether lodging is required at such location. When lodging is required, the applicable maximum per diem rate will be the maximum rate prescribed for the temporary duty location or en route stopover where the lodging is obtained while en route to, from, or between temporary duty locations. Only one maximum rate will be applicable to a calendar day or partial day.

(a) Calculating Per Diem Allowance on the Day of Departure. On the day of departure the traveler is entitled to a flat 3/4 (75%) of the applicable M&IE rate.

(b) Full Calendar Days of Travel.

(i) Lodging required. For each full calendar day that the employee is in travel status and lodging is required (whether en route or at a temporary duty station), the actual cost of lodging incurred by the traveler is limited to the maximum applicable lodging allowance, plus the applicable M&IE rate.

(ii) Lodging Not Required. For each full calendar day of travel when lodging is not required (such as when the employee is en route overnight to the next temporary duty location) the maximum per diem rate will be the destination M&IE rate.

(c) Calculating Per Diem Allowance for Returning from Travel.

For the day travel ends (when the employee returns to the official station, home or other authorized point), the per diem allowance is a flat 3/4 (75%) of the applicable M&IE rate.

(d) Lodging Obtained After Midnight. Although per diem generally is based on the employee's location at midnight, there will be instances in which he/she is en route and does not arrive at the lodging location until after midnight. In such cases, the lodging will be claimed for the preceding calendar day and the applicable maximum per diem will be determined as if the employee had been at the lodging location at 12:00 midnight of that day.

(e) Lodging Location Rules.

(i) Lodging at Temporary Duty Location. It is presumed that the employee will obtain lodging at the temporary duty location. However, if the employee obtains lodging away from or outside the temporary duty location because of personal preference or convenience, the allowable per diem will be limited to the maximum per diem rate prescribed for the temporary duty location.

(ii) Lodging Not Available at Temporary Duty Location. In certain circumstances, lodging accommodations may not be available at the temporary duty location and the employee must obtain lodging in an adjacent locality where the prescribed maximum per diem rate is

higher than the maximum per diem rate for the location of the temporary duty point. In such instances, if the lodging costs are excessive, the approving officer may make an administrative determination on an individual case basis to either authorize or approve the higher maximum per diem rate or reimburse the employee on an actual expense basis. If the higher maximum rate is not justified and authorized in advance, the employee must furnish a statement with the travel voucher satisfactorily explaining the circumstances that caused him/her to obtain lodging in an area other than at the temporary duty point designated in the travel authorization.

- (f) When extended travel is by automobile, per diem may not exceed that which would have been incurred had the traveler covered a minimum of 300 miles each day between duty stations. Time taken between duty stations in excess of this limitation shall be considered as an interruption of travel for personal convenience and leave shall be charged accordingly.
- (g) See paragraph 6 of this directive for information about allowable expenses other than those for subsistence which may be claimed on Travel Vouchers.
- (h) An authorizing or approving official may prescribe an appropriately lower per diem allowance in accordance with the current per diem schedule when it is determined that one or more of the following situations exist:

- Known arrangement at temporary duty locations where lodging and meals may be obtained without cost or at prices advantageous to the traveler. For instance, travelers on overnight TDY in Washington, D.C. should stay at one of the hotels with which the Service has contracted for lower rates and direct billing of room charges to the Service.
- Establishment cost experience in the localities where lodging and meals are required, the extent to which the traveler is familiar with the establishment providing lodging and meals at a lower cost in certain localities, particularly when repeated travel is involved.
- Situations where special rates for accommodations have been available for a particular meeting or conference.
- Extended stays where the traveler is able to procure less expensive lodging and/or meals.

Documentation of such exceptions must be provided to Budget and Finance prior to, or concurrently with, applicable Travel Voucher submission.

- (i) Leave While in Travel Status. Leave taken while in travel status should be shown on the travel voucher. The type of leave and the exact hour of departure from and return to duty status should be shown. All periods of leave should agree exactly with the record of time and attendance for the pay period in which this leave occurred.

Annual Leave. No per diem will be approved for any day when the traveler is on annual leave for more than four hours. Specific questions should be referred to the supervisor.

Sick Leave. A traveler who becomes ill or is injured (not due to misconduct) may be allowed per diem for periods of sick leave while in travel status. The total claim may not exceed 14 calendar days (including fractional days) in any one period of absence unless justified and approved. Transportation expense and per diem en route to his/her official station may also be approved.

6. Allowable Expense Other Than Those for Subsistence which may be Claimed on Travel Vouchers.
 - a. Within 25 miles of the traveler's office or the traveler's home.
 - (1) Mileage to and from a temporary duty station. However, if in the approving official's (normally the traveler's immediate supervisor) opinion, any part of mileage claims represent a claim for reimbursement of commuting expenses, the approving official will appropriately reduce the claim to exclude that part deemed to represent commuting expenses.
 - (2) Taxi fares plus tips (not to exceed 15 percent) and/or limousines to and from meetings, terminals, and airports.
 - (3) Local bus, subway, ferry fares and road, bridge, and tunnel tolls incurred while traveling to, from, and/or at a temporary duty station.
 - (4) Parking fee(s) at the office on days business trips begin and/or terminate at the office.

- (5) Mileage to office from residence and/or mileage from office to residence on workdays (Monday through Friday) if, and only if called back to the office after normal working hours.
 - (6) Charges for telephone calls made for the conduct of official business.
- b. Proper charges for handling Government property will be allowed when itemized on the travel vouchers and justified to the satisfaction of the authorizing official (see Directive 4506).
- c. Conference room rental will be allowed when necessary to transact official business, when adequate free space is not available, and when specifically authorized or approved by the authorizing official.
 - (1) When the purpose of renting a hotel room is for conducting meetings, the cost of the room is charged to conference room cost and is not charged as a place of lodging even if a traveler utilizes the sleeping facilities.
 - (2) Conference room rental must be authorized in advance by an authorized approving official.

DIRECTIVE 4206. REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

1. Introduction. This directive provides information and guidance to FMCS employees relative to authorized travel under an actual expense and mixed travel (actual expense and per diem) reimbursement basis.
2. Authority. The authority for authorizing and approving travel on an actual expense reimbursement basis is contained in the Federal Travel Regulations and delegated to the heads of executive agencies. The head of an executive agency is authorized to redelegate this authority. The authority for processing of all vouchers for expenses associated with travel so authorized is found in 31 U.S.C. 1353, the General Accounting Office, Department of Treasury, and Office of Management and Budget promulgations.
3. Delegations of Authority. The Director has redelegated to the Chief Financial Officer (B&F) the authority and responsibility necessary to develop, maintain, and ensure compliance with Federal and FMCS travel promulgations.

The Director, the Deputy Directors, Director of Field Operations, the Directors of Mediation Services, and National Office managers are designated authority to authorize and approve actual expense reimbursement.

Officials designated authority to authorize or approve official travel may authorize and approve actual subsistence expense reimbursement in accordance with the provisions of this directive. However, authorization or approval for reimbursement of actual subsistence expense of official travel may only be given if the traveler is otherwise entitled to per diem and if such expenses are unusually high due to special or unusual circumstances or for occasional meals and/or lodging. In all cases, the employee includes an explanation of actual expense on the travel voucher. The approval must be signed by the Supervisor.

4. Actual Subsistence Expenses.

- a. General Provisions. Unless specifically allowable travel conditions and/or specific authorizations/approvals exist, a traveler will normally be reimbursed under the per diem reimbursement system provisions.

When a designated approving official authorizes an actual subsistence expense allowance, the decision must be addressed to each situation on a case-by-case basis, should be in advance, and be communicated to the traveler. If no other documentation exists, a specific authorizing/approval statement signed by the approving official is required to be on the Travel Voucher.

- (1) Allowable Expenses. Actual subsistence expense reimbursement will be allowed for the same type of expenses normally covered by the per diem allowance. These include lodging, meals and other essential personal or convenience items incident to the traveler's being absent from his or her official duty station. Work related items, such as telephone, telegraph, meeting room rental, etc., are also reimbursable, but are not to be included in actual subsistence expenses.
- (2) Receipts for Lodging. When reimbursement is claimed on an actual subsistence expense basis, receipts are required for lodging and are also required for other items of expense when the cost is over \$75. Receipts must be kept for six years and may be requested for audit. All expenses must be itemized by date.
- (3) Maximum Daily Rates and Reimbursement Limitations. The maximum amount of reimbursement for actual subsistence expenses that may be authorized or approved for each calendar day or fraction thereof

is as provided below. Maximum daily rates need not be prorated for fractions of a day.

- (a) Maximum Daily Rates. The maximum daily rate for subsistence expenses cannot exceed 150 percent of the applicable maximum per diem rate (rounded to the next highest dollar) for the travel assignment location. If the travel voucher exceeds this maximum daily rate, it is approved by the Directors of Mediation Services or National Office managers. If the maximum daily rate has exceeded the 150 percent and up to 300 percent, then the Chief Financial Officer or the Director must approve this cost.
- (b) Reimbursement Limitation. When the actual subsistence expenses incurred during any one day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the approving official. Reimbursement for meals and incidental expenses shall not, under any circumstances, exceed 150 percent of the meals and incidental expenses (M&IE) rate applicable to the temporary duty location.

When actual subsistence expense reimbursement is authorized or approved and lodging is furnished to the employee at no cost through use of an agency purchase order, the approving official will not authorize or approve reimbursement for other subsistence expenses that will, when combined with cost of lodging furnished, exceed the maximum daily rate.

b. Conditions Warranting Authorization or Approval of Actual Expenses. Authority for reimbursement of actual subsistence expenses incurred during official travel is normally contingent upon the entitlement to per diem and may be allowable in instances in which the sum and necessary subsistence expenses exceed the maximum per diem allowable by more than ten percent. Requests for actual expense reimbursement should normally receive favorable consideration in instances in which the traveler has no reasonable alternative but to incur hotel costs which absorb all or nearly all of the maximum per diem allowance. However, actual subsistence expense reimbursement will not be authorized or approved merely on the basis of high lodging and/or meal costs or based on personal preference--there must exist one or more unusual circumstances of the travel assignment before maximum per diem allowances in excess of the current rates may be authorized or approved.

- (1) Travel Assignments Involving Special or Unusual Circumstances. Travel on an actual subsistence expense basis may be authorized or approved for CONUS travel assignments when the applicable maximum per diem rate is inadequate due to special or usual circumstances. The maximum per diem rate, may be insufficient for a particular travel assignment because (the actual and necessary subsistence) expenses are unusually high due to special duties or because subsistence costs have escalated temporarily during special events. Actual subsistence expense reimbursement will not be authorized or approved when the actual and necessary subsistence expenses exceed or are expected to exceed the applicable maximum per diem allowance by only a small amount. (Since lodging costs constitute a major portion of the subsistence expenses, travel on an actual expense basis may be authorized or approved for travel when, due to special or usual circumstances, the lodging costs absorb all or nearly all of the applicable maximum per diem allowances.) Examples

of travel assignments or situations that may warrant authorization and approval of actual and include but are not limited to the following:

- (a) The employee attends a meeting, conference, or training session away from the official duty station where lodging and meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs incurred, because of these prearranged accommodations, absorb all or practically all of the applicable maximum per diem allowance;
- (b) The travel is to an area where the applicable maximum per diem allowance is generally adequate, but subsistence costs have escalated for short periods of time during special functions or events such as missile launching periods, international or national sports events, world's fairs, conventions or natural disasters;
- (c) Based on a situation described in (b) above, affordable lodging accommodations are not available or cannot be obtained within a reasonable commuting distance of the employee's temporary duty point and transportation costs to commute to and from the less expensive lodging facility consume most or all of the savings achieved from occupying less expensive lodging;
- (d) The employee, because of special duties of the assignment, necessarily incurs unusually high expenses in the conduct of official business, such as to procure superior or extraordinary accommodations including a suite or other quarters for which the charge

is well above that which he/she would normally have to pay for accommodation; or

- (e) The employee necessarily incurs unusually high expenses incident to his/her assignment to accompany another employee in a situation as described in (d) above.

- (2) Situations Requiring Reimbursement for Occasional Meals and/or Lodging. Although lodging and/or meals are furnished without cost (or at a nominal cost) for a particular assignment, the employee may necessarily incur expenses for occasional lodgings and/or meals. Reimbursement of appropriate expenses incurred for occasional meals or lodging that are determined to be necessary and justified by the circumstances involved may be approved. The actual expense allowable for lodging or each meal may not exceed the lodging or individual meal allowance set out in the specific locality CONUS per diem schedule or 150 percent of those amounts if special or unusual circumstances are involved.

DIRECTIVE 4208. USE OF TRAVEL AGENTS

1. Introduction. This directive provides the Service's policies and procedures to be followed with respect to the use of commercial travel for securing passenger transportation and other accommodations when traveling on official business.
2. Authority. Section 301-15.3 of the Federal Travel Regulations provides for use of travel agents by federal agencies.
3. Delegations of Authority. The Director has delegated the responsibility and authority for the Service's policies and procedures with respect to the use of commercial travel agents to the Chief Financial Officer (B&F).
4. General Provisions and Procedures. The use of travel agents is intended to save travelers' time and effort in arranging transportation and other accommodations and to reduce travel cost, as the program is designed to take advantage of available discount rates and low-cost accommodations.

Common carrier transportation tickets will be charged to the individual government-sponsored charge card account. However, if the traveler does not have a government-sponsored card, they should call the Budget and Finance staff to use the agency direct billing account. Purchase of common transportation costing in excess of \$100 by other than Government Charge Card requires approval from the Chief Financial Officer.

All Federal and FMCS travel rules and regulations continue in effect. For example, mandatory use of contract city-pair airlines remains in effect. Travelers are still required to use contract city-pair airlines when available, even when using travel agent, unless one of the justifications for not doing so applies. Call the Chief Financial Officer for examples of justifications.

a. FMCS Employees.

(1) Overview.

The General Services Administration (GSA) contracts with a private travel agency to provide official Government travel services to FMCS employees whose official duty station is Washington, D.C.

This travel agency offers a wide range of official Government and personal travel-related services to FMCS travelers. Under the terms of the contract, employees **MUST** use this travel agency to procure Government common carrier transportation or book directly with the carrier or on-line.

Normally, to arrange travel through this travel agency, the traveler, or his/her designee, will telephone to exchange the necessary travel arrangement information. The travel agency will then fax/email the itinerary to the traveler and an electronic ticket will be issued for pickup at the airline check-in counter. When a traveler requests a paper ticket, the travel agent will deliver the ticket and itinerary to the employee.

Other contractual considerations, including billing and other procedures are contained in the Memorandum of Understanding, a rider to the GSA contract with the private travel agency.

(2) Detailed Information and Procedures.

- (a) FMCS employees who have been issued a charge card are expected to use the card to procure travel services. Other authorized travelers who have not been issued a charge card will normally use the agency direct billing account.
- (b) The travel agency will issue credits for partially used and unused tickets. Lost tickets require completion of a Lost Ticket

Application (available from the travel agency) which must be presented to the travel agency.

(c) No tickets for official travel will be issued without proper authorization.

(d) Ticket Issuance Procedures.

(i) Reservations. An FMCS employee or their designee will contact the designated travel agency by telephone to make official travel arrangements.

(ii) Use of Contract Carriers. FMCS travelers must reserve transportation on the lowest priced contract carrier unless a higher priced contract carrier or non-contract carrier is authorized. The travel agency will advise the traveler if justifications for use of a higher priced contract carrier or non-contract carrier are necessary. If questions regarding proper justifications cannot be answered by the travel agency, the traveler must refer to the FMCS Directives or to the Office of Budget and Finance.

(iii) Personal Travel. If personal travel is combined with official travel, the designated travel agency will provide the traveler with fare charges for direct official travel and for fare charges that combine personal travel. The traveler is responsible for payment charges resulting from the personal and business travel, and will be reimbursed by FMCS for official travel only.

(iii) Ticket Issuance. Normally, tickets shall not be issued more than three working days prior to the start of the travel unless a discount fare (e.g., super saver) requires advance payment. If the traveler indicates that a ticket is needed sooner because of leave or travel status, the travel agency may issue the tickets sooner.

(iiii) Foreign Travel. The following guidelines apply to foreign travel:

- (1) All foreign travel must comply with the Fly America Act;
- (2) Rest stops must be authorized in advance and documented on the FMCS Form AB-5, "Travel Authorizations."

(e) Hours of Services.

- (i) The travel agency's hours of service are from 8:30 a.m. to 5:00 p.m. weekdays other than Federal holidays.

(f) Ticket Refunds.

- (i) The travel agency will process refund requests from employees who have been issued transportation tickets against their Government-sponsored credit card. Credits for unused tickets will be applied directly to the card holder's account.

- (ii) Unused tickets issued against the FMCS direct billing account will be returned by the traveler to Budget and Finance. The Senior Travel Voucher Examiner will be responsible for ensuring credit and refunds.

DIRECTIVE 4209. FOREIGN TRAVEL.

When FMCS employees are assigned official government business to foreign countries they must receive specific authorization from the Director, a Deputy Director, Chief Financial Officer, or their supervisor. Instructions from the B&F staff may be necessary. Sufficient time must be provided for this authorization/instruction process.

DIRECTIVE 4210. TRAVEL VOUCHERS

1. Introduction. This directive provides guidance for the preparation, review, approval, and submission of on-line Travel Vouchers for audit and payment. If the on-line system is unavailable, a manual travel voucher (SF-1012) may be submitted to Budget and Finance.
2. Authority. Regulatory authority governing claims for reimbursement of official travel expenses, their approval, and other processing is contained in the Federal Travel Regulations (FTRs) and promulgations of the General Accounting Office and the Department of Treasury.
3. Delegations of authority. The Director has redelegated his responsibilities and authorities to the Chief Financial Officer (B&F) with the following exception:

The Director's travel authorizations and claims will be deemed to have been approved by his/her certification.

4. General provisions. Entire claims for reimbursement will be forfeited if the claimant attempts to defraud the Government. In addition, there are criminal provisions under which severe penalties may be imposed on a traveler who knowingly presents a false, fictitious or fraudulent claim. Traveler's claims for reimbursement will fully and accurately reflect the facts involved in every instance so that any violation or apparent violation may be avoided.

All persons authorized to travel should keep a record of expenditures properly chargeable to the Government, noting each item at the time the expense is incurred and the date. This information will then be available for the preparation of travel claims.

5. Need for receipts. All claims for reimbursement of travel expenses will be submitted via the on-line Travel System and must be itemized and stated in accordance with applicable regulations. The Travel Voucher must be supported by a copy of the Travel Authorization, normally available in the

Office of Budget and Finance. Receipts are required for allowable cash expenditures in amounts in excess of \$75.

6. Preparation, Review and Audit.

- a. Method of Preparation by Traveler. Vouchers are prepared and submitted through the on-line Travel Voucher System.

For mediators and field managers, a voucher will be prepared at the end of each month to include all official travel performed and expenses incurred during that month. Expenses should not be carried over from one month to the next. If no expenses were incurred, the traveler must so notify B&F by email. When an individual trip extends only a few days into the next month, the total trip may be included in the preceding month's voucher.

By the fourth work day of the month following the month in which travel was performed, each field office traveler must submit and their approving official must have received the traveler's voucher on-line. The approving official must then approve and certify the voucher on-line, and transmit the voucher to Budget and Finance within five working days of receipt. B&F will schedule the voucher for payment no later than the twentieth of the month in which the voucher was submitted.

For travel under individual trip authorizations, employees should submit vouchers at the end of each month for all trips completed during the month or earlier if no further trips during the month are anticipated.

- b. Certification by Traveler.

The signature of the traveler on the original Travel Voucher certifies to the accuracy of all items included thereon and to their official character. The validity

of a signed voucher, or any part thereof, is the responsibility of the traveler.

A penalty is provided by law for the presentation of a fraudulent claim. Moreover, the falsification of any single item may warrant the disallowance of the entire voucher and additional disciplinary action by the Service. Accordingly, extreme care should be exercised in the preparation and review, prior to signature, to insure that the voucher is correct in its entirety and does not include items of personal expense.

- (1) General. Travelers should complete and sign the travel voucher through the on-line system and submit it to their approving official. Travelers should print a copy and attach receipts. (Note: These documents should be kept for a period of 6.5 years). The approving official will review and sign the travel voucher on-line and submit it to B&F for audit and payment. B&F will audit the Travel Voucher in preparation for payment. Travel Vouchers are processed for payment on a first come, first serve basis. The payment information, i.e., payee, bank account information, amount, etc., for the issuance of electronic funds transfer is electronically transmitted to the Department of Treasury's Finance Center. Employees will be notified of the payment date and amount by email. If the amount requested by the traveler is different from the amount deposited, B&F staff will inform the traveler of that difference and the reason for the change through the "Accounting Notes" section of the on-line travel voucher. In the event of the submission of a manual travel voucher, travelers should send the original Travel Voucher with traveler and supervisor signature to B&F for audit and payment.

- (a) Director of Field Operations and Directors of Mediation Services. These officials will follow the same procedure for voucher preparation as mediators.
- (2) Direct Billing Information. Expenses incurred by travelers which will be billed directly to the Service (e.g., hotel) must be fully disclosed on the Travel Voucher. At minimum, disclosure must include name of the billing entity, date(s), and other relevant information.
- (3) Detailed Instructions for Preparation of Travel Voucher through the online system). An example of a completed Travel Voucher is provided upon request. The instructions which follow are keyed to the numbered blocks on the form. The form must be completed as follows.

c. On-line Travel Voucher

(Note: After 1st travel voucher is submitted, the fields will contain original information for next voucher. Please verify that all information is correct, especially travel dates.)

- (1) Staff Tab:
 - User ID: System automatically generates
 - Department,
Bureau, Ofc: Enter Region or National Office
 - Name: All employees will enter "their last name, first name, middle initial. Traveler's name must agree with official records.
 - Mailing
Address: Enter address.

Office
Phone No: Office phone number of traveler.

SSN: Enter Social Security Number

Present Duty
Station: Present duty station of traveler;
city and state.

Residence: Enter City and State.

(2) General Tab:

Period of
Travel: Period of travel covered on this
Travel Voucher.

Travel
Authorization
Number: Travel Authorization Number under
which travel was performed.

Travel
Authorization
From/To: Dates of Travel Authorization under
which travel was performed.

Travel Adv: Enter travel advance amount
received

Special Info: Enter any information that Budget
and Finance will need to audit the
travel voucher. e.g.:
Reconstruction, Conference,
Project, etc.

Transportation Tab:

Payment Form: Enter type of payment for airline ticket.

Valuation: Enter price of ticket.

Issuing
Carrier: Enter Airline.

Mode/Class: Enter Coach, Economy, Business, First Class.

Date Issued: Enter date ticket was issued.

Travel From: Enter departure city, state.

Travel To: Enter arrival city, state.

Expense Tab:

Enter data: Enter detail expense information, Date,
Case#, Description, Block 11 Code, State of
Per Diem, City of Per Diem, Mileage,
Subsistence, Other. (Please review travel
training materials to complete this section.)

Final Submission Tab:

Signature: Enter name certifying all information is
correct.

Submit: Submit voucher to Director of Mediation
Services or National Office manager.

Supervisor Approval:

Approved by: Supervisor reviews voucher, enters name to
certify and submits voucher to Budget and
Finance.

Block 11. Mediators and others when applicable, in
completing their Travel Vouchers, will distribute
the total of their claim among the following
eleven (11) categories:

1. Collective Bargaining Mediation (CBM)
2. Grievance Mediation (GM)
3. Relationship Development & Training (RDT)
4. Outreach (O)

5. National Office Directed (NOD)
6. New Mediator (NM)
7. Reimbursable Travel (RT)
8. Other Than Travel (OTT)
9. Seminars, Workshops, Conferences, and Training for National Office sponsored events (SWCT-N)
10. Seminars, Workshops, Conferences, and Training for Field Office sponsored events (SWCT-F)
11. Director of Field Operation/Director of Mediation Services Travel (RD/DMS)

A description of these categories and any changes is available in FMCS bulletins.

Reclaimed amounts should be included in Block 11 calculations by category.

When a single trip is performed for a mix of activities, the allocation of costs should be based on a reasonable estimate.

Explanations and justifications requiring specific disclosure and approval, i.e., statement of use of privately owned automobile, use of non-contract air carriers, actual expenses approval and dates, etc., can be noted in the Special Information section of the on-line voucher.

7. Non-Reimbursable Expenses. Those expenses for meals, lodging, etc., which are not reimbursed by the agency because they are beyond allowable reimbursement, may possibly be claimed on the traveler's Federal Income Tax Form. Employees must check with the Internal Revenue Service or their personal tax preparer for more information concerning these claims.

DIRECTIVE 4211. TRAVEL ADVANCES.

1. Introduction. This directive presents the Service's policies, procedures and documentation requirements and delegates responsibilities and authority relative to travel advances.
2. Authority. GSA is authorized by law to establish and administer Federal Travel Regulations (FTRs). The FTRs allow, under certain conditions, an agency to advance money in limited amounts to Federal employees while performing official travel.

The Department of the Treasury cash management and reporting regulations, as well as Internal Revenue Service regulations, are applicable.

The Service's general travel advance policy is that an employee who must frequently travel in the performance of official duty should receive a government-sponsored charge card. FMCS employees to whom the charge cards are issued will use them during official travel to procure common carrier passenger transportation services, to pay for use of commercial facilities for subsistence (lodging, meals, etc.) and miscellaneous travel and transportation expenses to the maximum extent possible. Use of the card's privileges must be limited to reimbursable expenses incurred in conjunction with official travel only. This card will also give the traveler access to the Automatic Teller Machines (ATMs) for cash advances. The Agency will continue to issue cash advances for employees, on a trip by trip basis to those who do not have government charge cards and for foreign travel.

3. General provisions.
 - a. Travel advances may be made for single-trip travel, for continuing travel of new mediators, and for certain costs associated with permanent change of station.
 - (1) Single Trip Advances. Advances will be limited to the reimbursable, out-of-pocket costs expected to

be incurred by the traveler. This type of travel advance should be liquidated promptly upon completion of the travel and submission of reimbursement vouchers. If the reimbursement claim is larger in amount than the advance, the advance will be applied against the claim, with only the net difference paid to the traveler. If the reimbursement claim is not sufficient to liquidate the advance, the traveler must pay the difference by personal check made payable to FMCS, upon submission of the Travel Voucher.

- (2) Travel advances for field mediators must be approved by Director of Field Operations or a Director of Mediation Services. They may also be singularly approved by the Chief Financial Officer.
- (3) Relocation Advances.
 - (a) Advances are allowed for the following purposes when a permanent change of station is authorized:
 - (1) Per diem and mileage allowances for the actual transfer and for travel to seek residence quarters.
 - (2) Subsistence while occupying temporary quarters.
 - (3) Transportation of mobile home.
 - (4) Transportation and temporary storage of household goods.
 - (b) No advances are permitted for the following purposes:
 - (1) Allowance for miscellaneous expenses.

- (2) Expenses incurred in connection with residence transactions or settlement of an unexpired lease.

- 4. Delegations of Authority. The Chief Financial Officer is delegated the authority and responsibility for the Service's travel advance policy.

The Chief Financial Officer is responsible for providing the Director and Deputy Directors with regulatory interpretation and counsel with respect to the Service's policy statements.

B&F will maintain complete records of travel advance transactions and balances. B&F will verify its balances with those entered by the traveler in Applied Travel Advance block of each Travel Voucher (SF-1012) submitted and annotate the correct balance.

The official authorizing the travel and the Chief Financial Officer are responsible for ensuring that advances for travel are kept to an appropriate level, considering the travel involved, and that advances for all other purposes are liquidated promptly upon completion of the individual trip or completion of transactions related to permanent change of station.

The Supervisor of Budget and Finance is responsible for final approval of requests and for issuing travel advances, applying them to claims, and collection of excessive advance balances.

- 5. Documentation and Approval.
 - a. Standard Form 1038, Advance of Funds Application and Account, must be completed by the employee and submitted through his/her supervisor for approval. The SF 1038 should be sent then to B&F. The Supervisor of B&F or his/her designee will signify approval by signing the SF-1038 prior to payment. If a request received by B&F is verbal, the Office of B&F may complete the Standard Form 1038 and the Supervisor of

B&F can then sign for approval. When permanent change of station is involved, the estimated costs authorized on FMCS Form AB-6 for each of the four authorized purposes shown in item (3)(a) above will be the maximum advance that may be approved. (This advance must be repaid in full when claims for reimbursement have been submitted.)

An electronic funds transfer in the amount approved for the travel advance will be made directly into the traveler's designated account.

DIRECTIVE 4212. TRAVEL EXPENSE CHARGE CARDS (TECCs)

1. Introduction. This directive provides the Service's policies, regulations, and procedures to be followed with respect to the issuance and use of travel expense charge cards. As used in this directive, the term "travel expense charge card" or "TECC," refers to a General Services Administration (GSA) contractor-issued charge card. TECCs are issued under GSA's travel and transportation expense payment system for traveler's procurement of transportation services, payment to commercial facilities for subsistence (lodging, meals, etc.), and miscellaneous travel and transportation expenses during official travel. The TECCs are issued in the name of the traveler and establish an agreement between the traveler and the charge card company.
2. Authority. The Government's regulations governing travel and transportation, including its travel and transportation expense payment system using contractor-issued charge cards and Government Travel System (GTS) accounts, are prescribed by the Administrator of GSA in the Code of Federal Regulations and the Federal Travel Regulations.
3. Delegations of Authority. The Director of FMCS has been delegated certain authority and responsibility under GSA regulations. The Director has delegated his authority and responsibility for the Service's TECC program's policies, regulations, and procedures to the Chief Financial Officer.
4. Definitions, Background, Additional Information, and Procedures.
 - a. Definitions.
 - (1) "Charge card" or "TECC" means an individual charge card issued to and used by travelers to pay for passenger transportation services, commercial facilities for subsistence expenses, and to pay other allowable travel and transportation expenses incurred in connection with official travel.

- (2) "TMC" means a Travel Management Center. It is used synonymously with (GSA-contracted/approved) travel agencies. TMCs are commercial travel firms under contract to GSA that provide reservations, ticketing, and related travel management services for official travelers.
 - (3) "Government Travel System (GTS)" is used instead of individual TECCs. TECCs are to be used by frequent travelers. GTS accounts are to be only for the purchase of airline passenger tickets for infrequent travelers, new travelers, contractors, etc., through the B&F office. No card is issued under a GTS account. Only an account number is issued.
- b. Background. The GSA enters into a contract with a charge card company to issue individual traveler charge cards and to maintain the traveler's associated accounts and to establish agency GTS accounts.
- c. Additional Information.
- (1) The FMCS TECC Program. Normally all TECC issues, cancellations, and other related transactions will be approved and processed by the office of B&F. For accounts that are delinquent past 60 days, in consultation with B&F, the charge card company may suspend TECC privileges until payment is made or suspend indefinitely.
 - (2) Mandatory and Allowable TECC Uses. TECCs must be used to purchase common carrier tickets. In addition, travel related expenses for hotel/motel rooms, rental cars, and meals should be charged on TECCs. The employee must use the charge card to pay for official travel expenses to the maximum extent possible. TECCs can be used for change of duty station/relocation expenses such as house hunting trips, temporary quarters, employee and dependent travel, and many miscellaneous expenses.

However, the card cannot be used for moving household goods.

Charge cards issued under this program may be used **ONLY FOR REIMBURSABLE EXPENSES INCURRED IN CONJUNCTION WITH OFFICIAL TRAVEL.**

B&F will monitor all individual TECC activity by comparing travel and transportation expense claims with detailed reports received directly from the charge card company. Use of TECCs for personal expenses may result in the cancellation of the individual's TECC.

Use of the TECC does not relieve the employee of prudent travel practices and full observance of other travel requirements, such as approvals and authorizations of official travel and the use of city-pair airlines, etc.

(3) How to Obtain a TECC.

- (a) The Human Resource Department is responsible for sending a charge card application to new FMCS employees.
- (b) Upon receipt, employees must read the Privacy Act Notice carefully and complete the application form in accordance with the directions provided.
- (c) The employee retains a copy of the application form for his/her records and forwards the remaining copies to Human Resources. Copies needed by B&F will be forwarded by Human Resources.
- (d) B&F will complete the application, including the authorization allowing the card to be issued and forward it to the charge card company.

- (e) The company will mail the charge card to the employee at the address given by the employee. A brochure describing the various card features and uses and an agreement will be sent with the card or will be included with the first billing statement. The card will be automatically reissued on a yearly basis by the charge card company. This card can also be used for cash advances at automatic teller machines (ATMs for expenses not charged directly to cards and will be reimbursed on travel vouchers). Limits are determined by Budget and Finance's Senior Travel Voucher Examiner.
- (4) Security of the TECC and Other Employee Responsibilities.
 - (a) The employee is responsible for exercising the same care and responsibility for the security of the card and number as he/she would with a personal charge card.
 - (b) Employees should exercise caution and care in giving the card number to another employee to make travel arrangements on their behalf and when giving "signature on file" authorizations.
 - (c) Employees are accountable for their own TECCs. Managers, supervisors, and administrative employees are not responsible for storing or safeguarding employees' TECCs.
 - (d) When an employee leaves, retires, or transfers to another Government agency, the TECC must be cut in half and returned to B&F for cancellation.

- (e) Employees are personally responsible for prompt notification to the charge card company of any changes in their home address.

(5) TECC Billings.

Employees are responsible for making payments directly to the charge card company for all valid charges. If employees are conscientious about submitting their travel vouchers promptly, reimbursement will normally be received before payment is due.

Charges billed to the individual employee are due and payable IN FULL upon receipt of the billing statement. Questions concerning payments, disputed charges, or other billing problems are the traveler's responsibility and may be reported directly to the charge card company.

Note: Be sure to include your name and account number; reference number of the disputed charge (listed on the statement); establishment where charge was incurred; amount of charge; and statement date.

Government employees are required to pay their just financial obligations in a proper and timely manner pursuant to Section 206 of Executive Order 11222 (May 8, 1965) and Office of Personnel Management regulations.

At the request of the charge card company, the Service, without Government liability, may assist in collecting delinquent employee accounts. The Government assumes no liability for charges incurred on employee TECCs, and the Government is not liable for lost or stolen TECCs.

(6) Lost or Stolen TECCs.

If the card is lost or stolen and the loss is reported promptly to the contractor under the terms of the card member agreement, the employee will not be responsible for any charges incurred.

When an employee's TECC is lost or stolen and the charge card company is promptly notified, the employee may be required to review any charges considered fraudulent and sign an affidavit of forgery stating he/she did not make the charges. All charges will be the employee's responsibility should he/she refuses to sign such an affidavit.

A replacement TECC will be mailed to the employee within 24 hours if the card has been lost or stolen in the U.S. or Canada.

DIRECTIVE 5201. INTERNAL MERIT STAFFING PROGRAM (IMSP)

1. Purpose. The purpose of this directive is to issue policy, regulations, and guidelines for the operation of the Service's merit promotion plan.
2. Scope. The directive applies to all employees in the Federal Mediation and Conciliation Service except those occupying positions not subject to coverage as described in paragraph 8.
3. Policy. The IMSP is designed to:
 - a. ensure that position vacancies are filled by the best qualified candidates according to merit,
 - b. allow employees an opportunity to develop and advance to their full potential, and
 - c. serve as one method available to management by which positions in the Service can be filled. Selections are made without regard to political, religious, or labor organization affiliation or nonaffiliation, marital status, race, color, sex, national origin, nondisqualifying physical or mental handicap, or age and are not to be based on any criteria that are not job related, including favoritism based on personal relationship or patronage.

Employment consideration is also given to candidates outside the Service who are:

- (1) eligible for Office of Personnel Management (OPM) displaced employee benefits,
- (2) eligible under Interagency Career Transition Placement Program (ICTAP),
- (3) on reemployment priority lists,

- (4) on appropriate OPM registers,
 - (5) reinstatement eligibles,
 - (6) transfer eligibles from other Federal agencies and
 - (7) eligible for special noncompetitive appointment authorities.
4. Objectives. The IMSP is an essential program in the overall process of identifying, developing, and maintaining a staff of qualified employees and meeting affirmative action goals. Its objective is to help supervisors and managers attract highly qualified candidates for positions and to make the best use of employees' knowledge, skills, and abilities gained by employment in the Service.
5. Authority. The IMSP operates in accordance with OPM Guidelines and 5 CFR 335.
6. Responsibilities:
- a. Each employee is responsible for:
 - (1) Checking vacancy announcement distribution points and bulletin boards to obtain information regarding promotional opportunities and making application for promotion.
 - (2) Being aware of the provisions of the IMSP and for keeping the experience, education, and training portions of their personnel records current. Employees must accurately describe the knowledge, skills, and abilities, (KSA's) necessary to carry out the duties and responsibilities of current and past positions.
 - (3) Requesting the assistance of supervisors and/or representatives of the personnel office in planning developmental activities.
 - (4) Serving as members of rating panels when called

upon.

- b. Each supervisor is responsible for:
 - (1) Anticipating personnel needs and initiating action to fill vacancies in sufficient time to allow for proper selection in accordance with this plan.
 - (2) Serving as members of rating panels when called upon.
 - (3) Keeping subordinates informed of the Internal Merit Staffing Program and assuring that all assigned employees receive information and/or copies of material designed to inform employees of the provisions of this program. This responsibility includes making a reasonable effort to ensure that employees within the minimum area of consideration for announcements who are absent for legitimate reasons will receive appropriate consideration for promotion.
 - (4) Creating an atmosphere of acceptance of minority group members, handicapped persons, and women; and, assuring that the provisions of the equal employment opportunity programs are supported and carried out in letter and spirit.
 - (5) Acting promptly on certificates issued by the personnel office. Certificates outstanding after 90 days will be canceled unless a written justification for an extension is approved by the personnel office.
- c. The Human Resources Officer is responsible for:
 - (1) Assuring that the IMSP meets the Office of Personnel Management's requirements for merit promotion plans.
 - (2) Maintaining the administrative framework and support necessary for the effective operation of the program.

- (3) Assuring that regulatory provisions and necessary documentation requirements are fully met.
- (4) Fostering a climate conducive to the furtherance of special emphasis programs.

7. Definitions.

- a. Best qualified candidates. Those qualified applicants determined in the rating and ranking process to possess the KSA's (described by the selective placement and/or quality ranking factors) to a higher degree than other qualified applicants being considered and who are subsequently referred to the selecting official.
- b. Career ladder. Grade range from the entry level through and including the full performance level of a position. All grade levels within a career ladder must have a classified position description.
- c. Full performance level. The highest grade level of a specific position based on the duties and responsibilities described in a classified position description (also referred to as the journeyman level).
- d. Qualified candidates. For competitive positions, those who meet the OPM qualification standard (x-118) and any appropriate selective placement factors for the position.
- e. Quality ranking factors (KSA's). Job-related criteria documented through job analysis used in rating and ranking candidates. Although they are not mandatory such as selective placement factors, they are used to permit meaningful ranking of qualified candidates.
- f. Ranking of candidates. The orderly grouping of eligible candidates into two categories, best qualified and qualified based on the degree to which each candidate meets the selective placement and quality ranking factors (KSA's) of the position.

8. Coverage. IMSP procedures apply to the filling of a position in the competitive service as listed below except temporary, limited, and term appointments. IMSP procedures are applied to the following staffing and recruitment activities.
- a. Promotion of Service employees not covered by the exceptions to the program.
 - b. Reassignment or demotion to a position with greater promotion potential than the position currently held (except as permitted by reduction-in-force regulations).
 - c. Selection for details of more than 120 days to a position of higher grade or to one with known promotion potential. Service during the previous 12 months in higher graded positions or positions with promotion potential counts toward the 120 day limit.
 - d. Transfer to a position at a higher grade or to one with known promotion potential higher than the highest position held.
 - e. Reinstatement to a permanent or temporary position at a higher grade than the grade last held in a nontemporary position in the competitive service or to a position having potential for advancement to a higher grade than last held.
 - f. Selection for training required for promotion. When training is given primarily to prepare an employee for advancement and is required for promotion (that is, an employee is not eligible for promotion unless he/ she has completed the training), selection for the training is made under competitive IMSP procedures.
 - g. Selection for temporary promotions for a period in excess of 120 days. Service during the previous 12 months in higher graded positions either by temporary promotion or detail counts toward the 120 day limit.

The initial period may not exceed 1 year but the promotion may be extended for a definite period not to exceed 1 additional year. Extension must be approved by the Office of Personnel Management beyond 2 years.

- h. Term promotions from 2 to 4 years to work on a designated project or as part of a planned rotational system.
- i. Upgradings from positions classified in 1 grade interval series to positions classified in 2 grade interval series (unless the position was initially misclassified (see paragraph 9d)).

9. Exceptions to competitive promotion procedures.

- a. Career promotions. A career promotion is one that is made without current competition because competition was held earlier, for example, through selection from an OPM register or, under competitive IMSP procedures. The intent and the career ladder/full performance level of the position must be a matter of record, usually documented through position descriptions and on the SF-50. Examples of career promotions include: from positions filled at any grade below the full performance level to the full performance level. The full performance level must have been identified during the initial competition.
- b. Accretion of duties.

The employee's position is reclassified at a higher grade because of the performance of additional duties and responsibilities either through accretion of duties or management action, planned or unplanned. A non-competitive promotion via planned management action may only be made if the employee receiving the additional duties is the only person to whom they could logically be assigned. If there are other employees who could have performed the work, a noncompetitive promotion is not permissible.

To be eligible for promotion under these conditions, an employee must continue to perform the same basic function, and the former position must be absorbed administratively in the new one. When an additional position is created, or when the new position is not a clear successor to the former position, a promotion may not be made under this exception.

Noncompetitive promotion may not be made to a supervisory position on the basis of the addition of supervisory duties to a nonsupervisory position. Promotions based on this exception must be fully documented to show the circumstances that led to the action.

- c. Transfer of a Federal employee from or reinstatement of a former Federal employee to a position at a grade no higher than the highest previous grade held or with no higher promotion potential than the highest previous grade held. There must be documentation from the losing agency (SF-50, SF-52, etc.) that shows the action to be appropriate.
- d. Promotion due to the upgrading of a position without significant change in duties and responsibilities due to issuance of a new position classification standard or the correction of a position classification error. Such upgrading must be documented by an audit and classification evaluation statement.
- e. Repromotion to a grade or position from which an employee was demoted without personal cause and not at the employee's request.
- f. A position change permitted by reduction-in-force (RIF) regulations.
- g. Details of 120 days or less to a higher grade position or position with known promotion potential (see paragraph 8c).
- h. A placement action made as a remedy under governing

rules and regulations for failure to receive proper consideration in an earlier competitive placement action.

- i. Temporary promotion of 120 days or less (see paragraph 89).
 - j. A position change (promotion, demotion, or reassignment) of any employee to a position with the same or no higher full performance level than the position currently occupied. There must be documentation on the SF-52, SF-50, etc. that shows the action to be appropriate.
 - k. Promotion of an employee, upon exercise of reemployment rights, to a position for which the employee was selected in absentia or to a higher grade if the former position was reclassified during absence.
 - l. Selection from a Civil Service register or under OPM direct hire authority, such as appointment of 30% or more compensably disabled veterans, VRA appointments, conversions of cooperative education students, appointment of the severely handicapped, appointment of Peace Corps and VISTA volunteers, etc.
10. Areas of consideration. The Service's IMSP is designed to promote fair and open competition. Minimum areas of consideration will be set accordingly.

Positions may be advertised within the areas of consideration that are expected to produce at least three qualified candidates. The minimum area of consideration may be systematically extended if it fails to produce enough qualified candidates. For vacancies within the national office, vacancy announcements must indicate that bargaining unit members will receive first consideration.

- a. Local commuting area (this is geographic and can be limited to agency employees)
- b. Governmentwide (to include all status candidates--e.g. reinstatement eligibles)

- c. All qualified candidates (this includes status and non-status candidates)

The minimum area of consideration is the area in which recruitment is concentrated. Applications may be returned from persons outside the area of consideration.

In determining the area of consideration selecting officials must consider the impact on equal employment opportunities and the career development needs of the Service. These provisions may be modified appropriately when external (e.g., OMB or OPM) budgeting or ceiling limitations are imposed.

11. Locating candidates.

- a. Vacancy announcements. Vacancy announcements must be posted. Distributions will include outreach to special emphasis groups as a recruitment technique for affirmative action. All local commuting area announcements must be open for a minimum period of two weeks. All other vacancy announcements must remain open for at least three weeks.

As a minimum, a vacancy announcement will include:

- the number preceded by the calendar year
- opening and closing dates
- agency address
- position title, series and grade
- location of position
- duties of the job
- qualifications required
- the evaluation methods including selective placement and ranking factors to be used
- the full performance level of the job
- area of consideration
- what the candidate must do to apply
- any special requirements/information (e.g. probationary period for new supervisors/managers, special salary

rate information)

Applications submitted in response to an announcement must be received or postmarked by the closing date of the announcement. Applications submitted by mail, even if postmarked by the closing date, will not be accepted after a panel is convened and/or a certificate prepared.

- b. Positive Recruitment Efforts. Other sources of applications will be developed and utilized as needed. These include certificates of eligibles from Office of Personnel Management registers, publication of vacancy announcements in appropriate publications, and on-site recruiting trips to colleges, universities and trade schools. The use of paid advertising requires the prior approval of the Director of Human Resources. Affirmative action recruitment efforts will focus upon the targets selected in the current FEORP plan.
- c. Other applicant files. The personnel office may maintain other applicant files (VRA, 30% disabled veterans, reinstatement eligibles) to use as sources of candidates. Their use should be integrated with the handicapped and FEORP files.

12. Evaluating candidates.

- a. Minimum qualification standards. For competitive positions, minimum qualifications used for evaluation are the appropriate OPM standards (X-118) and any selective placement factors that have been developed for the position. No person may be considered qualified who fails to meet the minimum qualification standards. Candidates are considered eligible under the IMSP if they meet the time-in-grade, time-after-competitive-appointment, and qualification requirements within 60 days of the closing date of the vacancy announcement. Applicants should be aware that submission of narrative statements addressing selective placement factors and quality ranking factors and supervisory appraisals enhance their opportunities for being included in the best qualified group from which selection may be made.

b. Selective placement and quality ranking factors.

- (1) Selective placement factors (written as KSA's) are used in determining eligibility on the same basis as they are used in considering candidates from competitive civil service registers; that is they are essential to successful performance in the position being filled. As such they constitute a part of the minimum qualification requirements for the position in question. Failure to meet any one selective placement factor makes an applicant ineligible for the vacant position.
- (2) Quality ranking factors are those desirable knowledge, skills, and abilities (KSA's) used to further rate and rank the qualified candidates.
- (3) Selective placement and quality ranking factors must be consistent with the current position description and must be developed for use before the selecting official is aware of the candidates who have applied. Selective placement and quality ranking factors must be supported by a job analysis for the specific vacancy to be filled.

c. Crediting plans. After determining the selective and ranking factors through a job analysis with the selecting official or another subject matter expert, a crediting plan will be developed. (A crediting plan need not be developed immediately. The specialist may wish to wait until it is determined a panel is necessary.)

The plan will describe--three level of performance (benchmarks) for each factor (superior, good, satisfactory). Candidates' experience, education, training, awards, outside activities, self development, and supervisory appraisals will be reviewed and evaluated against the selective placement and ranking factors (KSA's) using the benchmarks.

- d. Written and performance tests. Written and performance tests may be used as one (but not the only) factor for evaluating candidates, particularly in the instances where other qualification material is scarce.
- e. Ranking panels. A ranking panel must be held when there are more than 10 qualified promotion candidates available. Ranking panels will also be held when there are more than 10 qualified reassignment, lateral transfer or demotion eligibles. In lieu of a panel, a personnel office evaluation of candidates may be used for nonprofessional positions (see paragraph 12f). Evaluation panels may be used for any vacancy including those with less than 10 qualified candidates.

Ranking panels should generally consist of three individuals who are at the same or higher grade level as the position to be filled. Individuals from the employing office/division who are not in a supervisory capacity over the position being filled may be included in the panel; however, the selecting official cannot serve as a panel member. Panel members should be subject-matter experts and/or familiar with the requirements of the job and occupation. To the greatest degree feasible, efforts must be made to include minority members and female employees on the panel.

The Human Resources office will provide a representative to familiarize the panel with paneling procedures and requirements and to ensure proper procedures are followed. The representative may also serve as a panel member.

- f. Human Resources office evaluation. When there are more than 10 qualified candidates for nonprofessional positions, the Human Resources office may rate and rank the candidates and refer the best qualified candidates to the selecting official. The Human Resources office may call upon a program staff member, other than the selecting official, to assist in the evaluation process. The same evaluation criteria must be used as

if a panel were held.

13. Referral and selection.

- a. Selecting officials should have the opportunity to make a choice from among an adequate number of the best qualified candidates but should not have to consider an overly large number of candidates.
- b. If the number of qualified candidates for a particular position is 10 or less, all may be referred to the selecting official without an evaluation panel process. In this regard, all 10 or less candidates are to be considered as if they were best qualified.
- c. If an evaluation panel is held, panel members designate the best qualified group based on their evaluations and meaningful distinctions between the qualifications of candidates. Usually not more than 10 best qualified candidates would be expected for a single vacancy. However, the panel will determine the exact number based on considerations such as a natural break in point scores, a comparison of scores on the most important ranking factors, the number of positions being filled, or an administratively feasible number of candidates to be interviewed.
- d. Candidates will be referred on separate certificates for
 - (1) Promotion,
 - (2) reassignment/transfer,
 - (3) demotion,
 - (4) noncompetitive appointment,
 - (5) appointment from a civil service register.

It is best not to rate/rank/refer status an nonstatus

applicants together, since eligibility criteria and means of appointment are often different and can create problems for the applicants, selecting officials, and the personnel office.

- e. Certificates of Eligibles will have names of the best qualified candidates in alphabetical order and will include copies of the application and related forms for each certified candidate.
- f. Upon receipt of the certificate(s), the selecting official or his/her designee should first review all the applications and make a preliminary decision on which certificate(s) he/she will use. Then he/she must interview all the candidates on that certificate(s). If distance precludes a personal interview, a telephone interview may be conducted. The selecting official may also ask an FMCS official who is geographically located near the applicant to conduct the interview. All questions asked during an interview must be job related. The interviewing official may not ask or discuss the candidate's race or ethnic background, religious beliefs, age, marital status, family status, political affiliation, or labor organization affiliation or activity. To the maximum extent possible the interviewing official should obtain the same information from all candidates.
- g. The selecting official has the right to select or not select from among the candidates referred on a certificate. Reasons for non-use of a certificate must be documented. If the certificate is used and a selection made, the selecting official should notify the personnel office prior to notifying the candidate of selection.
- h. If the selecting official wishes more names to be certified, he/she must provide appropriate justification (e.g., applicants declined further consideration).
- i. At any time, the selecting official may choose to fill

a vacancy noncompetitively as long as such action is considered consistent with appropriate approved exceptions to merit promotion procedures (see paragraph 9).

14. Release of employees and notice to candidates not selected. Normally, employees will be released from their current position to enter on duty in their new position within two weeks after selection and regulatory approval. If a two-week limit cannot be met, an effective date agreeable to the parties involved will be negotiated. All unsuccessful candidates are to be notified of their nonselection for the vacancy.
15. Selection for supervisory and management positions. The management effectiveness of the Service depends largely upon the quality of the supervisors and managers in those positions. In recognition of the importance of these positions and of their requirements, selections to supervisory and managerial positions as defined by appropriate classification guides will be made under the following conditions.
 - a. Appropriate training must be provided to all newly selected first-time supervisors and managers. (FMCS Directive 5902.)
 - b. The Civil Service Reform Act of 1978 instituted a probationary period for newly appointed supervisors and managers as a means of providing an opportunity to assess their performance in the supervisory or managerial aspects of their jobs. Retention in such positions is contingent upon successful completion of a one-year probationary period. (FMCS Directive 5205).
16. Program documentation and records management. The personnel office is responsible for ensuring that all selections have been made and documented in accordance with the policies and procedures established by the IMSP. The following records will be maintained:
 - a. Permanent.

- (1) OPM merit staffing guidelines.
- (2) Service IMSP procedures.
- b. Temporary. At a minimum, the following documents must be retained in an IMSP older for a specific vacancy for two years from the date the vacancy is filled (i.e., the effective date on the SF-52, Request for Personnel Action) or until an OPM audit is performed, whichever occurs first, if the time limit for grievances has lapsed.
 - (1) Position description.
 - (2) Entire crediting plan or just the job analysis portion if a crediting plan was not used.
 - (3) Vacancy announcement.
 - (4) Names and applications (SF-171's) of all candidates (qualified, not qualified, and best qualified) and supporting qualification determinations.
 - (5) Internal Merit Staffing Program rating sheet.
 - (6) Names of panel members and summary sheet.
 - (7) Supervisory and other appraisals.
 - (8) Merit staffing certificate, EEO outreach, selective placement outreach, and other recruiting sources such as reemployment priority lists, or priority placement.
 - (9) Nonselection letter or other written notice of non-selection.
 - (10) Any other pertinent records such as screening aids, reference checks, and any materials submitted by the candidates in support of their application.

- (11) Copy of completed SF-52, Request for Personnel Action.
 - (12) Guidance and instructions to panel members.
 - (13) Names of any candidates who received special consideration and the reasons why.
17. IMSP review. The personnel office will conduct an IMSP review at least once a year. In this review process, employees, management, and employee organization comments are required for a thorough evaluation of the program. This review ensures that the following items are evaluated.
- a. The program is as effective as possible and useful to management and Service employees.
 - b. Selection actions are taken promptly and properly and any complaints are handled in the same manner.
 - c. Selection actions are used effectively to encourage competent employees to make the best use of their skills.
 - d. Employees, supervisors, and managers have a full understanding of the program.
18. Employee information.
- a. Information about advancement opportunities. Service employees will be informed, at their request, of the long-range opportunity or lack thereof in their present positions or positions for which they are interested. This information may be provided in position descriptions, vacancy announcements, handouts to employees, or other appropriate means. Employees will be notified at least once a year of the importance of keeping the experience, education, and training portions of their personnel records up-to-date. Employees should include information about self-development activities and about unpaid experience or

volunteer work (such as community and professional association activities). Personnel offices and supervisors will provide assistance to employees who may need help to properly document their experience and training.

b. Information about qualifications, evaluation and ranking.

- (1) Through vacancy announcements, candidates are informed of the qualification requirements, and other ranking criteria used in evaluating candidates for positions for which they apply.
- (2) A supervisor or the personnel office must show, at the candidate's request, any supervisory appraisal or evaluation of performance which was used, or which may be used, in considering the candidate for specific vacancies.
- (3) A candidate's supervisory appraisal may be seen only by the candidate, his/her representative, panel members, personnel office employees, and others who must use it as a part of the evaluation process.

c. Information about specific selection actions. The following information about specific selection actions is available to a candidate upon request.

- (1) Whether the candidate was considered for the position and, if so, whether found eligible on the basis of the minimum qualification requirements for the position, and the candidate's rating and ranking as qualified or best qualified.
- (2) Whether the candidate was one of those in the group from which selection was made, and the minimum rating required to be included in this group.

- (3) Who was selected for the position.
- (4) Other information related to the candidate only and in accordance with the Privacy and Freedom of Information Acts.

19. Complaints.

- a. Complaints under grievance procedures. The personnel office must respond promptly to questions or complaints about the program or about a specific selection action. An employee of FMCS may submit a complaint under the grievance procedure outlined in FMCS Directive 5806 or, if a bargaining unit member, under the negotiated grievance procedure. Matters which are not grounds for formal grievance complaints include the following.
 - (1) Failure to be selected when proper selection procedures have been used.
 - (2) An action required to be taken by FMCS under provisions of statute or instructions of the Office of Personnel Management.
- b. EEO Complaints. If a candidate feels that he/she has been discriminated against in the merit process on the basis of race, color, religion, sex, national origin, physical or mental handicap or age, every effort will be made to handle the matter on an informal basis with the assistance of an EEO counselor (FMCS Directive 5804). If the matter cannot be resolved informally, the candidate may submit a formal complaint according to the procedures for handling equal employment opportunity complaints. The candidate may appeal to the Equal Employment Opportunity Commission if he/she is dissatisfied with the agency decision of the candidate's EEO discrimination case or if the case is not processed within the prescribed time frames.
- c. Office of Personnel Management handling of complaints (other than EEO). There is no appeal to the OPM on

selection actions; the OPM, however, may investigate if a complaint is supported by information showing agency violation of Federal merit policy.

d. Corrective actions.

- (1) For actions involving an erroneously promoted employee in which a procedural violation occurred (e.g., another employee entitled to consideration was not considered, selectee was not in the best qualified group, etc.), the employee may be retained in the position if reconstruction of the promotion action shows that he/ she could have been selected had the proper procedures been followed at the time the action was taken or if the OPM office with geographic jurisdiction gives approval.
- (2) For actions involving an erroneously promoted employee in which a program violation occurred (where agency guidelines do not conform to OPM requirements or guidelines) the employee generally may be retained in the position if there was no accompanying procedural or regulatory violation. However, the program violation must be corrected.
- (3) When action taken in (1) or (2) results in the erroneously promoted employee vacating the position, an employee not given proper consideration because of the violation may be considered for promotion to the vacated position before candidates are considered under a new promotion or other placement action.
- (4) When action taken in (1) or (2) did not result in the employee being removed from the position, an employee (or applicant) who was not promoted or not given proper consideration because of the violation will be given priority consideration for other positions in the same location as where the violation occurred. Priority consideration will be extended to the employee for positions at the same

series and grade as the position to which erroneous promotion was made providing the employee meets selective placement factors. The employee's application will be forwarded to the selecting official prior to advertising. If the selecting official decides to advertise and selects another applicant after interviewing the priority candidate, reasons for nonselection of the employee entitled to priority consideration must be documented and included in the merit promotion folder. The employee will receive priority consideration for up to one year or three referrals, whichever occurs first.

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

DIRECTIVE 5202. MEDIATOR HIRING, PROMOTION & TRANSFER1) General Considerations.

- a) The mediator position is the primary occupation in FMCS, and the mediator is responsible for carrying out its core conflict resolution services to labor-management parties and government agencies. These positions are excepted from the competitive service and the requirements of the Federal Merit Promotion Policy. FMCS has established a merit-based system for the hiring and promotion decisions regarding mediators.
- b) The mediator is a career occupation. Those appointed at the initial hiring levels are expected to advance through promotions without competition to the GS-14 level.

2) Purpose. To outline the processes and procedures to be used in establishing and maintaining a mediator workforce (this covers both field and alternative dispute resolution (ADR) mediators), as follows: Mediator Recruitment; Hiring; Trial Period; Promotion; and Transfer.3) The Mediator Career Ladder.

- a) Mediator, GS-9/12. These are trainee hiring grade levels. The mediator-trainee may remain in a training status for as long as three years before being promoted to the GS-13 level.
- b) Mediator, GS-13. Mediators hired at this level are considered competent to receive routine mediation assignments after a short period of on-the-job training and observation. Normally, a mediator will serve a minimum of two years at the GS-13 level before being considered for advancement to the GS-14 level.
- c) Mediator, GS-14. This is the full performance level for mediators.
- d) Director of Mediation Services (DMS). These are supervisory/managerial positions in the excepted service. Competition for vacancies follows the competitive procedures described in section 7d. After selection, the new incumbent must complete a mandatory probationary requirement for new supervisors and managers.

4) Mediator Employment Requirements.

- a) Personal Conduct. Mediators must perform with the highest level of ethics,
-

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

professionalism and personal integrity at all times. Directive 8101 should be carefully considered in conjunction with these requirements.

- b) **Privacy.** Mediators must not divulge any information learned in the course of their duties, nor furnish any written statements relating to their case assignments without the express permission of the parties.
- c) **Mobility.** Mediators are required to accept duty station assignments as the Service may determine and are required to accept subsequent reassignments made for the good of the Service. New mediators may indicate their duty station preferences and, subject to the needs of the Service, an attempt will be made to honor their request. Mediators can be removed for failure to accept a transfer. During the first year of employment, mediators may neither be moved to a different duty location by the Service nor request to transfer through the internal voluntary transfer procedure contained in paragraph 8(b)(2).
- d) **Residence at Official Duty Station.** Mediators are expected to function as active full-time participants in the labor-management community and to be fully available to parties and the Service to carry out their assignments; the residence of the mediator must be located within the commuting area of their official duty station.
- e) **Telephone.** Mediators' telephone numbers must be listed, at their own expense, in a manner in which the number is generally available to the public in the metropolitan area in which the official duty station is located.
- f) **Travel.** Mediators must travel as needed to carry out their responsibilities. The Service reimburses for travel in accordance with applicable regulations.
- g) **Physical Requirements.** Mediators must maintain health necessary to satisfactorily perform all the duties of their assigned position.
- h) **Availability.**
 - i) Mediation is often a job requiring a non-standard work schedule. Long hours, or working on weekends and holidays, may arise during the course of an assignment. Mediators must work under such conditions as needed.
 - ii) Mediators must be available to the Service on short notice. Mediators must be willing to respond to a request by the Service when assignments are made outside of normal working hours. The Service does not require mediators continually to be on "stand-

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

- by" during non-working hours in the absence of an assignment requiring availability. Specific assignments may require a mediator to make arrangements with the parties and the Service to be available outside normal working hours, even though not actually on duty. It is the responsibility of the mediator to make such arrangements as needed.
- i) **Security Clearance.** A satisfactory full-field background investigation is required for each mediator.
- 5) **Filling Entry-Level Mediator Positions.** Entrance level and developmental positions at the GS-9 through the GS-13 level are filled through our mediator applicant supply file. Applications are accepted on a continuous basis in response to our Mediator Recruitment Bulletin issued by the Office of Human Resources on an annual basis.
- a) **Application Process.** An FMCS mediator application must be completed by all applicants. This includes a supplemental statement that is part of the application and must be submitted to the Office of Human Resources.
 - b) **Evaluating Candidates for Entry-Level Mediator Positions.** Candidates will be considered based upon the type and quality of experience possessed in relation to the requirements of the mediator position. Supervisory appraisals may be considered as well as relevant education, training, outside activities, awards and veterans preference.
 - c) **Referral and Selection.**
 - i) Well-qualified candidates will be interviewed by an FMCS interview team. This team will conduct structured interviews to identify the best candidate(s).
 - ii) Based on the interviews and reference checks, the interview team will recommend candidate(s) to the Deputy Director and/or Director. After review of the candidates' application, input from the interview team, and a personal interview, the Deputy Director and/or Director will decide if a job offer is to be made by the Director of Human Resources.
- 6) **Trial Period.** New Mediators are required to serve a trial period of up to two (2) years (preference eligibles (veterans) in the excepted service need to complete one (1) year of continuous service). This is the final step to the recruitment and examining process. During these two years, the mediator's conduct and performance of actual duties are observed and
-

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

documented quarterly.

- 7) Separation During Trial Period. A mediator may be separated for unsatisfactory performance or conduct after appointment based upon deficiency of performance, lack of aptitude or cooperativeness, or undesirable suitability characteristics evidenced by his/her activities either during or outside official working hours.

Separations of this nature can be made informally, if circumstances warrant. Adverse action procedures do not apply. However, an employee may appeal to the Merit Systems Protection Board if he/she alleges separation was based on (1) partisan political reasons (political affiliation) or marital status; or (2) race, color, religion, sex, national origin, physical handicap, or age--if such discrimination is raised in addition to (1) above. Appeals of discrimination based solely on race, color, religion, sex, national origin, physical handicap or age are subject to Equal Employment Opportunity Commission regulations and are processed under FMCS' discrimination complaint procedures.

8) Mediator Promotions.

a) Factors Considered in Career Ladder Promotions are as follows:

- i) Type and Level of Assignments and Progress. The mediator must demonstrate successful performance of assignments typical of the next higher level.
- ii) Length of Time in Current Grade. This varies with the grade level of the position to which being promoted, as discussed in Section 3.
- iii) Overall Competence in the Mediator Assignment. This is a combined appraisal of performance in the current job and of potential to perform higher level work.

b) Exceptions to Policy. Under very unusual circumstances, mediator promotions may be approved before completion of the basic requirements set forth above at the various grade levels, provided:

- i) The mediator meets the qualification standards for the grade to which recommended for promotion and, in the judgment of the supervisor, satisfactorily performs all the duties of the grade to which recommended for promotion.
- ii) The mediator has served at least six months in the current grade.

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

iii) The exception is approved, in writing, by the Deputy Director and/or Director.

c) Criteria for Consideration for Promotion to GS-14.

i) A summary performance appraisal rating of Fully Successful or higher for each critical element on the latest performance appraisal.

ii) A minimum of two years of performance as a mediator at the GS-13 level.

iii) Demonstrated ability to perform all of the duties in the GS-14 mediator performance elements and standards.

iv) Demonstrated work performance that reflects the following dimensions:

(1) Performance of an acceptable quantity of cases/meetings in the substantive mission of the Service (CBM, RDT, GM, RMB/ADR) at least comparable to National standards;

(2) High quality performance in all Agency programs as determined by observation and customer feedback;

(3) Performance of a variety of services (CBM, RDT, GM, RMB, EAO, and ADR), consistent with available work.

(4) Demonstrated ability to win acceptance, confidence, and cooperation of labor and management representatives and other FMCS customers;

(5) Demonstrated leadership qualities;

(6) Demonstrated adherence to highest ethical and professional standards; and

(7) Demonstrated ability to represent FMCS before a broad spectrum audience and/or federal, state and local government officials.

v) Promotion Process. Upon completion of at least two years of fully successful performance at the GS 13 level and demonstrated work performance at a GS 14 level that reflects the dimensions outlined above, the DMS will assemble data and other information necessary to make a decision concerning promotion. The data will include quantity, quality and variety of work performed. The DMS and Deputy Director will review the data and, determine if the mediator's promotion is

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

warranted.

- d) Promotion to GS-15 Director of Mediation Services (DMS). Vacancies for DMS positions at the GS-15 level will be announced by distribution of a job opportunity announcement to all mediators. Eligible GS-14 mediators who wish to be considered shall submit an application to the Office of Human Resources during the open announcement period.

An interview team will interview all candidates for the position. However, if there are more than 5 candidates for one position, a ranking panel may be convened to review and rank the applications. The top candidates will be interviewed.

- e) Promotion to National Office GS-15 Positions. Selection procedures for GS-15 positions in the National Office will vary. If the Director or Deputy Director decides to create a position as a special assistant, these positions may be filled by them without any formal selection process due to the nature of the positions and the requirement for trust, confidence, and confidentiality of the relationship between the individuals.
- f) Complaints. Mediator complaints arising out of promotion actions will be processed under the Agency Grievance Procedure. However, failure to be promoted, when the procedures prescribed herein have been properly followed, is not a basis for a formal complaint (grievance).

Any mediator who wishes to know why he/she was not selected for a position may contact the Director of Human Resources.

9) FMCS Transfer Policy.

- a) Policy. Mediator transfers will be done in a manner that balances the needs of the Service with those of employees. Each transfer will be approved by the Deputy Director and effected in accordance with the procedures herein, unless an exception is authorized by the Director of the Service. GSA regulations will be followed in all transfers.
- b) Definitions.
 - i) Involuntary transfer: a management-directed action requiring the reassignment of a least senior qualified mediator or a volunteer from an over-staffed office to a vacancy in another office. The transfer is primarily for the good of the Service and at the expense of the government. Seniority shall be defined as service with the Federal

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

Mediation and Conciliation Service. A Service Agreement is required in such cases.

- ii) **Voluntary transfer:** an employee-initiated request to be reassigned from one office to a vacancy in another office. The transfer is primarily for the good of the employee and at their expense. Normally such a transfer will not be considered unless the individual has served at least one year as a mediator. Mediators will not be considered for more than one successful transfer in a 24-month period unless an exception is authorized by the Director.
- iii) **Vacancy:** a position which has been approved by the Deputy Director, for recruitment action.
- iv) **Over-Staffed Office:** a specific field office that has insufficient workload to support the number of mediators assigned.

DIRECTIVE 5203. REDUCTION IN FORCE (RIF)

1. Purpose. This directive contains policy and procedures applicable to all reduction-in-force (RIF) actions affecting competitive and excepted service employees within FMCS.
2. Policy. It is the policy of the Director of FMCS, that work force adjustments will be made consistent with good management practice. All RIFs must fully comply with applicable legal and regulatory requirements and will be effected in a manner that will minimize adverse impact on employees to the maximum extent practicable. Obligations with regard to exclusive representatives will be satisfied prior to implementation of RIF procedures. When a RIF becomes necessary, employees will be informed at the earliest possible date of any plans that may affect them.
3. Authority. 5 CFR 351.
4. Responsibility. Planning the work and organizing the workforce to accomplish agency objectives within available resources are management responsibilities. Management is responsible for determining the categories within which positions are required, where they are to be located, and when they are to filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work. These determinations may be caused by internal factors such as the need to reorganize or external factors such as a reduction in agency appropriations. To meet its objectives, an agency may need to abolish positions and/or reduce the grade of positions. Only when this leads to actions identified in paragraph 6 are RIF procedures necessary. Final authority for approval of a RIF rests with the Director, FMCS.
5. Definitions.
 - a. Annual Performance Rating of Record means the performance appraisal given at the end of the appraisal cycle. For PMRS and General Schedule employees the end

of the rating period is June 30; for Mediators, the appraisal period ends September 30.

- b. Assignment right means the right of an employee to be assigned (by bump or retreat) in the second round of competition to a position in a different competitive level held by another employee with lower standing on a retention register.
- c. Bump is the assignment of an employee to a position held by another employee in a lower group, or another competitive level in a lower subgroup within the same tenure group.
- d. Competing employee means an employee in tenure group I, II, or III in either the competitive or excepted service.
- e. Competitive area means the organizational and geographical boundaries in which employees compete in a reduction.
- f. Competitive level means a group of positions in the same grade and classification series that have similar duties and other requirements.
- g. Days means calendar days.
- h. Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.
- i. Notice means an official written communication addressed to an individual employee announcing that he or she will be affected by a RIF action.
- j. Retention register is a list of competing employees within a competitive level who are grouped by tenure,

veteran preference, and length of service augmented by performance credit.

- k. Retention standing means an employee's relative standing on a retention register.
 - l. Retreat is the assignment of an employee to a position held by another employee with lower retention standing in the same subgroup.
 - m. Rounds of competition means the different stages of competing for retention. In the first round of competition, employees compete to stay in the competitive level. In the second round of competition, employees compete for assignment to a position in a different competitive level.
6. Use of Reduction in Force (RIF). A personnel action must be taken under RIF procedures when both (a) and (b) are met.
- a. Action to be taken is release of an employee from a competitive level by:
 - Separation;
 - Furlough for more than 30 days;
 - Demotion; or
 - Reassignment requiring displacement.
 - b. The cause of the action is:
 - Lack of work;
 - Shortage of funds;
 - Insufficient personnel ceiling;
 - Reorganization;
 - An individual's exercise of reemployment rights or restoration rights; or
 - Reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a RIF in the employee's competitive area and when the RIF will take effect within 180 days.

An action that meets one but not both criteria is not a RIF action and must be taken under other appropriate authorities.

7. The RIF Process. If, after considering all viable alternatives, the Director determines that a RIF is necessary or that a situation exists in which the administrative use of RIF procedures is warranted, certain steps must be taken. These steps include establishing competitive areas, competitive levels, retention registers, determining assignment rights; and giving notice to employees.

a. Competitive areas. For each organization involved in a RIF, a competitive area is determined. FMCS competitive areas are:

(1) Excepted Service

- Mediators: Nationwide, Agency-wide
- Attorneys: National Office

(2) Competitive Service.

- National Office
- Each regional office location.
Note: The physical locations of these areas may change; however, competitive areas will remain established by regional office location. The current locations are:

Atlanta, GA
New York, NY
Philadelphia, PA
Cleveland, OH
Minneapolis, MN
Chicago, IL
St. Louis, MO
Seattle, WA
Los Angeles, CA

b. Competitive levels. Separate competitive levels are

required according to the following categories:

- (1) Competitive and excepted service
 - (2) Appointment Authority - separate competitive levels are established for each appointing authority within the excepted service
 - (3) Pay Schedule
 - (4) Work Schedule (full-time, part-time, etc.)
 - (5) Supervisors and non-supervisors
 - (6) Trainees
- c. Retention Registers. Employees within each competitive level in a competitive area are grouped on the retention register as follows:
- (1) Competitive Service.
 - (a) Group I. Career employees who are not serving a probationary period for initial appointment to a competitive position.
 - (b) Group II. Career-conditional employees and each employee serving a probationary period for initial appointment to a competitive position.
 - (c) Group III. Employees serving under indefinite appointment, temporary appointment pending establishment of a register (TAPER), term appointment, status quo appointment, or any other non-status, non-temporary appointment.

Within each group are the following subgroups:

- Subgroup AD: 30% Disabled Veterans

- Subgroup A: All other Veterans
- Subgroup B: Non-veterans

(2) Excepted Service.

- (a) Group I. Permanent employees who are not serving a trial period or whose appointment does not contain specific time limit or any restriction or condition such as definite or indefinite.
- (b) Group II. Employees serving a trial period or whose tenure is equivalent to a career-conditional appointment in the competitive service.
- (c) Group III. Employees whose tenure is indefinite without specific time limit) but not actually or potentially permanent; or whose appointment has a specific time limitation of more than one year; or who is currently under a temporary appointment limited to one year but has completed one year of current continuous service.

Note: The subgroups within the excepted service are the same as those defined for the competitive service.

- d. Length of Service. Employees are listed on the retention register within each subgroup by length of service, in descending order starting with the earliest service date. This date is augmented by additional service credit given based on annual performance ratings of record received under the performance appraisal system. The number of years credited is based on the average of the last three annual performance ratings of record received during the four-year period prior to the date of issuance of specific RIF notices.

-
- e. Credit for Performance. In determining this average, 20 years is given for each Outstanding rating; 16 years is given for each Superior rating; and 12 years is given for each Fully Successful rating. (No credit is given for an annual summary rating below the Fully Successful Level.) The three figures are simply added together and divided by 3, rounded in case of a fraction, to the next higher whole number. This figure is then added to the total number of years of service.
- (1) Basis for Credit. Additional service credit is based on the last three annual performance ratings of record that the employee received during the 4-year period prior to the date of issuance of specific RIF notices. Ratings that were due before the date of the specific RIF notices but were not officially approved and put on record until on or after the date of the specific notices are not used. If an employee had more than three annual ratings during the 4-year period, only the three most recent ratings are used. A rating received prior to the 4-year period cannot be used. If three ratings have not been issued in the 4-year period, credit based on an assumed rating of fully successful is given for the missing one(s). If an employee has not received any annual ratings, additional service credit is based on three assumed ratings of fully successful, regardless of the length of the employee's Government service. If any of the previous appraisals used other than five summary levels, the equivalent rating level will be determined and the employee credited accordingly. If the previous appraisal was narrative only, a rating of fully successful will be assumed.
- (2) Unacceptable Performance. Any employee with a current annual performance rating of unacceptable who has not received a written decision of removal or demotion due to unacceptable performance is given appropriate credit for his/her ratings and is listed on the retention register. An employee
-

who has received a final, written decision to remove, is listed apart from the retention register. An employee who has received a final written decision to demote is listed on the retention register for the position to which he/she will be demoted. An employee who has received a notice proposing removal/ demotion due to unacceptable performance but who has not received an annual rating of unacceptable, is not assumed to have an unacceptable rating. If the final decision is due before the effective date of the RIF, the retention standing cannot be determined until that decision is given to the employee. If the final decision is to remove the employee, the employee would be listed apart from the retention register. If the decision is to retain the employee, appropriate credit is granted for his/her ratings and the employee is listed on the appropriate retention register.

An employee demoted or reassigned as the result of an unacceptable rating and who has not received a rating in the current position as of the date of a specific RIF notice is assumed to have a current annual rating of fully successful. An annual rating of unacceptable given before the demotion or reassignment, however, is counted as one of the employee's three previous annual ratings used to determine additional service credit.

- f. Employees Listed Apart from the Retention Registers (Competitive and Excepted). An employee serving under a specifically limited temporary appointment, term promotion, or temporary promotion; and, any employee who has a written decision of removal from the position because of unacceptable performance are not included on the retention register. An employee who has received a final written decision to demote or reassign (as the result of a performance based action), is listed on the retention register for the position to which he/she

will be demoted/reassigned.

- g. Regular Order of Release from a Retention Register. Non-competing employees (those listed apart from the retention register) are released first. After all non-competing employees have been released, competing employees (those listed on the retention register) are released in the inverse order of their retention standing beginning with the employee having the lowest standing. For example, an employee in Group III.B. would be released before an employee in Group III.A., then Group III.AD., Group II.B, Group II.A, and so on. When employees tie for release, the Director will determine the order in which the tied employees are released.

There are very few exceptions to the regular order of release; however, they are described in the federal Personnel Manual, Chapter 351.

- h. Action Following Release of an Employee from a Competitive Level. An employee who is to be released from his/her competitive level may have assignment rights to another position. If so, the employee must be offered that position or an equivalent one. Assignment rights are often called bump and retreat (see paragraphs 5 and 7i). When an employee has no right of assignment to another position or turns down an offer of a position satisfying the assignment right he/she may be separated under RIF procedures.
- i. Assignment Rights. Assignment rights constitute the second round of competition when employees compete for jobs in other competitive levels.
- (1) General. Only employees in Tenure groups I and II who have a current annual performance rating of minimally successful or higher are eligible for assignment rights. Employees in Tenure group III or with current annual performance ratings of unacceptable have no assignment rights.

- (2) Bumping. Bumping is an employee's right of assignment to a position occupied by another employee in a lower subgroup in another competitive level. When an employee is released from a competitive level, he/she can bump to an available position that requires no reduction, or the least possible reduction in representative rate if the occupied position is held by an employee in a lower tenure group or in a lower subgroup within the released employee's own tenure group; and, if the occupied position is the same grade or no more than three grades or three grade-intervals (see paragraph m) below the position from which the employee is released. Example: A subgroup I AD employee has bumping rights over employees in I A, I B and group II.
- (3) Retreating. Retreating is an employee's right of assignment to a position occupied by a lower-standing employee in the same subgroup but in another competitive level. When an employee is released from a competitive level, he/she can retreat to an available position that requires no reduction, or the least possible reduction, in representative rate if the occupied position is held by an employee with a later service date in the same subgroup; is the same grade or no more than three grades or three-grade intervals below the position from which the employee is released (five grades/grade-intervals if the released employee is a 30 percent compensably disabled veteran); is the same or essentially the same position previously held by the released employee in any Federal agency; and, is held by an employee with a current annual performance rating no higher than minimally successful when the released employee's rating is minimally successful. Example: A I A may retreat to a position held by another I A with less service but may not retreat to a job held by a II A employee.

-
- j. Vacant Positions. FMCS is not required to fill vacant positions in a RIF but may choose to fill all, some, or none of them. If we do decide to fill a vacancy, however, it will be done in accordance with reduction-in-force regulations. A Group I or Group II employee (competitive or excepted service) who has no RIF assignment rights may be offered a vacant position in lieu of separation. The grade-level limits that apply when placing employees who have assignment rights (three grades or three grade levels) do not apply when offering an employee a vacancy in lieu of separation. This includes offering a vacant other-than-full-time position to a full time employee or offering a vacant full-time position to an other-than-full-time employee. However, these actions are not RIF placements and must be in accordance with merit promotion procedures.
 - k. Extent of Offer. An employee is entitled to only one proper offer and is entitled to no further offer when he/she accepts an offer, rejects an offer, or fails to reply to an offer within a reasonable time. By definition, an available position satisfying an assignment right must be in the competitive service (if the employee is in the competitive service) or in the excepted service (if the employee is in the excepted service); be in the same competitive area; last at least three months; must be one for which the released employee qualifies; must have a representative rate no higher than the representative rate of the position from which the employee is released; and, must be occupied by another employee subject to displacement by the released employee.
 - l. Qualifications. To assign an employee to a vacancy or by bump and retreat FMCS may waive OPM's qualifications standards and requirements for the position, except for any minimum education requirement. However, any employee for whom a waiver is approved is expected to fully perform all duties of the position within 90-120 days. Also, when an employee's qualifications for a position are an issue in his/her appeal or grievance, OPM's regular qualification standards are applied.

- m. Grades and Grade-Intervals. Some jobs have a 1-grade progression (e.g., GS-5-6-7); others have a 2-grade progression (e.g., GS-5-7-9-11). The difference between successive grades in a 1-grade occupation is a "grade difference", and the difference between successive grades in a 2-grade occupation is a "grade-interval difference." Thus, an employee released from a GS-11 position in a 2-grade occupation may bump three grade-intervals lower to GS-5, and retreat three grade intervals lower to GS-5. An employee released from a GS-9 position in a 1-grade occupation may bump three grades lower to GS-6 and retreat three grades lower to GS-6. Exception: The position may be up to five grades (or grade intervals) lower if the released employee is a preference eligible with a compensable service--connected disability of 30 percent or more when retreating. The lowest grade at which an employee may bump or retreat is based on the position from which the employee is released regardless of how the employee actually progressed to that position. FMCS must first determine the lowest grade to which an employee is entitled, then it must determine whether any available positions exist within these grade limits.
- n. RIF Notices. Each competing employee released from his/her competitive level is entitled to a written notice of at least 60 calendar days prior to the effective date of the RIF action. This notice may be a specific notice or a general notice, supplemented by a specific notice. RIF notices must be issued no more than 90 calendar days prior to the effective date of the RIF action except when FMCS determines that additional time is needed to protect employee rights or avoid administrative hardships. In this case, prior approval must be obtained from OPM.

A general notice tells the employee that a RIF action may be necessary, but that the agency has not yet determined the specific action. The general notice supplemented by a specific notice must contain all the

information required in the specific notice. The general notice alone must state that FMCS will issue a specific notice as soon as it determines what action will be taken; the date the general notice will expire; and that the employee should not file an appeal or grievance before a specific RIF action is taken.

A general notice may be canceled or renewed for additional periods within the maximum notice period (90 calendar days). However, an affected employee must be given in writing all the requirements of a specific notice at least 10 calendar days before the effective date of the RIF action.

An employee is entitled to a new specific notice of at least 60 calendar days if it is determined to take a more severe action than originally specified. A less severe action may be substituted for the action originally specified without issuing a new notice.

(1) Content of Specific Notice. A specific notice must contain information regarding:

- The specific RIF action to be taken (separation, downgrade, etc.)
- The effective date of the action
- The employee's competitive area, competitive level, subgroup, service date, and the last three annual performance ratings received during the last four years
- The location where the employee may inspect the regulations and records pertinent to his/her case
- Appeal or grievance rights

(2) Expiration of Notices. A specific RIF notice, with any amendments, expires when it is followed by the

action specified; or an action less severe than specified. A general notice expires on the date specified in the notice unless on or before the expiration date the general notice is renewed or a specific notice is issued. The general notice may be renewed for additional periods as long as it does not exceed the maximum notice period (90 days).

- (3) Status During the Notice Period. Whenever possible, employees will be retained in an active duty status throughout the notice period. However, if the agency lacks work or funds for all or part of the notice period, the employee may be placed on annual leave, with or without his/her consent; in a leave without pay status, with his/ her consent; or in a non-pay status, without his/her consent.

Employees who believe that they have been placed in a non-pay status in violation of controlling regulations may appeal such actions under the MSPB regulations or grieve under negotiated grievance procedures.

- o. Records. The Division of Personnel maintains all records necessary to determine the retention standing of each employee at all times. After the date of issuance of specific notices to employees, all records are to be preserved intact for at least one year. Retention registers and related records are open to representatives of OPM at all times. They are also kept open to agency employees who have received RIF notices. These records are open to employees to the extent sufficient to settle, as far as possible, all of their questions about RIF. The employee is entitled to see not only the register and related records for his/her own competitive level, but also for levels in which there are employees who may displace him/her, and for levels into which such employee believes he/she may be

entitled to displace.

8. Furlough. A furlough action is the placement of an employee in a temporary, non-duty and non-pay status on a continuous basis (for example, 10 consecutive days), or a discontinuous basis (for example, 1 day a week). RIF procedures must be followed to furlough an employee when the furlough will be for more than 30 consecutive days (or more than 22 work days if done on a discontinuous basis), is caused by one of the reasons described in paragraph 6, and is not in accordance with pre-established conditions of employment.

A competing employee may be furloughed only if FMCS intends to recall the individual to duty within 1 year. A furlough may not extend beyond 1 year. When it is necessary to furlough an employee for no more than 30 days because of lack of work or funds, the furlough is not a RIF action, but is processed in accordance with personnel rules and regulations regarding such actions.

9. Transfer of Function. A transfer of function is the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area. The transfer of function provisions are applicable whether or not the movement of work is authorized by a stature, reorganization plan, Executive Order, or other authority.

Whenever it can be determined that a function(s) of an organizational component is being relocated or transferred to another organizational entity and such transfer does not occur entirely within a competitive area, employees given an opportunity to follow the function before any RIF action which might otherwise affect them may be taken. The same rules must be applied when a function or component which in itself constitutes an entire competitive area is moved to another commuting area.

10. Voluntary Early Optional Retirement. If the Office of Personnel Management determines that FMCS is undergoing a major RIF, reorganization, or transfer of function, OPM may authorize early optional retirements. If FMCS requests this option and it is approved, employees may voluntarily retire if they are at age 50 with at least 20 years of service or have at least 25 years of service at any age. In addition, an employee must have been on the rolls of the activity for which early retirements are authorized at least 30 days before the date of request for OPM approval. By permitting employees to exercise the major RIF retirement option, management would be assisted in carrying out a major RIF with less than usual disruption to the work force. This is accomplished by allowing eligible employees to volunteer for retirement before a RIF is actually effected. These voluntary retirements will reduce the number of involuntary separations that must be made.
11. Discontinued Service Retirement. An employee under the retirement system whose position is abolished may elect to take immediate annuity under the discontinued service retirement provisions, if otherwise eligible. It is not necessary that the employee be released from his/her competitive level. To be eligible, the employee must have been employed under the retirement system for at least 1 year within the 2-year period immediately preceding the separation on which the annuity is based; and, the employee must meet either of the following minimum requirements:
- a. Age 50 with 20 years of service (including 5 years of civilian service); or,
 - b. Any age with 25 years of service.
12. Placement Assistance
- a. OPM Displaced Employee Program. This program is operated by OPM and provides placement assistance to positions in other Government agencies. Placement assistance is extended to displaced career or career-

conditional employees in the competitive service and career or career-conditional employees in the excepted service who have competitive status. If an employee has received a RIF notice, he/she is eligible for the program if FMCS is unable to offer another position in your competitive area. An employee may apply for assistance through the personnel office to OPM no later than 90 days after the separation date. The application will be referred on OPM certificates for positions expected to last more than 1 year. A career employee is entitled to placement assistance for 2 years, and a career-conditional employee for 1 year.

- b. OPM Interagency Placement Assistance Program. This program is for employees faced with possible displacement. The intent is to help place as many of these employees as possible thereby reducing the number of employees the agency must separate involuntarily by RIF. The personnel office will provide employees with information and assistance, as necessary.
 - c. FMCS Reemployment Priority List. FMCS will extend every effort to provide placement assistance to employees that are or will be separated due to RIF. Reemployment priority lists will be maintained for Group I or II full-time and other-than-full-time employees from competitive service positions covered under OPM's RIF regulations.
13. Appeals and Grievances. An employee who has been furloughed for more than 30 days, separated, or demoted by a RIF action may appeal to the Merit Systems Protection Board (MSPB) under the provisions of MSPB's regulations if he or she believes that the controlling regulations have not been correctly applied.

Appeals must be filed with MSPB during the 20-day period beginning with the day after the effective date of the action being appealed. Appeals are not accepted on or before the effective date. At the time FMCS issues a decision notice to an employee, the Division of Personnel will provide the employee with specified information on the

appeals process.

A bargaining unit employee must grieve through use of the negotiated grievance procedure; such employees cannot appeal RIF actions to MSPB. An exception is permitted when the employee alleges violation of a prohibited personnel practice.

14. Effect of Separation by RIF on Benefits.

- a. Retirement. The option of applying for deferred annuity or of requesting lump sum payment of contributions to the retirement fund is available.
- b. Annual Leave. All employees who accumulate annual leave will receive lump sum payment for unused leave, if separated. This payment is made in addition to any severance pay to which an employee may be entitled.
- c. Sick Leave. Unused sick leave hours remain credited on your record for a maximum of 3 years. This leave is reinstated at any time (up to 3 years) that an employee might obtain another Federal job. For those employees eligible for retirement annuity, unused sick leave is credited to the annuity computation.
- d. Life Insurance. When the basic or various optional insurances (or both) terminate, the employee continues to have life insurance protection (not accidental death and dismemberment) for 31 days thereafter. This 31-day extension is automatic. An employee is entitled to convert to an individual policy from any eligible insurance company. No medical examination is required. If an employee retires under an immediate retirement annuity, basic and various optional life insurance may be retained (not accidental death and dismemberment) if the requirements for doing so are met.
- e. Health Insurance. Coverage of an enrolled employee continues temporarily for 31 days after the enrollment terminates. Also if the employee is confined to a hospital on the 31st day of the temporary extension of

coverage, benefits will continue during confinement up to a maximum of 60 more days. These temporary extensions of coverage are without cost to the employee, and apply also to any family member who loses coverage. The employee may convert, without evidence of insurability, to a non-group health benefits contract offered by the carrier of the plan. When an employee retires under an immediate annuity and meets other conditions that entitle him/her to continued enrollment, the enrollment is transferred to the retirement system and is automatically continued.

- f. Unemployment Compensation. Generally, Federal employees have compensation rights similar to those of workers in private industry. Unemployment compensation benefits are computed and paid in accordance with state law. Therefore, upon separation you should contact the local unemployment compensation office in the state (or D.C.) where employed in order to obtain specific information regarding eligibility and filing requirements for that area.
- g. Grade and Pay Retention. Employees being placed in lower-graded positions as the result of RIF may retain the grade and pay of their current position for two years if the employee was in a position at the higher grade or a grade above the position to which downgraded for at least one year. After 2 years, an employee is entitled to the lowest scheduled rate of basic pay in the employee's grade after the action is taken which equals or exceeds his/her current rate of basic pay, and will be placed in the appropriate step for that rate. If there is no such rate, the employee is entitled to retain either his/ her current rate of basic pay or 150% of the maximum rate of basic pay for the employee's grade after the action is taken, whichever is less.
- h. Status. Career employees and veterans have non-competitive reinstatement rights (status) for life. Career-conditional employees retain non-competitive

reinstatement rights (status) for 3 years after the effective date of the RIF action.

- i. Reemployment Rights. Reemployment rights vary depending on appointment and tenure. Separated employees in the competitive service will be placed on a reemployment priority list for that commuting area. Career employees remain on the list for 2 years; career conditional employees remain on the list for 1 year. Separated employees in the excepted service are not placed on reemployment priority lists.
- j. Severance Pay. If an employee is involuntarily separated by a RIF action, he/she is generally eligible for severance pay.

The maximum basic severance pay allowance is one week's pay at the rate received immediately before the separation for each year of Federal civilian service up to 10 years of service, plus 2 week's pay at the rate received immediately before the separation for each year of Civilian service over 10 years. For each year you are over 40 years of age, you receive an additional 10 percent of your basic allowance. The total severance pay you are eligible to receive is limited to one year's salary and will be paid at the same intervals at which your salary was paid while you were an employee. The one year maximum is a life-time limit. Therefore, if you receive severance pay for a time, return to Federal employment, then are involuntarily separated again, you will be entitled to further payments, but not to exceed the combined period of one year. Military service is not included in the computation. The Personnel Office will compute the exact amount of severance pay to which you are entitled upon separation.

DIRECTIVE 5204. STUDENT VOLUNTEER SERVICE PROGRAM FOR FMCS**1. Introduction.**

The Federal Mediation and Conciliation Service has, for a number of years, actively supported student volunteer service employment programs.

2. Authority.

The Civil Service Reform Act of 1978, Public Law 95-454, Section 301 (5 U.S.C. 3111).

3. Purpose.

The Student Volunteer Service Program is established to provide educationally related work assignments for students in a non-pay status. Under the cited authority, "volunteer service" is limited to services performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experience for the student. Such student service will be uncompensated and will not be used to displace any employee or to staff a vacancy which is a normal part of the FMCS workforce.

4. Objectives.

The acceptance of student volunteer service will enable the Federal Mediation and Conciliation Service to:

- a. Contribute significantly to the enrichment of educational programs.
- b. Bring about a stronger relationship between the efforts of educators and the occupational needs of the students.
- c. Provide opportunities for students to become

involved in early career exploration as a basis for making realistic decisions regarding their future careers.

- d. Provide exposure to the work environment as a means of encouraging students to develop work ethics and of acquainting them with the mission of the FMCS.
- e. Support affirmative action programs, through a career awareness approach, to assure that ethnic and racial minorities, women and the handicapped are informed of occupations available within the FMCS.

5. Restrictions on Activity and Reimbursement.

Student volunteers may be given assignments providing incidental assistance to salaried FMCS staff members in the conduct of negotiations, research, or other related case handling matters. Student volunteers may not, however, conduct sessions, certify official documents on behalf of the Service, or otherwise serve independently as Service employees. In addition, student volunteers may not utilize, in any fashion, data or information gained through their volunteer program without the expressed authorization of the Federal Mediation and Conciliation Service.

6. Volunteer Service Agreements.

The Student Volunteer Service program will be conducted through written agreements developed jointly between the educational institution involved and the FMCS. Each agreement will identify Agency and school responsibilities and conditions or limitations under which students will participate. Included in each agreement will be the method for maintenance of attendance and performance records, particularly since the career-related assignment is for the purpose of

course credit. Additionally, each agreement will make clear that authorization to engage in this program is limited by statute to students enrolled in school; that volunteer service is with the permission of the educational institution in which the student is enrolled; that such service will be uncompensated, and that participating students are not considered to be Federal employees for any purposes other than injury compensation under Title C, USC Chapter 81, or laws related to tort claims provisions published in 28 USC 2671-2680.

7. Student Eligibility and Status.

- a. Age. Student volunteer service will be in accordance with appropriate Federal, State and local laws and standards on using the services of minors.
- b. Status. Students participating under the FMCS Volunteer Service Program are not considered to be Federal employees for any purpose other than for purposes:
 - (1) Of the Federal Tort Claims provisions published in 28 U.S.C. 2671 through 2680. Claims arising as a result of student participation must be referred to the Department of Justice.

8. Documentation of Service.

a. General.

Although student volunteers are not Federal employees, their service is creditable for competitive examination purposes and participating schools, particularly of periods of service. Therefore, volunteer service must be documented on the Standard Form 50 (SF-50), "Notification of

Personnel Action," prior to the start of the volunteer assignment.

b. Recruitment and Selection.

Once a determination has been made that a volunteer position will be made available, local colleges and universities should be notified that a Regional Office will host a student. Applications should be accepted and then reviewed by the Regional Director or Director of Mediation Services.

For National Office positions, all applications will be sent to the Human Resources Staff for screening. Divisions which have agreed to host volunteers will then be given the opportunity to review the applications and interview students (by phone or in person).

When a selection is made, Human Resources will handle all arrangements with the University and the student.

c. Appointment.

Each employing office must submit a Standard Form 52 (SF-52), "Request for Personnel Action," for each student volunteer, indicating the numbers of hours per week the student is expected to work. Also, a "Time and Attendance Report," should be maintained for each student. This report should be forwarded to the HR Office at the conclusion of the assignment.

d. Separations.

When the period of volunteer service has ended, the employing office must submit a Standard Form 52 indicating "Termination" (not resignation). The

HR Office will prepare a Standard Form 50 showing "Termination" and indicating the total service of the student in hours or days worked between the appointment and separation dates.

e. Records.

For each student volunteer, the Division of Human Resources will establish an Official Personnel Folder (OPF) to contain copies of appointment and termination SF-50's, a resume of the student volunteer, an AP-68 (Essential Personal Data Sheet), and a brief statement of services performed. These documents will be filed on the right (permanent) side of the OPF. When volunteer service is terminated, the OPF will be sent to the National Personnel Records Center, following the instructions in the Federal Personnel Manual.

DIRECTIVECategory Rating Policy

1. Purpose. To ensure consistent use of Category Rating guidelines for the Federal Mediation and Conciliation Service (FMCS) in conjunction with Delegated Examining.
2. Scope. This applies to all positions advertised under Delegated Examining (i.e., positions for which all U.S. citizens can apply) by FMCS or on behalf of FMCS and must be used agency-wide.
3. Policy. FMCS will increase flexibility in selecting quality candidates through the use of a category-based ranking method. This approach is a way of assessing, ranking, and selecting job candidates for positions filled through competitive examining procedures. The policy is established in accordance with regulations issued by the U.S. Office of Personnel Management (OPM) in 5 CFR part 337 subpart C.
4. Authorities. Public Law 107-296; Title 5 United States Code (U.S.C.) 3319; 5 Code of Federal Regulations (CFR) part 337, subpart C.
5. Responsibility: The Office of Human Resources employees and hiring managers trained in category rating procedures are authorized to evaluate and select candidates under these procedures.
 - a. **Coverage:** All competitive positions filled through the delegated examining process.
 - b. **Assessment:** Candidates will be assessed against job-related criteria assigned to at least two previously defined quality categories, for example, Highly-Qualified, Well-Qualified, and Qualified, depending upon the quality and relevance of their qualifications to the job. The categories will be defined through a job analysis conducted in accordance with the Uniform Guidelines on Employee Selection Procedures, prior to starting any recruitment activity. The competencies and knowledge, skills, and abilities (KSA) identified in the job analysis

will serve as the foundation for the FMCS assessment strategy.

- c. **Quality Categories:** Multiple categories will be established to assess each candidate against job-related criteria. Applicants who meet the basic qualification requirements established for the position will be placed in a quality category. Each category is broadly defined as:

- **Highly-Qualified:** Candidates who possess the type and quality of experience that substantially exceeds the minimum qualifications of the position, including all selective placement factors and appropriate quality ranking factor(s) as determined by the job analysis.

These candidates are considered by the Human Resources Office and the subject matter expert (selecting official) to be highly proficient in all the requirements of the job and are able to perform effectively in the position almost immediately or with a minimum amount of training and/or orientation. These candidates will score 93 or above.

- **Well-Qualified:** Candidates who meet the minimum qualifications of the position and are proficient in some, but not all, of the requirements of the position. Candidates may require extensive training and/or orientation in order to satisfactorily perform the duties of the position. These candidates will score between 85 and 92.

- **Qualified:** Candidates in this category will meet the minimum qualifications and are proficient in at least one of the requirements of the position. Candidates will require extensive training and orientation in order to be successful in the position. These candidates will score between 70 and 84.

FMCS will not establish a **"Not-Qualified"** category.

When using OPM's Standing Registers, agencies must follow OPM's established quality categories for each register.

- d. **Announcement:** For each position to be filled, the job opportunity announcement must clearly define the categories each applicant will be assessed against based on the competencies/KSAs directly related to the job. The Human Resources Office will use the "How You Will Be Evaluated" section of the job opportunity announcement to communicate to applicants the rating criteria, i.e., the categories, that will be used to assess all applicants "Highly-Qualified" and "Well-Qualified".
- e. **Ranking:** Assessed applicants will be placed in the appropriate quality category and ranked according to preference eligibility (veterans) and non-preference eligibility. Within each category, all qualified preference eligibles (veterans) are placed ahead of non-preference eligibles. Qualified preference eligibles (veterans) are listed in alphabetical order within each preference order (CPS, CP, XP, and TP). Qualified non-preference eligibles are listed in alphabetical order. The following are exceptions:
- (1) For scientific and professional positions at the grade 9 levels (or equivalent) or higher, qualified preference eligibles (veterans) with a compensable service-connected disability of 10% or more (CPS and CP) are placed ahead of non-preference eligibles within the same quality category. Candidates within the preference groups will be listed in alphabetical order.
 - (2) For all other positions (series) and grade levels, qualified preference eligibles (veterans) with a compensable service-connected disability of 10% or more (CPS and CP) are placed at the top of the highest quality category regardless of the quality category in which they were placed and ahead of non-preference eligibles rated in the highest quality category (CPS and CP eligibles "float" to the highest quality category). Candidates within the preference groups will be listed in alphabetical order.
- f. **Merging Categories:** When there are fewer than three candidates in the highest quality category, the category
-

may be merged with the next lower quality category. Merging may take place before issuing a Certificate of Eligibles or before selecting an eligible. When merging categories, preference eligibles (veterans) from the lower category will be placed in the highest quality category above the non-preference eligibles in the newly merged highest quality category.

g. Selection:

- (1) All eligible candidates in the highest quality category must be listed on the Certificate of Eligibles, or equivalent, provided to the selecting official.
- (2) Pass over requests of preference eligibles will be processed as prescribed in 5 U.S.C. 3318 using procedures in OPM's Delegated Examining Operations Handbook, Chapter 6, Section D, Object to an Eligible.
- (3) Veterans' preference points as prescribed in 5 U.S.C. 3309 will not be applied in category rating procedures.
- (4) Any applicant on the certificate can be selected, provided that a non-preference eligible is not selected over a preference eligible.

h. Records Retention and Reporting Requirements

- (1) FMCS will submit a report to Congress in each of the 3 years following the establishment of a category rating system (5 U.S.C. § 3319(d)).
- (2) FMCS will send the annual report to the Speaker of the House and the President of the Senate.
- (3) The report will include the following:
 - (a) Number of employees hired under category rating;
 - (b) Impact category rating has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or

African American, and native Hawaiian or other Pacific Islanders; and

- (C) Way in which managers are trained in the administration of category rating.
- (4) FMCS will also forward to OPM a copy of the same report submitted to Congress. The report will be mailed to:

U.S. Office of Personnel Management
Associate Director
Employee Services
1900 E Street, NW, Room 7470
Washington, DC 20415

DIRECTIVE 5302. FMCS EMPLOYEE PERFORMANCE PLANNING AND APPRAISAL PROGRAM**1. General.****a. Authority.**

Title 5, United States Code (U.S.C.), Chapter 43, Subchapter I; Title 5, Code of Federal Regulations (CFR), Part 430, Performance Management, Subparts A and B.

b. Policy.

It is the policy of the Federal Mediation and Conciliation Service (FMCS) to have a performance planning and appraisal system that is applied equitably and that promotes a high-performance organization.

c. Purpose.

This directive provides the policy and procedures for the administration of the FMCS performance planning and appraisal system.

d. Coverage.

All General Schedule (GS) employees that are not covered by the collective bargaining agreement.

2. Performance Appraisal Process.**a. Appraisal Period.**

(1) The appraisal period for all GS employees covered under this plan begins on October 1 and ends on September 30 of each year.

(2) An employee must serve for a minimum of 90 calendar days in his/her current position under a performance plan in order to receive an appraisal.

(3) If, for any reason, an employee has not been under elements and standards for the minimum 90 day appraisal period, the appraisal period must be extended to meet this requirement. At that time, a rating of record

must be prepared. Whenever an extension is necessary, it must be documented in writing, and a copy sent to the Office of Human Resources.

b. Critical Elements and Performance Standards.

(1) A critical element is a performance element which requires a fully successful ("Meets") rating to achieve a fully successful ("Meets") summary rating. Management may establish standardized mandatory critical elements from year-to-year as necessary. All performance plans must contain at least one critical element.

(2) There are five (5) critical elements for the position of Field Mediator: Collective Bargaining Mediation; Relationship Development and Training; Grievance/Employment Mediation and ADR Activities; Professional Development and Responsibility; and Education, Advocacy, and Outreach.

(3) There are five (5) critical elements for ADR Mediators: Managing ADR Projects and Contracts; ADR/Employment Mediation; Facilitation, Workplace Relationship Development and Training; Education, Education, Advocacy and Outreach; and Professional Development and Responsibility.

(4) All supervisors should have a critical element that holds them accountable for ensuring that performance plans are aligned with organizational goals and for the timely completion of performance management plans, meetings with employees, performance appraisals, and award justifications, as appropriate. All supervisors should also have a performance element which evaluates their demonstrated commitment to and support of equal opportunity and diversity by virtue of their compliance with EEO laws, regulations, policies, and procedures.

(5) Performance standards for each critical element are described at three levels of performance: "Exceeds," "Meets," and "Does Not Meet." To the extent practicable, an employee's performance will be measured against a standard setting forth a successful level of performance in terms of how well (quality), how much (quantity), different and varying (variety), when (timeliness), and any other criterion that measures how an employee must perform his/her duties.

(6) Accomplishment of organizational objectives should, to the extent appropriate, be included in performance plans by incorporating objectives, goals, program plans, and action plans, or by similar measures related to program results.

c. Planning Performance.

(1) Individual performance plans must be developed with each employee and reviewed at the beginning of the appraisal period or whenever an employee enters a new position either by appointment, promotion, temporary promotion, detail of at least 120 days duration, demotion, reassignment, or transfer. The performance plan shall be provided to employees at the beginning of each appraisal period (normally within 30 days). During the individual performance planning meeting, the supervisor and the employee should make every effort to:

- (a) Discuss the work to be done and mutual expectations for accomplishing the work;
- (b) Attempt to reach a common understanding of the critical elements and performance standards for the job as well as develop goals and objectives for meeting the standards under each element; and
- (c) Discuss the employee's professional and personal development objectives as they relate to planned work.

(2) The responsibility for establishing individual performance plans rests with the supervisor. If an agreement is not reached concerning goals and objectives, the supervisor will set the goals and objectives. The employee may attach objections to the performance plan and forward his/her objections to the reviewing official. The reviewing official will review the objections, confer with the supervisor, and reply to the employee within ten (10) calendar days.

d. Reviewing Progress.

(1) Progress reviews are essential for discussing the status of particular activities, for revising action plans, goals and objectives, and for identifying and resolving any problems that result from changes in priorities or unforeseen workload. Employees will be informed of the level of performance by comparison with the elements and standards, but a rating of record will not necessarily be assigned.

(2) Progress reviews will be held for each employee at least once during the appraisal period. The review may be conducted face-to-face or over the telephone. If the employee requests a face-to-face discussion, the supervisor will make every effort to accommodate the request when practicable.

(3) A progress review may also be held anytime a current performance status determination is needed, or anytime counseling/communication is necessary or desirable; e.g., the employee's performance in one or more critical elements falls below the "Meets" level.

(4) The supervisor is encouraged to document each progress review, including the employee's agreement or disagreement with the performance evaluation.

e. Appraising Performance.

(1) Soon after the appraisal period ends (September 30), the supervisor and the reviewing official will jointly review the employee's performance as compared to the employee's performance plan. The review may include, but is not limited to, the following:

- (a) Information regarding quantity, quality, variety and timeliness of work performed;
- (b) Various factors outside of the employee's control that may affect accomplishment of work;
- (c) Assessment of the employee's attitude as it relates to his/her job performance;
- (d) If the employee is a mediator, his or her

acceptability and effectiveness in the labor-management community; and

- (e) Consideration of progress reviews held during the appraisal period.

(2) The employee may provide the supervisor with a list of accomplishments for the rating period, copies of documentation of special assignments, and other pertinent performance information or documentation.

(3) After determining a preliminary rating for each employee, the supervisor will confer with the reviewing official to discuss the intended rating.

(4) After approval by the reviewing official, the supervisor shall conduct a performance appraisal meeting with the employee to discuss performance as it relates to the established standards, and will formally assign a summary rating. The final appraisal (rating of record) should be signed by the employee, the supervisor, and the reviewing official.

f. Determination of Summary Rating.

(1) Critical Element Rating.

(a) Exceeds.

- (i) For employees having 1-4 critical elements, performance must exceed the standards for all critical elements.
- (ii) Field Mediators must be rated as "Exceeds" in Collective Bargaining Mediation and in Relationship Development and Training.
- (iii) For employees having 5 or more critical elements, performance must exceed the standards for at least three critical elements and must meet the standards for the remaining critical elements.

(b) Meets.

If an employee at least "Meets" the standards for all critical elements, but does not fulfill the requirements for an overall "Exceeds," then the overall summary rating will be "Meets."

(c) Does Not Meet.

If an employee "Does Not Meet" the standards for any critical element, then the overall summary rating will be "Does Not Meet."

g. Ratings of Record.

As soon as practicable but, in most cases, no later than **60 calendar days** after the end of the appraisal period, a written rating of record should be given to each employee and the original must be sent to the Office of Human Resources.

h. Dealing with Unacceptable Performance.

(1) If at any time during the appraisal period, the supervisor determines that an employee's performance is unacceptable ("Does Not Meet") in any critical element, the supervisor should counsel the employee on the specific deficiencies.

(2) Supervisors must take prompt action to deal with unacceptable ("Does Not Meet") performance.

(3) Employee's current performance and most recent rating must be at a fully successful ("Meets") before being granted a within-grade-increase. In accordance with 5 CFR 531, supervisors must ensure that within-grade-increases are not granted to employees whose performance is unacceptable ("Does Not Meet").

(4) As deemed appropriate, the supervisor may develop a written plan of action designed to assist the employee with improving his/her performance to a fully successful ("Meets") level. Such a plan of action may include closer supervision and/or on-the-job or formal training. This plan and an accompanying opportunity

period to improve, is referred to as a performance improvement plan (PIP). The PIP is developed by the supervisor in consultation with the Office of Human Resources. If the PIP is used and an opportunity to improve is provided, the PIP will be in writing and will, at a minimum, contain the following information:

- (a) The specific standard(s) not being met;
- (b) The specific recommendations for improving performance in order to be retained in the position;
- (c) The period of time that will be allowed to demonstrate a fully successful ("Meets") performance; and
- (d) A description of the assistance management will provide to the employee during the opportunity period; e.g., closer supervision, on-the-job or formal training, etc.

(5) The period of time originally set forth in the PIP may be extended in unusual circumstances at the discretion of the supervisor. If the employee's performance continues to be unacceptable ("Does Not Meet"), the supervisor must initiate some type of adverse action (e.g., reassignment, reduction in grade, or removal from the position). If an adverse action is being proposed, a written notice of proposed action will be provided to the employee explaining the action to be taken, the reason for such action, and the employee's rights. If the proposed action is effected, the employee will be provided with a Notice of Decision which will include the employee's right to appeal the adverse action to the Merit Systems Protection Board.

(6) If the employee's performance improves during the opportunity period but falls below fully successful ("Meets") level during the year that follows the beginning of the opportunity period, the employee may be removed or demoted without a new PIP or opportunity period, in accordance with 5 CFR 432.

(7) Nothing in this Directive shall prevent management from utilizing the procedures of 5 CFR 752, rather than 5 CFR 432, to address unacceptable ("Does Not Meet")

performance.

i. Assignment of Interim Summary Ratings.

(1) An interim summary rating must be provided under the following circumstances:

- (a) The supervisor vacates his/her position;
- (b) The employee vacates a position (moves to a different position within FMCS, moves to another agency, etc.); or
- (c) Upon completion of a temporary promotion or detail of at least 120 days duration.

(2) A copy of the interim summary rating will be forwarded to the gaining supervisor and must be considered when preparing the rating of record. If there is no supervisor in place to prepare the appraisal, the reviewing official will be responsible for completing the interim rating.

j. Employee Dissatisfactions with Performance Appraisal.

(1) Any dispute regarding the summary performance rating may be addressed in accordance with FMCS Directive 5806, Administrative Dispute Resolution System.

(2) Bargaining unit employees may file a grievance under the negotiated grievance procedure for issues other than the performance standards and critical elements used as the basis for a performance appraisal.

(3) Competitive service employees being reassigned, reduced in grade, or removed from their position as a result of unacceptable ("Does Not Meet") performance, have the right to appeal the adverse action to the Merit Systems Protection Board. Bargaining unit employees have specific rights through the negotiated grievance procedures.

(4) Any competitive service employee, who believes merit principles were violated, or that a prohibited personnel practice occurred, may have appeal rights to the Special Counsel in the Merit Systems Protection

Board. Specific information can be obtained from the Office of Human Resources or, for bargaining unit employees, from a union official.

k. Transfer of Rating.

(1) If an employee transfers to another agency or separates from the Federal service, available ratings of record (four years old or less) shall be filed in the electronic Official Personnel Folder (eOPF) and transferred to the new agency or to the National Records Center.

(2) Additionally, supervisors should prepare a summary rating for any employee who has completed the minimum (90-day) appraisal period in the position being vacated. This summary rating should be discussed with the employee and forwarded through the reviewing official to the Office of Human Resources for inclusion in the Employee Performance File (EPF). The summary rating should be considered by the gaining agency when deriving the next rating of record.

3. Reduction-in-Force (RIF).

- (a) For RIF purposes, the rating of record is the rating given at the end of the appraisal cycle (normally on an annual basis).
- (b) To provide adequate time to properly determine employee retention standing immediately prior to RIF, a general RIF notice will specify the date after which no new ratings of record will be given that may be used to determine retention standing.

4. Probationary Period.

The job performance of all employees serving a probationary or trial period will be evaluated by the supervisor periodically during the period. Two months prior to the expiration of the probationary or trial period, the supervisor will recommend to the Office of Human Resources whether the employee should be separated or retained.

5. Promotion.

No employee will receive a promotion within the career ladder or beyond unless his/her current annual performance rating of record is "Meets" or higher.

6. Performance Awards.

All employees covered under this appraisal system are eligible to receive an award under this part (See Directive 5304, Awards Program, for more detailed information).

7. Training.

Supervisors and employees are encouraged to attend available performance management training. Special attention should be devoted to the identification of critical elements and the establishment of performance standards and how they serve as a basis for making personnel decisions.

8. Records of Employee Performance.

In accordance with 5 CFR 293 Subpart D "Employee Performance File System Records" ratings of record, shall be retained for four (4) years in the Employee Performance File (EPF). Records older than 4 years will be destroyed.

9. Program Evaluation.

The Performance Planning and Appraisal System will be evaluated periodically to monitor its effectiveness.

10. Savings Provision.

The Performance Management Plan approved by OPM shall constitute an approved performance appraisal system under this Directive until such time changes to the system are approved. No provision of this Directive shall be interpreted or applied in such a way as to adversely affect administrative proceedings related to performance actions taken in accordance with relevant authorities.

Attachments

Attachment A:
Sample Performance Plan for Field Mediators

Attachment B:
Sample Performance Plan for ADR Mediators

Attachment C:
Sample Performance Plan for Administrative Assistants

Attachment D:
Appraisal System Timeline

Attachment E:
Supervisor's Checklist

Attachment F:
Tips for Employees

Attachment G:
Award Nomination Form

DIRECTIVE 5302. FMCS EMPLOYEE PERFORMANCE PLANNING AND APPRAISAL PROGRAM**1. General.****a. Authority.**

Title 5, United States Code (U.S.C.), Chapter 43, Subchapter I; Title 5, Code of Federal Regulations (CFR), Part 430, Performance Management, Subparts A and B.

b. Policy.

It is the policy of the Federal Mediation and Conciliation Service (FMCS) to have a performance planning and appraisal system that is applied equitably and that promotes a high-performance organization.

c. Purpose.

This directive provides the policy and procedures for the administration of the FMCS performance planning and appraisal system.

d. Coverage.

All General Schedule (GS) employees that are not covered by the collective bargaining agreement.

2. Performance Appraisal Process.**a. Appraisal Period.**

(1) The appraisal period for all GS employees covered under this plan begins on October 1 and ends on September 30 of each year.

(2) An employee must serve for a minimum of 90 calendar days in his/her current position under a performance plan in order to receive an appraisal.

(3) If, for any reason, an employee has not been under elements and standards for the minimum 90 day appraisal period, the appraisal period must be extended to meet this requirement. At that time, a rating of record

must be prepared. Whenever an extension is necessary, it must be documented in writing, and a copy sent to the Office of Human Resources.

b. Critical Elements and Performance Standards.

(1) A critical element is a performance element which requires a fully successful ("Meets") rating to achieve a fully successful ("Meets") summary rating. Management may establish standardized mandatory critical elements from year-to-year as necessary. All performance plans must contain at least one critical element.

(2) There are five (5) critical elements for the position of Field Mediator: Collective Bargaining Mediation; Relationship Development and Training; Grievance/Employment Mediation and ADR Activities; Professional Development and Responsibility; and Education, Advocacy, and Outreach.

(3) There are five (5) critical elements for ADR Mediators: Managing ADR Projects and Contracts; ADR/Employment Mediation; Facilitation, Workplace Relationship Development and Training; Education, Education, Advocacy and Outreach; and Professional Development and Responsibility.

(4) All supervisors should have a critical element that holds them accountable for ensuring that performance plans are aligned with organizational goals and for the timely completion of performance management plans, meetings with employees, performance appraisals, and award justifications, as appropriate. All supervisors should also have a performance element which evaluates their demonstrated commitment to and support of equal opportunity and diversity by virtue of their compliance with EEO laws, regulations, policies, and procedures.

(5) Performance standards for each critical element are described at three levels of performance: "Exceeds," "Meets," and "Does Not Meet." To the extent practicable, an employee's performance will be measured against a standard setting forth a successful level of performance in terms of how well (quality), how much (quantity), different and varying (variety), when (timeliness), and any other criterion that measures how an employee must perform his/her duties.

(6) Accomplishment of organizational objectives should, to the extent appropriate, be included in performance plans by incorporating objectives, goals, program plans, and action plans, or by similar measures related to program results.

c. Planning Performance.

(1) Individual performance plans must be developed with each employee and reviewed at the beginning of the appraisal period or whenever an employee enters a new position either by appointment, promotion, temporary promotion, detail of at least 120 days duration, demotion, reassignment, or transfer. The performance plan shall be provided to employees at the beginning of each appraisal period (normally within 30 days). During the individual performance planning meeting, the supervisor and the employee should make every effort to:

- (a) Discuss the work to be done and mutual expectations for accomplishing the work;
- (b) Attempt to reach a common understanding of the critical elements and performance standards for the job as well as develop goals and objectives for meeting the standards under each element; and
- (c) Discuss the employee's professional and personal development objectives as they relate to planned work.

(2) The responsibility for establishing individual performance plans rests with the supervisor. If an agreement is not reached concerning goals and objectives, the supervisor will set the goals and objectives. The employee may attach objections to the performance plan and forward his/her objections to the reviewing official. The reviewing official will review the objections, confer with the supervisor, and reply to the employee within ten (10) calendar days.

d. Reviewing Progress.

(1) Progress reviews are essential for discussing the status of particular activities, for revising action plans, goals and objectives, and for identifying and resolving any problems that result from changes in priorities or unforeseen workload. Employees will be informed of the level of performance by comparison with the elements and standards, but a rating of record will not necessarily be assigned.

(2) Progress reviews will be held for each employee at least once during the appraisal period. The review may be conducted face-to-face or over the telephone. If the employee requests a face-to-face discussion, the supervisor will make every effort to accommodate the request when practicable.

(3) A progress review may also be held anytime a current performance status determination is needed, or anytime counseling/communication is necessary or desirable; e.g., the employee's performance in one or more critical elements falls below the "Meets" level.

(4) The supervisor is encouraged to document each progress review, including the employee's agreement or disagreement with the performance evaluation.

e. Appraising Performance.

(1) Soon after the appraisal period ends (September 30), the supervisor and the reviewing official will jointly review the employee's performance as compared to the employee's performance plan. The review may include, but is not limited to, the following:

- (a) Information regarding quantity, quality, variety and timeliness of work performed;
- (b) Various factors outside of the employee's control that may affect accomplishment of work;
- (c) Assessment of the employee's attitude as it relates to his/her job performance;
- (d) If the employee is a mediator, his or her

acceptability and effectiveness in the labor-management community; and

- (e) Consideration of progress reviews held during the appraisal period.

(2) The employee may provide the supervisor with a list of accomplishments for the rating period, copies of documentation of special assignments, and other pertinent performance information or documentation.

(3) After determining a preliminary rating for each employee, the supervisor will confer with the reviewing official to discuss the intended rating.

(4) After approval by the reviewing official, the supervisor shall conduct a performance appraisal meeting with the employee to discuss performance as it relates to the established standards, and will formally assign a summary rating. The final appraisal (rating of record) should be signed by the employee, the supervisor, and the reviewing official.

f. Determination of Summary Rating.

(1) Critical Element Rating.

(a) Exceeds.

- (i) For employees having 1-4 critical elements, performance must exceed the standards for all critical elements.
- (ii) Field Mediators must be rated as "Exceeds" in Collective Bargaining Mediation and in Relationship Development and Training.
- (iii) For employees having 5 or more critical elements, performance must exceed the standards for at least three critical elements and must meet the standards for the remaining critical elements.

(b) Meets.

If an employee at least "Meets" the standards for all critical elements, but does not fulfill the requirements for an overall "Exceeds," then the overall summary rating will be "Meets."

(c) Does Not Meet.

If an employee "Does Not Meet" the standards for any critical element, then the overall summary rating will be "Does Not Meet."

g. Ratings of Record.

As soon as practicable but, in most cases, no later than **60 calendar days** after the end of the appraisal period, a written rating of record should be given to each employee and the original must be sent to the Office of Human Resources.

h. Dealing with Unacceptable Performance.

(1) If at any time during the appraisal period, the supervisor determines that an employee's performance is unacceptable ("Does Not Meet") in any critical element, the supervisor should counsel the employee on the specific deficiencies.

(2) Supervisors must take prompt action to deal with unacceptable ("Does Not Meet") performance.

(3) Employee's current performance and most recent rating must be at a fully successful ("Meets") before being granted a within-grade-increase. In accordance with 5 CFR 531, supervisors must ensure that within-grade-increases are not granted to employees whose performance is unacceptable ("Does Not Meet").

(4) As deemed appropriate, the supervisor may develop a written plan of action designed to assist the employee with improving his/her performance to a fully successful ("Meets") level. Such a plan of action may include closer supervision and/or on-the-job or formal training. This plan and an accompanying opportunity

period to improve, is referred to as a performance improvement plan (PIP). The PIP is developed by the supervisor in consultation with the Office of Human Resources. If the PIP is used and an opportunity to improve is provided, the PIP will be in writing and will, at a minimum, contain the following information:

- (a) The specific standard(s) not being met;
- (b) The specific recommendations for improving performance in order to be retained in the position;
- (c) The period of time that will be allowed to demonstrate a fully successful ("Meets") performance; and
- (d) A description of the assistance management will provide to the employee during the opportunity period; e.g., closer supervision, on-the-job or formal training, etc.

(5) The period of time originally set forth in the PIP may be extended in unusual circumstances at the discretion of the supervisor. If the employee's performance continues to be unacceptable ("Does Not Meet"), the supervisor must initiate some type of adverse action (e.g., reassignment, reduction in grade, or removal from the position). If an adverse action is being proposed, a written notice of proposed action will be provided to the employee explaining the action to be taken, the reason for such action, and the employee's rights. If the proposed action is effected, the employee will be provided with a Notice of Decision which will include the employee's right to appeal the adverse action to the Merit Systems Protection Board.

(6) If the employee's performance improves during the opportunity period but falls below fully successful ("Meets") level during the year that follows the beginning of the opportunity period, the employee may be removed or demoted without a new PIP or opportunity period, in accordance with 5 CFR 432.

(7) Nothing in this Directive shall prevent management from utilizing the procedures of 5 CFR 752, rather than 5 CFR 432, to address unacceptable ("Does Not Meet")

performance.

i. Assignment of Interim Summary Ratings.

(1) An interim summary rating must be provided under the following circumstances:

- (a) The supervisor vacates his/her position;
- (b) The employee vacates a position (moves to a different position within FMCS, moves to another agency, etc.); or
- (c) Upon completion of a temporary promotion or detail of at least 120 days duration.

(2) A copy of the interim summary rating will be forwarded to the gaining supervisor and must be considered when preparing the rating of record. If there is no supervisor in place to prepare the appraisal, the reviewing official will be responsible for completing the interim rating.

j. Employee Dissatisfactions with Performance Appraisal.

(1) Any dispute regarding the summary performance rating may be addressed in accordance with FMCS Directive 5806, Administrative Dispute Resolution System.

(2) Bargaining unit employees may file a grievance under the negotiated grievance procedure for issues other than the performance standards and critical elements used as the basis for a performance appraisal.

(3) Competitive service employees being reassigned, reduced in grade, or removed from their position as a result of unacceptable ("Does Not Meet") performance, have the right to appeal the adverse action to the Merit Systems Protection Board. Bargaining unit employees have specific rights through the negotiated grievance procedures.

(4) Any competitive service employee, who believes merit principles were violated, or that a prohibited personnel practice occurred, may have appeal rights to the Special Counsel in the Merit Systems Protection

Board. Specific information can be obtained from the Office of Human Resources or, for bargaining unit employees, from a union official.

k. Transfer of Rating.

(1) If an employee transfers to another agency or separates from the Federal service, available ratings of record (four years old or less) shall be filed in the electronic Official Personnel Folder (eOPF) and transferred to the new agency or to the National Records Center.

(2) Additionally, supervisors should prepare a summary rating for any employee who has completed the minimum (90-day) appraisal period in the position being vacated. This summary rating should be discussed with the employee and forwarded through the reviewing official to the Office of Human Resources for inclusion in the Employee Performance File (EPF). The summary rating should be considered by the gaining agency when deriving the next rating of record.

3. Reduction-in-Force (RIF).

- (a) For RIF purposes, the rating of record is the rating given at the end of the appraisal cycle (normally on an annual basis).
- (b) To provide adequate time to properly determine employee retention standing immediately prior to RIF, a general RIF notice will specify the date after which no new ratings of record will be given that may be used to determine retention standing.

4. Probationary Period.

The job performance of all employees serving a probationary or trial period will be evaluated by the supervisor periodically during the period. Two months prior to the expiration of the probationary or trial period, the supervisor will recommend to the Office of Human Resources whether the employee should be separated or retained.

5. Promotion.

No employee will receive a promotion within the career ladder or beyond unless his/her current annual performance rating of record is "Meets" or higher.

6. Performance Awards.

All employees covered under this appraisal system are eligible to receive an award under this part (See Directive 5304, Awards Program, for more detailed information).

7. Training.

Supervisors and employees are encouraged to attend available performance management training. Special attention should be devoted to the identification of critical elements and the establishment of performance standards and how they serve as a basis for making personnel decisions.

8. Records of Employee Performance.

In accordance with 5 CFR 293 Subpart D "Employee Performance File System Records" ratings of record, shall be retained for four (4) years in the Employee Performance File (EPF). Records older than 4 years will be destroyed.

9. Program Evaluation.

The Performance Planning and Appraisal System will be evaluated periodically to monitor its effectiveness.

10. Savings Provision.

The Performance Management Plan approved by OPM shall constitute an approved performance appraisal system under this Directive until such time changes to the system are approved. No provision of this Directive shall be interpreted or applied in such a way as to adversely affect administrative proceedings related to performance actions taken in accordance with relevant authorities.

Attachments

Attachment A:
Sample Performance Plan for Field Mediators

Attachment B:
Sample Performance Plan for ADR Mediators

Attachment C:
Sample Performance Plan for Administrative Assistants

Attachment D:
Appraisal System Timeline

Attachment E:
Supervisor's Checklist

Attachment F:
Tips for Employees

Attachment G:
Award Nomination Form

DIRECTIVE 5205. PROBATIONARY PERIODS

1. Purpose. This directive implements Government-wide law and regulation governing probationary periods for initial appointments to competitive positions as well as initial appointments to supervisory and managerial positions.
2. Scope. These rules apply to all newly appointed competitive employees. The trial period for newly appointed mediators is described in FMCS Directive 5202.) These rules also apply to all FMCS employees first appointed to supervisory and/or managerial positions.
- 3 Authorities.
 - a. Public Law 95-454 (Civil Service Reform Act)
 - b. Section 3321, Title 5, USC
4. Responsibilities.
 - a. Director. Ensures that an effective program for probationary periods is developed, maintained, and monitored.
 - b. Deputy Director. Provides for the administration of an effective system and assures full management commitment to the goals and objectives of the program.
 - c. Director of Human Resources. Develops the Service's program and serves as key advisor to the Service in the administration and operation of the program (ensures proper notification, follow up, etc.).
 - d. Supervisors. Individuals who supervise probationary employees must:
 - (1) ensure that written performance standards are prepared, issued, and discussed with probationers at the beginning of the probationary period;

- (2) monitor performance and provide feedback periodically;
 - (3) consider training needs and provide appropriate training, as needed; and
 - (4) observe and provide feedback to new Federal employees on their conduct and general character traits to determine suitability for Government work.
 - e. Probationers. Demonstrate ability to successfully perform the duties of their positions, and to conduct themselves in an appropriate manner suitable to the work situation.
5. Probationary Periods for Newly Appointed Employees. The Office of Personnel Management (OPM) regards the probationary period for an employee's first appointment to a competitive position in the Federal Government as a final and highly significant step in the examining process. It provides the final and indispensable test--that of actual performance on the job. During the probationary period, the employee's conduct and performance in the actual duties of his/her position may be observed. He/she may be separated from the Federal service without undue formality, if circumstances warrant. Thus the probationary period provides protection against the retention of any person who is found to be lacking in fitness and capacity to acquire fitness for permanent Government service.
- a. Applicability and Length of Probationary Period. Individuals given career-conditional or career appointments by selection from an OPM certificate must serve a probationary period of 1 year. This applies not only to the first appointment of this kind, but to any subsequent career or career-conditional appointment by selection from a certificate of eligible candidates, regardless of whether the appointee has previously completed a probationary period (this includes appointments using the direct-hire authority). An

individual who is reinstated as a career or career-conditional employee, is required to serve a new probationary period of one year, unless one was already completed. FPM Chapter 315, Subchapter 8, provides details on unusual cases.

During the probationary period, the supervisor should observe the employee's conduct, general character traits, and performance; provide proper guidance; and, determine whether the employee is suited for successful Government work. If it becomes apparent, after full and fair trial, that the employee is not fit for satisfactory service, the supervisor must initiate action to separate the employee. This action should be taken in sufficient time for the employee to be notified and separated prior to the expiration of the probationary period.

- b. Separation of Probationers. An action based on unsatisfactory performance or conduct after appointment may be based on deficiency in duty performance, lack of aptitude or cooperation, or undesirable suitability characteristics evidenced by his/her activities either during or outside official working hours. The probationer must be informed in writing why he/she is being terminated and the effective date of the action. The employee is not given a right of reply. The employee will be provided enough factual information about his/her performance or conduct to make the agency's basis for the action clear. He/she will also be provided with information on how to appeal, as well as the basis upon which he/she can appeal to the Merit Systems Protection Board (MSPB).

If the employee is being separated for conduct before appointment (such as falsification of an application for employment), he/she is entitled to notice in advance, a detailed statement of the reasons, the right to reply, consideration of his/ her reply, a decision, and information on his/her right to appeal to MSPB.

- c. Appeal Right. For separation due to unsatisfactory performance or conduct after appointment, the employee

may appeal to MSPB if he/she alleges the action was based on (1) partisan political reasons or marital status; or (2) race, color, religion, sex, national origin, physical handicap, or age (if at least 40 years old) if discrimination is raised in addition to (1). Appeals based on issues listed in (2) are subject to EEOC regulations. For separation due to conduct before appointment, the employee may appeal to MSPB on the grounds that (1) the agency failed to observe the procedures required for separation; (2) the separation was based on partisan political reasons or marital status; or (3) the separation was based on race, color, religion, sex, national origin, physical handicap, or age (if at least 40 years old) if such discrimination is raised in addition to (1) or (2). Appeals based solely on (3) are subject to EEOC regulations.

6. Probationary Period for Newly Appointed Managers and Supervisors. This probationary requirement is intended to measure actual performance against perceived potential. It provides management with an opportunity to assess the new appointee's performance and development on the job and to return the employee to a nonsupervisory/nonmanagerial position should circumstances warrant. It is intended to provide employees with the opportunity for successful development through periodic monitoring and evaluation; and to provide FMCS with high quality supervisors and managers.
 - a. Applicability and Length of Probationary Period. Unless previously satisfied, upon initial assignment to a supervisory position, an employee is required to complete a probationary period. Upon initial assignment to a managerial position, an employee is required to complete a separate probationary period. An employee whose initial appointment is to a position that is both supervisory and managerial will be required to complete a single probationary period. If, upon appointment, an employee is required to serve both a probationary period as a new supervisor and/or manager and a probationary period as a new employee, the latter takes precedence and completion of a probationary period for competitive appointment (see paragraph 4) fulfills the requirement for both. The length of each probationary

period is 1 year.

- b. Failure to Satisfactorily Complete the Probationary Period. Satisfactory completion of the probationary period is a prerequisite to continuation in a supervisory or managerial position. If after reasonable trial, an evaluation of the employee reveals deficiencies in supervisory or managerial performance, the employee must be returned or reassigned to a nonsupervisory or nonmanagerial position. (Note: An action to demote or separate for conduct or for performance not related to supervisory or managerial performance must be processed under appropriate regulations regarding adverse actions or performance-based actions.)

The employee must be notified in writing by the immediate supervisor of the reasons for his/her return to a nonsupervisory/nonmanagerial position. This decision must be concurred in by a least the next higher level official within the organizational structure. The following also applies:

- (1) The employee is entitled to be placed in a position of no lower grade and pay than the one the employee left to accept the supervisory/managerial position. FMCS will make every attempt to place the employee within the same commuting area.
- (2) An employee who is promoted to a supervisory or managerial position and is subsequently returned to his/her/former grade level, is entitled to credit toward a within-grade increase at the lower grade for the time spent at the higher grade. However, the highest previous rate rule will not be applied in these situations.
- (3) An employee who is returned to a lower grade position for failure to satisfactorily complete

probation under the section is not entitled to grade or pay retention.

- (4) RIF procedures may not be used to place the employee.

c. Appeals/Grievances.

- (1) An action to return or reassign an employee for reasons directly related to supervisory/managerial performance cannot be appealed or grieved.
- (2) An allegation of discrimination due to race, color, religion, sex, national origin, physical handicap or age (if at least 40 years old) in connection with an action returning the employee to a nonsupervisory or nonmanagerial position is to be processed as a discrimination complaint. Final agency action on such complaints can be appealed to the EEOC.
- (3) An allegation of discrimination due to marital status or partisan political affiliation can be appealed to the MSPB if the employee is not serving under a probationary period described in paragraph 4.

DIRECTIVE 5304. FMCS INCENTIVE AWARDS PROGRAM**1. Authority.**

Title 5, United States Code (U.S.C), Chapter 45,
Title 5, Code of Federal Regulations (CFR), Part 451,
Awards, Subpart A.

2. Purpose.

This directive establishes the policy and procedures for the Incentive Awards Program for the Federal Mediation and Conciliation Service (FMCS). Awards are intended to increase employee productivity and creativity by rewarding significant contributions to the quality and efficiency of FMCS operations.

3. Policy.

It is the policy of FMCS to recognize excellence and motivate employees to achieve and maintain high levels of performance.

A. The FMCS Incentive Awards Program should be utilized with the following objectives and considerations:

- (1) Appropriate, effective, and consistent use of the various types of awards;
- (2) Encouraging employees' productivity and creativity in their efforts to achieve FMCS goals;
- (3) Granting recognition based on the high-level performance of employees' and/or the value of their contribution to the goals of FMCS;
- 4) Using Incentive Awards for their intended purpose and not as a substitute for other personnel actions or pay; and,

(5) Allocating adequate budget to ensure prompt action on awards and employee suggestions.

B. The FMCS Awards Program will be administered by FMCS management and supervisors. It shall be administered on the basis of merit without regard to age, sex, race, color, religion, national origin, marital status, or physical or mental handicap.

C. Awards are not mandatory but may be initiated by management when applicable criteria are met.

4. General Eligibility for Awards.

Except as noted for each award described below, all full and/or part-time employees are generally eligible to receive awards. Summer employees are eligible for certain types of awards. Please see each type of award for specific eligibility criteria.

5. Program Responsibilities:

A. Supervisors/Managers shall have the major responsibility of ensuring the effective use of Incentive Awards and preserving the program's credibility in the following manner:

(1) To encourage high performance and employee ideas for improvement;

(2) To reward superior achievements promptly. This means timely recognition for singular and noteworthy achievement, rather than waiting to reward employees only at the end of a performance rating cycle; and,

(3) To be as fair, objective and consistent as possible in the granting of awards. For example, only an employee who has truly performed a non-recurring contribution should be awarded a Special Act or Service Award. Performance Awards should only be given to employees who have performed at a truly exemplary level.

- B. The Office of Human Resources (HR) shall be responsible for coordinating and administering the Incentive Awards Program. When practicable, HR will designate an individual as Incentive Awards Program Manager to implement the policies established in this document.

6. Superior Accomplishment Awards.

A. Special Act Award.

A Special Act is a one-time cash award based on a non-recurring contribution and/or accomplishment in the interest of the public either within or outside the employee's job responsibilities.

(1) Criteria.

A Special Act is defined as a contribution or accomplishment in the public interest that:

- (a) Is a single contribution, or series of connected actions, within a short time frame, and may have either tangible or intangible benefits to the government;
- (b) May involve more than one employee; and,
- (c) Has not have served as the basis for a previous cash award.

(2) Eligibility.

- (a) All employees (including groups or teams) who have an acceptable rating of record are eligible.
- (b) Service on a detail does not in itself constitute a non-recurring or one-time contribution that qualifies for a Special Act Award. If an employee is detailed for 120 days or more, exemplary performance on the

detail should be factored into the performance rating. Performance on detail of less than 120 days may be recognized with a Special Act Award only if the employee's contribution meets the above criteria. The job-related contributions of detailees should be considered on the same basis as those of permanent incumbents in determining if they meet the criteria for a Special Act Award.

(3) Nomination Procedures.

- (a) Nominations should be submitted by the employee's supervisor within 30 calendar days after the act, service, or achievement to be recognized. The supervisor or nominating official, in coordination with the employee's supervisor, will forward the award nomination to a Deputy Director and the Director for approval.
- (b) The Awards Nomination Form (Appendix A) will be used to process a Special Act Award. This form requires a short narrative description of the employee's achievement, including the value of the benefits.
- (c) Final action should be taken within 30 calendar days unless budgetary concerns preclude prompt action.
- (d) If the award is disapproved, the nomination form will be returned to the recommending official with an explanation.
- (e) If the award is approved, it will be sent to HR for review to ensure it meets program requirements and final

processing. Once the award has been entered into the payroll system by HR, the nominating official will be notified that the award has been effected. The nominating official, will in turn, notify the employee that the award has been approved.

- (f) An Award Certificate and an SF-50 Notification of Personnel Action, documenting the award will be forwarded to the nominating official for appropriate presentation to the employee.

(4) Award Amounts.

Special Act Awards range from \$750 to \$25,000, depending on the achievement being recognized. Awards over \$10,000 must be reviewed by the Office of Personnel Management. All awards granted under this program are subject to federal, state, local, and OASDI/HITS taxes. All awards will be included in gross annual wages on the employee's Form W-2 Wage and Tax Statement.

B. On-the-Spot Awards.

This small monetary award program requires minimal documentation and gives managers a means of providing immediate cash recognition for specific instances of noteworthy performance. Supervisors grant On-the-Spot Awards to recognize accomplishments that represent steps toward achievement of organizational goals, purposes, or functions, but for which higher level recognition such as the Director's Award, Performance Awards, or Special Act Awards, are not appropriate. Receipt of an award in this program does not preclude the same employee from receiving additional recognition, such as a cash award, or

quality step increase when criteria for such recognition are otherwise met.

(1) Examples.

The following examples represent circumstances for which an On-the-Spot Award would be appropriate:

- (a) Completion of a short-term project or significant milestone in less time than expected or where there were unusual difficulties to overcome. Completion of a significant special assignment that is outside of normal job responsibilities;
- (b) Development of new or revised procedures or other contributions that have made an improvement in general office productivity, or a contribution that enables the FMCS to make more effective use of its resources;
- (c) Handling an unusually heavy workload when coworkers are absent or when vacant positions are not filled immediately. Helping a coworker who has an unusually heavy workload or a crash project;
- (d) Making great efforts to promote harmony and teamwork among coworkers; and,
- (e) A contribution that improves public awareness and/or understanding of FMCS programs.

(2) Eligibility.

All employees (including groups or teams) except senior executives of FMCS are eligible for the On-the-Spot Award Program.

(3) Nomination Procedures.

- (a) An employee's supervisor or any individual having direct knowledge of the employee's contribution, in coordination with the employee's supervisor, may initiate an award nomination. Nominations should be submitted as soon as possible after the contribution. In most instances, final action on the nomination will occur within 30 calendar days after submission.
- (b) The Awards Nomination Form (Appendix A) will be used to process On-the-Spot Awards. This form requires a short narrative description of the employee's contribution.
- (c) The supervisor or nominating official will forward the award nomination through the second-level supervisor for approval.
- (d) If the award is disapproved, the nomination form will be returned to the recommending official with an explanation.
- (e) Once the award has been approved through the supervisory chain, it will be sent to HR for review to ensure it meets program requirements and final processing. Once HR reviews the nomination form, the award will be processed the following pay period. The HR office will notify the nominating official that the award has been approved and will forward an Award Certificate, SF-50 Notification of Personnel Action, for presentation to the employee.

(4) Award Amounts.

On-the-Spot Awards are in increments of \$25, from \$25 - \$500. All awards granted under this program

are subject to federal, state, local, and OASDI/HITS taxes. All awards will be included in gross annual wages on the employee's Form W-2 Wage and Tax Statement.

C. Time-Off Awards.

This is an award which allows managers to grant employees time off from duty, without a loss of pay or charge of leave. Time-Off Awards are intended to increase employee productivity and creativity by rewarding contributions to the quality, efficiency, or economy of FMCS operations. The impact and scope of the contribution will be considered when determining the amount of time off that is approved.

(1) Criteria.

The types of contributions that may be recognized with a Time-Off Award are:

- (a) Making a high-quality contribution involving a difficult or important project or assignment;
- (b) Displaying special initiative and skill in completing an assignment or project by or before an established deadline;
- (c) Using initiative and creativity in making improvements in the product, activity, program or service through action or an employee suggestion; or,
- (d) Ensuring that the work unit's mission is accomplished during a difficult period by successfully completing additional work on a project assignment while maintaining the employee's normal workload.

(2) Award Amounts.

A full-time employee may be authorized from 4 to 40 hours of time off for each award instance, but not more than 80 hours in a leave year. In the case of part-time employees or employees with uncommon tours of duty, the maximum time off during the leave year will be the average number of work hours in the employee's biweekly scheduled tour of duty. The maximum amount of time off granted for a single contribution for part-time or uncommon tour employees will be one-half the maximum amount of time that could be granted in the leave year for the employee.

(3) Relationship to other Awards.

A Time-Off Award may be granted alone or in combination with monetary or non-monetary awards for recognition of the same accomplishment. Approving officials who grant time off as an incentive award must ensure that the total recognition granted for any single achievement or period of performance is proportionate to the contribution being recognized.

(4) Eligibility.

- (a) All FMCS employees except senior executive service (SES) members, and employees working on an intermittent basis with no regularly scheduled tour of duty, are eligible for Time-Off Awards.
- (b) For an instance of superior accomplishment, a part-time employee may be granted an amount equal to the average hours per week the employee was scheduled in a pay status during the period the accomplishment occurred. The maximum time off that may be awarded is twice the maximum amount for a

single instance of superior performance. For example, the maximum Time-Off Award a 32-hour average per week part-time employee could be granted is 32 hours for any one instance of superior contribution and 64 hours total for the leave year.

(5) Delegation of Approval Authority.

The authority to approve Time-Off Awards is held by the Director, FMCS, and is delegated in the following manner:

- (a) Time-Off Awards of 4 to 8 hours may be granted by the recipient's immediate supervisor;
- (b) Time-Off Awards of 9 to 24 hours must be approved by the second level supervisor; and,
- (c) Time-Off Awards of 25 to 40 hours must be approved by a Deputy Director and the Director.

(6) Nomination Procedures.

- (a) The Awards Nomination Form (Appendix A) should be used to nominate an individual for a Time-Off Award. This form requires a short narrative description of the employee's contribution.
- (b) The nomination form must be signed by the recommending official and any others as required by the amount of time off for which the employee is being nominated. (See paragraph above on Delegation of Approval Authority).
- (c) Once the form is completed by the appropriate management officials, it will be sent to HR

for review to ensure it meets program requirements. Upon completion of this review, the nomination form will be returned to the recommending official, who may then notify the employee of the award.

- (d) The approving official will submit an SF-52 "Request for Personnel Action," to process the award. Upon receipt of the SF-52, HR will document the award with an SF-50, issued to the employee.

(7) Scheduling and Use of Time-Off Awards.

- (a) No time off will be taken by an employee before they are officially notified that the time has been approved.
- (b) Scheduling of excused absence for a Time-Off Award is subject to supervisory approval.
- (c) Employees must request the time off for excused absence earned from a Time-Off Award in the same manner as annual leave.
- (d) Time off granted must be used within one year after the award is made. Any time off not taken within the one-year limit will be forfeited. Supervisors must make every effort to ensure time off granted is not forfeited.
- (e) Time off granted does not convert to cash or annual leave under any circumstances.
- (f) When physical incapacitation for duty occurs during the use of the Time-Off Award, sick leave may be granted for the period of incapacitation.

(8) Timekeeper Responsibilities.

- (a) The timekeeper will annotate the employee's

time and attendance record for absences for a Time-Off Award only upon instructions from the appropriate supervisor.

- (b) The specific instructions and transaction code for time-off are contained in the time and attendance instruction manual.
- (c) A copy of the award approval must be maintained with the certified Time and Attendance Report for the pay period the award was effective.

7. Performance Awards.

These awards are a one-time cash payment to an employee based on the employee's performance during the entire rating cycle. A Performance Award does not increase base pay.

A. Criteria.

- (1) Employees may be nominated for Performance Awards when they are rated above the fully successful ("Meets") level.
- (2) This award is not intended to reward employees for one time or intermittent accomplishments, but for sustained high quality performance throughout the entire rating period. Performance Awards should be used to reward past performance and as an incentive to stimulate future high-level performance of the employee and his/her peers.
- (3) Organizational accomplishments, including the employees' overall contributions to mission accomplishment, should be major considerations when recommending or approving Performance Awards for individual employees.
- (4) Employees will not be automatically entitled to a Performance Award based on their rating.

B. Eligibility.

- (1) All General Schedule (GS) employees are eligible to receive Performance Awards.
- (2) Employees must be in the position of record on the last day of the rating period for which performance pay decisions are being made.

C. Nomination Procedures.

- (1) Nominations should be submitted in conjunction with the employee's rating of record which serves as the basis for the award. Final action should be taken within 30 calendar days of the date of the rating of record, unless budgetary issues preclude timely action.
- (2) An employee's immediate supervisor or second-level supervisor may initiate a Performance Award nomination.
- (3) The Awards Nomination Form (Appendix A) should be used to nominate an individual for a Performance Award. Since the annual appraisal serves as the basis for the award, no additional documentation is necessary. The supervisor should indicate "See attached performance appraisal" in the narrative portion of the awards form.
- (4) The approving official for all Performance Awards is the employee's third-level supervisor or a Deputy Director and the Director.
- (5) If the award is disapproved or the value adjusted, the award nomination will be returned to the recommending official with an explanation as to why it was disapproved or adjusted.
- (6) If the award has been approved, it will be sent to HR for review to ensure it meets program requirements, signature, and final processing. Once the award has

been entered into the payroll system by HR, the nominating official will be notified when the award will be paid to the employee.

- (7) Employees will receive an Award Certificate and SF-50 Notification of Personnel Action, documenting their award.

D. Award Amounts.

- (1) Performance Awards may be set amounts, a range of set amounts, or a percentage of the employee's base pay, or a range of percentage of the employee's base pay. The amounts and/or ranges are set each year by the Director, or the Director's designee, depending fiscal considerations and agency performance.
- (2) If a Performance Award is based on a period of less than a full rating cycle, it may be reduced.
- (3) If the employee is a part-time employee or intermittent employee, the Performance Award may be reduced.
- (4) Performance Awards may be reduced for employees who received a permanent promotion during the rating cycle on which the Performance Award is based.
- (5) Performance Award percentages or the range of percentages may be reduced based on the amount of other awards and/or incentives the employee has received during the rating cycle.
- (6) All awards granted under this program are subject to federal, state, local, and OASDI/HITS taxes. All awards will be included in gross annual wages on the employee's Form W-2 Wage and Tax Statement.

8. Quality Step Increase (QSI).

A QSI is an additional within-grade pay increase given to an employee for exemplary performance during the rating

period. This award has long-term effects on the employee's base pay, as opposed to a one-time lump sum payment of a Performance Award. A QSI will not change the effective date of the employee's normal within-grade pay increase except when receipt of a QSI places an employee in the fourth or seventh step in grade. In that case the waiting period for a regular within-grade increase is extended by 52 weeks.

A. Criteria.

(1) Employees may be nominated for a QSI when they are rated at the highest level possible in the rating scheme and exhibit exemplary performance throughout the rating cycle.

(2) This award is not intended to reward employees for one time or intermittent accomplishments, but for sustained high quality performance throughout the entire rating cycle.

(3) An employee receiving a QSI Award enjoys the benefits for years to come. Therefore, this award should be judiciously used to reward past performance and as an incentive to stimulate future high-level performance of the employee and his/her peers.

(4) Organizational accomplishments, including the employees' overall contributions to mission accomplishment, should be major considerations when recommending or approving QSIs for individual employees.

B. Eligibility.

(1) All employees (except SES) are eligible to receive a QSI.

(2) Employees must be in the position of record on the last day of the rating period for which performance pay decisions are being made.

(3) An employee may not receive a QSI if he/she has

received a Performance Award in whole, or in part, on the same accomplishments and performance being recommended for recognition.

(4) An employee must have held the same grade and type of position (or similar position) in a pay status for at least six months before the end of the rating cycle.

(5) An employee must not have a promotion in progress or anticipated within 60 days after the effective date of the QSI.

(6) An employee must not have been on detail or temporarily promoted to another position during the last six months of the appraisal period, unless detailed to the same grade and type of position.

(7) An employee may not receive more than one QSI in any 52-week period.

(8) An employee must not be at the top step of his or her pay range.

C. Nomination Procedures.

(1) Nominations should be submitted within 30 days from the approval date of the rating of record which serves as the basis for the QSI.

(2) The Awards Nomination Form (Appendix A) should be used to nominate an individual for a QSI. This form requires a short narrative description of the employee's contribution.

(3) The approving official for all QSIs is the employee's third-level supervisor or a Deputy Director and the Director.

(4) The approving official will sign an SF-52 "Request for Personnel Action," to process the award. Upon receipt of SF-52, HR will document the award with an SF-50, issued to the employee.

(5) Employees will receive an Award Certificate and SF-50 Notification of Personnel Action, documenting their award.

D. Award Amounts.

A QSI represents one full step increase on the GS salary table.

9. Special Agency Honor Awards.

A. Definition.

These awards are designed to bestow official Agency-level recognition for singular and exemplary achievement or heroism as a public servant. FMCS has established three such awards:

(1) The Director's Award.

This is the highest honorary award bestowed by FMCS. It typically consists of a plaque and a QSI or cash award. This award is granted to an employee who has demonstrated one or more of the following:

- (a) Exceptional achievement of marked national or international interest in the field of labor-management relations;
- (b) Exceptional service and/or leadership in administering one or more FMCS programs which results in highly successful accomplishments of objectives;
- (c) Outstanding accomplishments, over a prolonged period, involving exercise of authority or judgment in the public interest which has distinguished the employee in every sense;
- (d) Performance of an outstanding act of service in the public interest, related to official

employment, exceptionally difficult to accomplish,
and of an exceptionally high degree of benefit;
and,

- (e) Exceptional and courageous handling of an emergency situation which placed a high degree of risk on the individual.

10. Other Awards and Forms of Recognition.

A. Group or Team Award.

Used to recognize certain groups of employees for group accomplishments.

B. Suggestion Award.

An award granted to employees for formal suggestions which have been evaluated and adopted. The amount of the award is determined by the amount of tangible and intangible benefits of the suggestion.

C. Length of Service Recognition.

Career service pins and certificates are available to recognize employee service. An employee must have at least ten years of service and the pins and certificates are presented in five-year increments.

D. Certificate of Appreciation.

Granted to employees or non-employees who have made outstanding contributions or who have performed significant service to the FMCS.

11. Travel for Awards Recipients.

Travel and per diem expenses may be provided to an FMCS award recipient to participate in an awards ceremony held at the discretion of the Director of FMCS.

12. Reports and Records.

A. Reports.

On request, the FMCS Incentive Awards Program Manager will provide a report to the Director of FMCS. This report would typically include all program activities for the past fiscal year and a statement of program goals, objectives, resources, and the amount budgeted for awards for the next year.

B. Records.

- (1) When a Notification of Personnel Action (SF-50 Form) is required for an award or QSI, HR will ensure that it is filed in the recipient's Official Personnel Folder (OPF).
- (2) Incentive Awards Program records will be maintained by the HR Office.

Attachment:

Appendix A: Award Nomination Form

DIRECTIVE 5305. FMCS PERFORMANCE APPRAISAL SYSTEM FOR GENERAL
SCHEDULE (GS) EMPLOYEES

1. General.

a. Authorities.

Performance Appraisal	5 U.S.C., chapter 43, and 5 CFR, Part 430.
Performance Awards	5 U.S.C., chapter 45, and 5 CFR, Part 430, subpart E.
Agency Superior Accomplishment Awards	5 U.S.C., chapter 45, and 5 CFR, Part 451, subpart A.
Within-Grade Increases	5 U.S.C. 5335 and 5304, and 5 CFR Part 531, subpart D.
Quality Step Increases	5 U.S.C. 5336 and 5 CFR, Part 531, subpart E.
Reduction in Force	5 U.S.C. 3502 and 5 CFR 351.504.
Records of Employee Performance	5 U.S.C. 552a, and 5 CFR 293.404 and 293.405.

- b. Purpose. Performance management in FMCS is aimed at improving individual and organizational effectiveness by relating pay levels, pay adjustments, and awards to individual and organizational performance. Performance ratings--in that they are the results of identifying and communicating goals and objectives and evaluating individual and organizational performance--will be used by each supervisor in managing the organization and

directing his or her staff.

Within-grade and quality step increases, performance awards and performance-related superior accomplishment awards will be granted commensurate with employee performance levels and achievements so as to motivate employees toward increased productivity and creativity, support and enhance agency and national goals, and obtain maximum benefits for the Government.

c. Definitions:

- (1) Acceptable level of competence means fully successful performance by an employee of the duties and responsibilities of his or her assigned position which warrants advancement of the employee's rate of basic pay to the next higher step of the grade of his/her position, subject to the requirements of 5 CFR, 531.404.
- (2) Appraisal means the act or process of reviewing and evaluating performance of an employee against the described performance standard(s).
- (3) Appraisal period means the period of time established by an for which an employee's performance will be reviewed (July 1 to June 30).
- (4) Appraisal system means a system established by the Service in accordance with OPM regulations which provides for establishment of performance standards, identification of critical and non-critical elements, communication of standards and critical elements to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.
- (5) Contribution means an accomplishment achieved through an individual or group effort in the form of a suggestion, an invention, or a special act or service in the public interest connected with or related to official employment, which contributes

to the efficiency, economy, or other improvement of Government operations, or achieves a significant reduction in paperwork.

- (6) Critical element means a component of a job consisting of one or more duties and responsibilities which contribute toward accomplishing organizational goals and objectives and that is of such importance that unsatisfactory performance on the element would result in unsatisfactory performance in the position.
- (7) Intangible benefits means benefits to the Government that cannot be measured in terms of dollars saved.
- (8) Non-critical element means a component of a position which does not meet the definition of a critical element but is of sufficient importance to warrant written appraisal.
- (9) Non-monetary award means a medal, certificate, plaque, citation, badge, or other similar item that has an award or honor connotation.
- (10) Performance means an employee's accomplishment of assigned duties and responsibilities as specified in the critical elements of the employee's position.
- (11) Performance appraisal (see Appraisal).
- (12) Performance appraisal system (see Appraisal system).
- (13) Performance award means a performance-based cash payment to an employee based on the employee's rating of record.
- (14) Performance award budget means the amount of money allocated by FMCS for distribution as performance awards.
- (15) Performance plan means the aggregation of all of

an employee's written critical elements and performance standard(s).

- (16) Performance standard means a statement of the expectations or requirements established by management for a critical or non-critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, timeliness, and manner of performance.
- (17) Progress review means a review of the employee's progress toward achieving the performance standards (i.e., mid-year review) and is not in itself a rating.
- (18) Rating means summary rating.
- (19) Rating of record means the summary rating required at the time specified in the performance appraisal system (i.e., at the end of the appraisal period) or at such other times as the system specifies for special circumstances.
- (20) Rating official. The employee's immediate supervisor is the rating official.
- (21) Reviewing official. The second-level supervisor (or the rating official's supervisor) is the reviewing official.
- (22) Special Act or Service means a contribution or accomplishment in the public interest that is a non-recurring contribution either within or outside of job responsibilities; a scientific achievement; or, an act of heroism.
- (23) Summary rating means the written record of the appraisal of each critical and non-critical element and the assignment of a summary rating level. A summary rating can be given at any time but does not necessarily become a rating of record.

(24) Superior accomplishment award means a monetary or non-monetary award for a contribution resulting in tangible benefits or savings or intangible benefits to the Government.

(25) Tangible benefits means benefits or savings to the Government that can be measured in terms of dollars.

- d. Training. All individuals who participate in or are subject to the performance appraisal, within-grade increase, quality step increase, performance awards, or superior accomplishment awards systems will receive training and information about the relevant parts of the systems to assure their effective implementation.

Supervisors and employees will be provided formal and/or on-the-job training on the appraisal process. Special attention will be devoted to the identification of critical elements and the establishment of performance standards and how they serve as a basis for making personnel decisions. The Office of Human Resources will issue periodic reminders to keep the program effective and motivating.

- e. Records of Employee Performance. In accordance with 5 CFR 293.404 and 293.405, ratings of record and performance plans covering the most recent three years will be retained in the Employee Performance File (EPF). Performance ratings and the plan on which the most recent rating was based will be transferred with the individual if he or she leaves the agency. Justifications and documentation of awards, including performance awards must be retained in the EPF.

- f. Program Evaluation. The Performance Management System will be evaluated annually to monitor its effectiveness in meeting the purposes set out in paragraph 2 of this plan, so that any appropriate adjustments and improvements can be initiated. Evaluation will cover performance appraisal and the pay and awards subsystems included under this plan. The results of this review will be presented for discussion to the Director and Deputy Director.

2. Performance Appraisal.

- a. Coverage. This system covers all permanent employees not covered by other performance appraisal systems; i.e., Senior Executive Service; the Performance Management and Recognition System (PMRS)--formerly Merit Pay; and, the Mediator Plan. Temporary employees who are reasonably expected to work more than 120 days during an appraisal period are also covered.
- b. Appraisal Period. Any general schedule (GS) employee who is in a position covered by this plan on June 30 and has been in that position for a period of at least 90 days during the rating period, is to be rated under this system.

If the employee is reassigned or transferred during the appraisal period, or if the rating official changes for any other reason, the supervisor must prepare a summary rating prior to the employee's (or the supervisor's) departure. A copy will be forwarded to the new supervisor and must be considered when preparing the rating of record. If, for any reason, an employee has not been under elements and standards for the minimum appraisal period, the appraisal period must be extended to meet this requirement. At that time, a rating of record must be prepared. Whenever an extension is granted, for any reason, it must be documented in writing, and a copy sent to the Office of Human Resources.

- c. Performance Elements and Performance Standards. Performance elements and standards must be based on the requirements of the employee's position. There are three (3) performance levels: "exceeds", "meets", and "does not meet". Supervisors will work with employees to develop written standards of performance for all critical and non-critical elements at the fully successful level. Individual performance plans must include at least one (1) critical element. Accomplishment of organizational objectives should be included in performance plans, when appropriate.

Individual performance plans must be reviewed or established for and with each employee at the beginning of the appraisal period or whenever an employee enters a new position by appointment, promotion, temporary promotion or detail of at least 120 days duration, demotion, reassignment, or transfer. (Regulatory requirements associated with rating an employee who is on detail or temporary promotion inside or outside FMCS and how that rating is used in deriving a rating of record are found in 5 CFR 430.205(e).)

During the initial (or planning) meeting the supervisor and each employee should:

- (1) discuss the work to be done and mutual expectations for accomplishing the work;
- (2) reach a common understanding of the critical elements and performance standards for the job;
- (3) discuss the employee's career and personal development objectives as they relate to planned work; and,
- (4) update out of date or inaccurate position descriptions.

When there is agreement on the performance plan between the supervisor and the employee, it is reviewed and approved by the reviewing official and a copy of the final plan will be given by the supervisor to the employee and the supervisor will retain the original. The final authority for establishing performance plans rests with the rating and reviewing officials.

Each performance plan must be in writing, approved by the reviewing official, and all final copies provided at the beginning of the appraisal cycle (July 1) but not later than 30 calendar days following July 1 or entry into the position, if that is later.

Performance elements and standards cannot be grieved.

If one or more major duties and/or responsibilities of a position change, the elements and standards should be reviewed. Changes, additions, and/or deletions in the performance plans must be in writing and must be approved by the reviewing official prior to implementation. The process and distribution of copies will remain as discussed previously.

- (1) Critical Elements. The major job elements should be described and the critical elements identified using the position description as a basis for the process. A critical element is a component of an employee's job that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial or withholding of performance based pay increases and may be the basis for removing, reassigning or reducing the grade level of that employee. Such action may be taken without regard to performance on other components of the job.

Managers and supervisors can meet the demands of change and achieve organizational excellence only through the people that they manage. Supervisors covered by this plan, therefore, will be appraised on their supervisory duties, equal opportunity responsibilities, recommending or making personnel decisions, appraising subordinates fairly and accurately, and developing subordinates.

- (2) Non-Critical Elements. A performance element which does not meet the definition of a critical element, but is of sufficient importance to warrant appraisal and the assignment of a rating is a non-critical element. Non-critical elements are established using the same process as critical elements. Unsatisfactory performance of non-critical elements may lower the overall rating one level.
- (3) Performance Standards. The development and maintenance of performance standards requires a

continuing discussion and a joint effort between the employee and the supervisor. A performance standard expresses, for each major job element, what constitutes a successful level of performance in terms of "how well" (quality), "how much" (quantity) "when" (timeliness), and any other criteria that measure how an employee must perform his/her duties. Meaningful and workable performance standards and objectives should be:

- specified in terms of quality, quantity, timeliness, and other appropriate factors;
- realistic and attainable. Their achievement should be neither too easy nor too difficult;
- described in terms of a range of Fully Successful performance, and not perfection, unless nothing short of perfection is acceptable;
- flexible so that, if conditions warrant, they may be modified;
- verifiable so that it may be easily determined whether they were met; and
- expressed in terms of a specific result.

- d. The Performance Appraisal Process. The supervisor (rating official) will consider all available information in assessing the performance of each employee on each of the critical and non-critical elements. The rating official will confer with the reviewing official to discuss the intended rating. After the reviewing official approves the rating, the supervisor will meet with the employee to discuss his/her performance as it compares to the established standards and will assign a summary rating (see paragraph h).

The final appraisal (rating of record) must be signed by the employee, the supervisor (rating official), and the reviewing official. Copies of the final appraisal

should be made for each individual who signed it. The original is sent to the Office of Human Resources for inclusion in the employee's performance file (NOTE: Signature by the employee does not indicate that he/she agrees with the rating; it simply indicates receipt. An employee signature does not preclude a request for further review, appeal, grievance, etc. The rating of record must be signed and dated by all parties involved.)

- e. Appraising Disabled Veterans. As provided in Executive Order 5396, the performance appraisal and resulting rating of a disabled veteran may not be lowered because the veteran has been absent from work to seek medical treatment.
- f. Interim Counseling and Progress Reviews. Progress reviews are essential for discussing with an employee the status of his/her performance, for revising work plans and for identifying and resolving any problems that result from changes in priorities or unforeseen workload. Employees will be informed of the level of performance by comparison with the elements and standards, but a summary rating level will not be assigned.

Because knowledge of an employee's performance cannot be gained by a once-a-year appraisal, progress reviews will be held for each employee at least once during the appraisal period. A progress review will also be held when a current performance status determination is needed; e.g., training needs, internal placement consideration, or performance-based adverse action consideration; and whenever the supervisor and/or employee feel counseling/communication is necessary or desirable; e.g., the employee's performance in one or more critical elements falls below the fully successful level (see paragraph g).

The supervisor will document these progress reviews, including the employee's agreement or disagreement with the performance evaluation, and provide a copy of the documentation to the employee, and his/her permanent supervisor (if the employee is completing a temporary

assignment). The performance levels assigned during a progress review will be considered when assigning a summary performance rating.

- g. Assisting Employees in Improving Performance. Performance appraisals provide management with information about employees' past performance to be used to plan and assign work and make personnel decisions based on performance. In turn, management provides employees feedback on their strengths and weaknesses in performing their jobs, indicates how they can improve their performance, and tells them what they can do to enhance their careers. If, at any time, a supervisor determines that an employee's performance in any critical element has fallen below the fully successful level, the supervisor must counsel the employee on the specific deficiencies. The supervisor is responsible for developing a plan of action designed to assist the employee in improving his/her performance to an acceptable level. Such a plan of action may include closer supervision, on-the-job training, formal training, or if the supervisor and the employee agree that current job skills are adequate, a recommendation to the employee to seek the assistance of the Service's counseling services. All supervisor/employee counseling sessions should be documented.

Employees not meeting minimal performance standards for one or more critical elements of the position might not be retained in their present position. At the time that unacceptable performance on a critical element is identified, the employee must be counseled by the supervisor and will be given a written notice identifying:

- the specific standard(s) not being met;
- the specific recommendations for improving performance in order to be retained in that position;
- the period of time that will be allowed for performance improvements (not less than 30 days);

- the assistance management will provide to the employee during the opportunity period; e.g., on-the-job or formal training, etc.

The initial opportunity period may be extended in unusual circumstances at the discretion of the supervisor. If the employee's performance continues to be unacceptable, FMCS must initiate a reassignment, reduction in grade, or removal of the employee from the position. A written notice will be provided to the employee explaining the action to be taken, the effective date of such action, and the employee's appeal rights (see paragraph m).

- h. Determination of Summary Rating. At the end of the rating period actual achievements are compared to the performance standards and are fully discussed with the employee and then recorded. A performance standard level of achievement is made by the rating official for each critical element and a summary rating is assigned.

To arrive at a summary performance rating, a two-step approach is used. The first step will establish a preliminary rating based on employee performance in the critical element area. The second step will either make an adjustment or leave the preliminary rating the same, depending on employee performance for non-critical elements. The summary rating process follows:

- (1) Critical Element Rating.

- (a) Outstanding.

- (i) For employees having from 1-3 critical elements, performance must exceed the standards for all critical elements.
 - (ii) For employees having from 4-6 critical elements, performance must exceed the standards for all but one critical element; must meet the standard for the remaining critical elements.

- (iii) For employees having from 7 or more critical elements performance must exceed the standards for all but two critical elements; must meet the standards for the remaining critical elements.
 - (b) Superior. Employees must exceed the standards for at least 50% of critical elements, and meet the standards for remaining critical elements.
 - (c) Fully Successful. Employee must at least meet the standards for all critical elements and cannot exceed the standards for 50% or more of the critical elements.
 - (d) Minimally Satisfactory. Does not apply to the critical element rating portion.
 - (e) Unacceptable. Employee does not meet the standards for one or more critical elements.
- (2) Non-critical Element Rating. The summary rating can be adjusted downward one rating level based on unsatisfactory performance in one or more non-critical elements as follows:
- (a) For employees having from 1-3 non-critical elements, performance must meet or exceed the standards for all non-critical elements. If performance in one or more non-critical elements does not meet the standard, the overall rating is adjusted downward one rating level.
 - (b) For employees having from 4-6 non-critical elements, performance must meet or exceed the standards for all but one non-critical element. If performance in two or more non-critical elements does not meet the standards, the overall rating is adjusted downward one rating level.

- (c) For employees having from 7-9 non-critical elements, performance must meet or exceed the standards for all but two or fewer non-critical elements. If performance in three or more non-critical elements does not meet the standards, the overall rating is adjusted downward one rating level.
- i. Assignment of Ratings. This appraisal system does not include any controls, such as a requirement to rate on a bell curve, that prevent fair appraisal of performance in relation to performance standards.
 - (1) Summary Ratings. Summary rating levels will be based upon established performance standards and will be completed (during the appraisal period) under the following circumstances:
 - (a) the supervisor vacates his/her position;
 - (b) the employee vacates a position (moves to a different position within FMCS, moves to another agency, etc.); or,
 - (c) upon completion of a temporary promotion or detail of at least 120 days duration.
 - (2) Ratings of Record.
 - (a) A written rating of record must be given to each employee within 30 days after the end of the appraisal period.
 - (b) Employees must be appraised on each critical element of the performance plan(s) on which he or she has had a sufficient opportunity to perform.
 - (c) Ratings of record and performance-based personnel actions must be reviewed and

approved by the reviewing official. Ratings of record may not be communicated to employees prior to approval by the reviewing official. This does not preclude communication about appraisal of performance between a supervisor and an employee prior to the determination of the rating of record. Ratings of records must also be approved by the Deputy Director who is the performance awards budget manager.

- j. Employee Dissatisfactions with Performance Appraisal Issues. When an employee has a complaint dealing with an aspect of the performance appraisal process which involves a disagreement on the issue of critical elements, non-critical elements, performance standards, narrative comments, or remarks describing employee performance, or the summary performance rating, the following procedures may be used to resolve these issues.
- (1) If the employee is dissatisfied with the critical elements, non-critical elements, and/or performance standards to include the number or type of critical and non-critical elements, the designation of an element as either critical or non-critical, or the substance of their standards (including the criteria against which performance will be measured), the issue must initially be raised and discussed with the rating official. If the issue(s) cannot be resolved with the rating official, the employee may informally discuss the concern with the reviewing official. If the issue remains unresolved after discussion with the reviewing official, the employee has no other avenue of review or redress. Final authority for establishing performance plans rests with the rating and reviewing officials.
 - (2) If the dissatisfaction is due to summary ratings or ratings of record below fully successful, the complaints must initially be raised with the rating official, and if unresolved with the reviewing official. If after discussion with both

the rating and reviewing officials, the employee fails to resolve a complaint, he/she may request an administrative review by the Appraisal Review Committee (ARC). An employee has the right to one impartial review. Employees in exclusive bargaining units may have rights through negotiated grievance procedures. The request for administrative review must be submitted in writing within 10 calendar days of issuance of the rating of record. It must be submitted through the rating and reviewing officials to the Office of Human Resources. The rating and reviewing officials must also submit their views (if they wish to do so), in writing, to the Office of Human Resources. The ARC will convene and will make a recommendation, in writing, to the Director within 20 calendar days of receipt of the initial complaint. Only written materials received prior to the ARC convening will be considered in the review process. The Director will make the final decision; the employee has no other administrative avenue of review or redress.

Any request for review must:

- be in writing
- be signed by the employee
- include a copy of the determination for which a review is being requested
- identify the specific area(s) of the determination for which review is being requested
- indicate why the employee believes the determination is in error, citing supporting facts and documentation; and
- state what action the employee requests.

- k. Appraisal Review Committee (ARC). The function of the Appraisal Review Committee is to review appeals of

performance appraisals. The Appraisal Review Committee will be appointed by the Director, FMCS, as necessary, and will consist of three (3) members. The Director will also name the Chairperson. Members will be selected from FMCS employees covered by this plan. An employee of the Office of Human Resources will be a permanent member.

The ARC will consider all written materials presented before it in recommending any necessary and appropriate action. They will also consult with the rating official, the reviewing official, the employee, and other staff experts as deemed necessary and appropriate.

1. Records. A file must be prepared on any request for review of a performance rating. The file will be maintained by the personnel office for a period of two years; and as a minimum, contain the following:
 - the approved summary rating;
 - the employee's request for a review;
 - the recommendation of the ARC and the decision made by the Director; and
 - any other information or material used by the ARC in the review process.
- m. Appeals/Grievances. An employee who believes that merit principles were violated, or that a prohibited personnel practice occurred, can appeal to the Special Counsel in the Merit Systems Protection Board. Specific information can be obtained from the Office of Human Resources and/or union official.

Employees being reassigned, reduced in grade, or removed from their position as a result of Unacceptable performance, have the right to appeal the adverse action to the Merit Systems Protection Board. Bargaining unit employees have specific rights through the negotiated grievance procedures.

- n. Transfer of Rating. If an employee leaves the agency by transfer to another agency or separation from the Federal service, all performance ratings of record that are three (3) years old or less, including the performance plan on which the most recent rating was based, will be filed in the OPF.

Additionally, supervisors must prepare a summary rating for any employee who has completed the minimum (90-day) appraisal period in the position being vacated. This summary rating should be discussed with the employee and forwarded through the reviewing official to the Division of Personnel for inclusion in the OPF. The summary rating must be considered by the gaining agency/office when deriving the next rating of record.

- o. Reduction-in-Force (RIF).
- (1) For RIF purposes, a rating considered to be a rating of record is the rating given at the end of the appraisal cycle (normally on an annual basis).
 - (2) An employee will not be assigned a new rating of record for the sole purpose of affecting his or her retention standing.
 - (3) To provide adequate time to properly determine employee retention standing immediately prior to a RIF, a general RIF notice will specify the date after which no new ratings of record will be given that could be used to determine retention standing.
- p. Probationary Period. The job performance of all employees serving a probationary or trial period, will be evaluated by the supervisor periodically during the probationary period as required. Upon completion of the 10th month during the first year of employment, the supervisor will recommend retention or separation of an employee, based on his/her performance.
- q. Promotion. No employee will receive a promotion within the career ladder or beyond unless his/her current annual performance rating of record is fully successful or higher. Also, an employee cannot receive a career

ladder promotion who has a rating below fully successful on a critical element that is also critical to performance at the next higher grade level.

3. Performance Awards.

a. Eligibility. All employees covered under this appraisal system are eligible to receive an award under this part.

b. Policy.

(1) A performance award must be recommended by the supervisor and must be based on the employee's rating of record for the current appraisal period for which performance awards are being paid.

(2) Each decision to grant a performance award must be approved by the regional/national office director and also by the Deputy Director who is the performance awards budget manager.

(3) Recipients of performance awards will earn credit for those awards when being considered for promotion.

(4) The conditions for credit must include that:

(a) the award was granted within the past three years;

(b) credit will be awarded only if the achievement for which the award was granted is related to or shows potential for high level performance in the job to be filled; and

(c) a performance award will be given due weight when rating an employee for a promotion, as provided in 5 U.S.C. 3362.

c. Appeals and Grievances. The granting or failure to grant a performance award or the amount of the award

granted cannot be grieved or appealed.

4. Superior Accomplishment Awards.

- a. Eligibility. All employees covered under this appraisal system are eligible to receive an award under this part.
- b. Policy. Superior accomplishment awards:
 - may be monetary or non-monetary;
 - may be based on contributions having tangible benefits or savings and/or intangible benefits to the Government;
 - may be based on accomplishments in the form of suggestions, inventions, or special acts or services in the public interest connected with or related to official employment, if they contribute to the efficiency, economy, or other improvement of Government operations, or achieve a significant reduction in paperwork.

Special acts or services must be non-recurring contributions or accomplishments within or outside of job responsibilities, a scientific achievement, or an act of heroism.

A superior accomplishment award may be granted alone or in addition to a performance award (see paragraph 3) or a quality step increase (see paragraph 4).

An award under this part must not be used as a substitute for other personnel actions, or as a substitute for pay.

A bulletin will be circulated, at least annually (if appropriate) to indicate the award recipient's name and a description of the award granted.

c. Credit for Promotion.

- (1) Recipients of superior accomplishment awards will

earn credit for those awards when being considered for promotion.

(2) The conditions for credit must include that:

- the award was granted within the past three years;
- credit is awarded only if the achievement for which the award was granted is related to or shows potential for high level performance in the job to be filled; and
- due weight will be given to an award under this part when rating and ranking an employee for promotion, as provided in 5 U.S.C. 3362.

d. Program Effectiveness. Active and positive administration of this awards program is necessary if its benefits to the Government, the agency, and to employees are to be maximized. To that end:

- (1) All persons with supervisory responsibility will be encouraged to identify employee contributions and recommend awards for them and
- (2) Adequate funds will be made available to grant appropriate monetary awards.

e. Appeals and Grievances. The granting or failure to grant an award, or the amount of the award granted, or the adoption or failure to adopt an employee suggestion or invention cannot be grieved or appealed.

f. Recommendation and Approval. All recommendations must be submitted, in writing, and include the following information:

- (1) Name of employee.
- (2) Superior accomplishment awards are prepared by the immediate supervisor, and will include a brief statement giving the basis for the award nomination. Results that are beyond job require-

ments should be emphasized and measurable benefits identified (e.g., tangible/intangible benefits). The nomination is endorsed by the Regional/National Office Director, and submitted to the Office of Human Resources.

- (3) Suggestions are submitted by the employee to the supervisor to recommend adoption or non-adoption of the suggestion, forwarded to the Regional/National Office Director for endorsement, and finally sent to the Office of Human Resources. Recommendations for superior accomplishment awards based on adoption of a suggestion should follow procedures in Paragraph E.2.
- (4) All award nominations must include a recommendation for the amount of the cash award. All awards granted must be approved by the Deputy Director. An award in excess of \$10,000 but not to exceed \$25,000 may be recommended by the Director, but must be approved by OPM.

5. Within-Grade Increases (WGIs).

a. Eligibility. All GS employees.

b. Earning Within-grade Increases.

- (1) In order to earn a within-grade increase an employee's performance must be at an acceptable level of competence; i.e., the employee's most recent rating of record must be at level 3 (fully successful) or higher. Also, the employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position, and not have received an equivalent increase during the waiting period.
- (2) An acceptable level of competence (ALOC) determination shall be based on a current rating of record. When a within-grade increase decision is not consistent with the employee's most recent rating of record, a more current rating of record must be prepared.

- (3) If an employee has been reduced in grade because of unacceptable performance and has served in one position at the lower grade for at least the minimum appraisal period (90 days), a rating of record at the lower grade shall be used as the basis for an ALOC determination.
- (4) An ALOC determination must be delayed when either of the following applies:
 - (a) An employee was not informed of the specific requirements for performance at an acceptable level of competence at least 90 days before the end of the waiting period, nor given a performance rating in any position within 90 days before the end of that period; or
 - (b) An employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a within-grade increase or will become eligible within 90 days.
- (5) When an ALOC determination has been delayed under these circumstances:
 - (a) The employee shall be informed that his or her determination is postponed and that the rating period has been extended to a date 90 days after the employee was first told of the specific requirements for performance at an acceptable level of competence.
 - (b) An ALOC determination shall be made upon completion of the 90 day appraisal period based on the employee's rating of record.
 - (c) If the employee's performance is determined to be at an acceptable level of competence, the within-grade increase will be granted retroactively.
- (6) An ALOC determination shall be waived and a

within-grade increase granted when an employee has not served in any position for the minimum appraisal period (90 days) under this appraisal system during the final 52 calendar weeks of the waiting period for one or more of the following reasons:

- (a) because of absences that are creditable service in the computation of a waiting period or periods under 5 CFR 531.406;
 - (b) because of paid leave;
 - (c) because the employee received service credit under the back pay provisions of 5 CFR, Part 550, Subpart H;
 - (d) because of details to another agency or employer for which no rating has been prepared; or
 - (e) because of long-term training.
- (7) In such a situation, there shall be a presumption that the employee should have performed at an acceptable level of competence had the employee performed the duties of his or her position of record for the minimum appraisal period under this performance appraisal system.

c. Notice of Determination.

- (1) A level of competence determination shall be communicated to an employee in writing as soon as possible after completion of the waiting period or other period upon which it was based.
- (2) When it is determined that an employee's performance is not at an acceptable level of competence, the negative determination shall be communicated to the employee in writing and shall:
 - (a) Set forth the reasons for any negative

determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase.

- (b) Inform the employee of his or her right to request that the determination be reconsidered and name the official to whom the request for reconsideration should be addressed.

d. Requests for Reconsideration.

- (1) When it has been determined that an employee is not performing at an acceptable level of competence, and is thus not awarded a within-grade increase, the employee or his/her personal representative may request reconsideration of a negative determination by filing a written response within 15 days after receiving notice of the negative determination.

Employees should direct a response to the Deputy Director, and include the reasons why the negative determination should be reconsidered.

- (2) The Division of Human Resources will establish an employee reconsideration file which will contain all pertinent documents relating to a negative determination including:
 - (a) the written negative determination;
 - (b) the employees written request for reconsideration;
 - (c) report of analysis of the facts when completed;
 - (d) a written summary of any personal presentation made;
 - (e) the agency's decision on the request.

- (3) The employee will be granted a reasonable amount of official time to review the material relied on in the negative determination and to prepare a written response. The employee must be in pay status to be granted official time.
- (4) FMCS will provide the employee with a prompt written final decision.
- (5) When a negative determination is sustained after reconsideration the employee shall be informed in writing of the reasons for the decision and of his/her right to appeal to the Merit Systems Protection Board.
- (6) If the negative determination is reversed, the effective date of the increase will be the original due date.
- (7) Continuing Evaluation. When a within-grade increase has been withheld, the supervisor will make a new ALOC determination every 90 to 180 days until it has been found that the employee's performance is competent enough to deserve the pay increase.

6. Quality Step Increases (QSI's).

- a. Eligibility. All GS employees.
- b. Authority to Grant. QSI's will normally be initiated by the employee's immediate supervisor. They must be approved first by the Regional/National Office Director and finally by the Deputy Director.
- c. Rating Requirement. No employee may be granted a quality-step increase unless his or her current rating of record is outstanding.
- d. Restriction. A QSI may not be granted to an employee who has already received a QSI within the preceding 52 weeks.

DIRECTIVE 5401. HOURS OF DUTY

1. Purpose. This directive provides guidance to FMCS employees and supervisors regarding weekly and daily scheduling of work, official agency hours, and holidays.
2. Scope. The provisions of this directive apply to all FMCS employees, as noted.
3. Authorities.

 5 U.S.C., Sec. 610
4. Definitions.
 - a. The official hours of operation for FMCS have been established by the Director as 8:30 a.m. to 5:00 p.m., Monday through Friday.
 - b. The regularly scheduled administrative work week for full-time employees is 40 hours, Monday through Friday of each week. For part-time employees it is the officially prescribed days and hours during which the employee is scheduled to work.
 - c. Tour of duty means the hours of a day (daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.
 - d. Alternative Work Schedule (AWS) is any of a variety of work schedules where an employee works more than eight hour work days and has a day or days off during the pay period.
 - e. 5-4-9 Alternative Work Schedule has a basic work requirement of 9 work days and 80 hours a pay period. This work schedule has eight 9-hour work days (9 1/2 hours in length which includes a 1/2 hour lunch

period), one 8-hour day, (8 1/2 hours in length which includes a 1/2 hour lunch period), and one day off each pay period.

- f. Modified Flexitour. Employees may select a work schedule other than 8:30 a.m. to 5:00 p.m. as long as their work schedules have 10 8-hour work days (8 1/2 hours in length which includes a 1/2 hour lunch period), Monday through Friday.
- g. Lunch periods are half hour periods of time that are included in all work schedules of more than 4 hours a day. This time is intended to be a break from work for a meal and is to be taken no more than six hours after the employee begins working.
- h. Night Pay is a differential paid to employees who have positions where they are required to have a scheduled tour of duty that begins before 6:00 a.m. or ends work after 6:00 p.m.

5. Responsibilities.

- a. The Director is responsible for establishing a basic administrative workweek for full-time employees and requiring that the hours of work within that workweek be performed within a period of not more than 6 of any consecutive 7 days.
- b. The Director of Human Resources is responsible for ensuring that all regulatory requirements are met.
- c. Managers and supervisors are responsible for establishing tours of duty for each employee and for ensuring office coverage during official agency hours.
- d. Employees are responsible for requesting and obtaining approval in advance for any tour of duty outside of the official agency hours.

6. Work Schedule Options.

Except where noted below, all employees will have a work schedule of 8:30 a.m. to 5:00 p.m.:

- a. As the performance of Mediators' duties requires them to attend meetings at their customer's convenience, their hours of work may vary from week to week. However, the administrative work week is considered their regular work schedule.
 - b. National Office employees may request 5-4-9 Alternative Work Schedules or modified flexitour schedules instead of working 8:30 a.m. to 5:00 p.m., Monday through Friday. Unless approved to receive Night Pay, employees must select a work schedule that begins no earlier than 6:00 a.m. and ends no later than 6:00 p.m.
 - c. Field clerical employees may, with the approval of their supervisors, change their work schedules provided there is office coverage during the official hours of operation.
7. Requesting a Change in Work Schedule. An employee must submit a request for a change in work schedule to his or her supervisor in advance of the date they wish to begin the new hours. When a new schedule is approved, it will remain in effect until the employee requests and receives approval for a change. If approval is obtained in advance, an employee may vary his or her hours for one or several days, due to special circumstances without establishing a new schedule.
8. Approving a Work Schedule. Supervisors should make every effort to accommodate employees' requests for AWS and Modified Flexitour work schedules. Supervisors should respond quickly to requests. In the event of any conflicts, the supervisor should explain the rationale for the decision and discuss other work schedule options which

will meet the needs of both the employee and the agency. If, after discussions between the employee and the supervisor, there is no resolution, the employee may request a second level supervisory review.

9. Lunch Periods.

- a. Managers may allow employees up to an hour for a lunch period without charge to leave.
- b. Managers may request employees to schedule their lunch periods at certain times so as to provide office coverage.
- c. The meal period is provided for an employee's well being. Managers should assure that employees stop work during this time. It is inappropriate for employees to request to work through the designated meal time to earn compensatory time or overtime pay, or to leave work early.

10. Holidays.

- a. The following are legal public holidays:

New Year's Day, January 1;
Martin Luther King, Jr. Day, the third Monday in January;
Washington's Birthday (President's Day), the third Monday in February;
Memorial Day, the last Monday in May;
Independence Day, July 4
Labor Day, the first Monday in September;
Columbus Day, the second Monday in October;
Veteran's Day, November 11;
Thanksgiving Day, the fourth Thursday in November;
Christmas Day, December 25.

- b. Inauguration Day, January 20 of each fourth year after 1965, is a holiday for federal employees employed in

the District of Columbia.

- c. Additional holiday time may be granted by Executive Order. Guidance issued by the Office of Personnel Management will be followed in administering time off and pay situations for employees.
- d. For full-time employees whose tour of duty is Monday through Friday, if a holiday falls on a Saturday, the Friday immediately before is a legal holiday. If the holiday falls on a Sunday, the following Monday is the holiday.
- e. For employees on AWS, in most instances, if the holiday falls on a scheduled day off, the scheduled work day prior to the holiday will become the in lieu of holiday. For example, if Monday is the employee's scheduled AWS day off and is a holiday, the previous Friday becomes the in lieu of holiday. However, if the holiday falls on a Sunday and is celebrated on Monday and Monday is the scheduled day off, the work day after the holiday becomes the in lieu of holiday.
- f. For part-time employees, if the established tour of duty includes scheduled hours of work that fall on a legal holiday, the employee is excused and paid only for the number of hours normally scheduled for work.
- g. Employees on leave without pay (LWOP) before and after a holiday are not paid for the holiday.
- h. Work performed on a holiday will be subject to the appropriate premium pay provisions. Compensatory time may not be earned for work performed on a holiday that falls within an employee's tour of duty. Hours worked in excess of the scheduled tour of duty are subject to overtime provisions. Work performed on an AWS scheduled day off is considered overtime. Compensatory time may be earned for work performed as overtime. (Also see Directive 5602, Pay Administration.)

- i. If time off is granted to an employee due to a local holiday, it is considered Administrative Leave. Holiday regulations do not apply. (See Directive 5402, Absence and Leave.)
11. Travel during nonduty hours. In so far as practicable, travel during nonduty hours shall not be required of an employee.
12. Work performed away from the duty station. Employees must be at their duty station, at approved training, at an official meeting or function, in travel status, or on approved leave to be considered in pay status. Performance of work away from the duty station, such as at the employee's residence, may be approved in accordance with Directive 5403 "Telework."
13. Emergency situations. FMCS will follow guidance provided by the Office of Personnel Management for office closings or delayed openings due to weather or other hazardous situations. (See Directive 5402, Absence and Leave.)

DIRECTIVE 5402. ABSENCE AND LEAVE

1. Purpose. This directive describes the various types of leave that may be taken by or charged to an employee. It also outlines the procedures and requirements for leave and contains specific information on the following types leave:

- Annual Leave - Section 8
- Restored of Forfeited Annual Leave - Section 9
- Sick Leave - Section 10
- Temporary Disability - Section 11
- Leave Transfer Program - Section 12
- Leave for Maternity and Paternity Reasons -
Section 13
- Leave for Adoption and Foster Care - Section 14
- Leave for Family Responsibilities - Section 15
- Compensatory Time - Section 16
- Compensatory Time Off for Travel - Section 17
- Compensatory Time for Religious Observances -
Section 18
- Leave Without Pay - Section 19
- Military Leave - Section 20
- Court Leave - Section 21
- Excused Absence (Administrative Leave) -
Section 22
- Group Dismissals - Section 23
- Unauthorized Absence - Section 24
- Grievable Actions - Section 25

2. Scope. The requirements outlined in this directive apply to all FMCS employees who earn and/or approve leave.
3. Authority. This directive is issued in accordance with the following authorities:
 - a. Chapter 63, Title 5, U.S.C.

- b. The Federal Employee's Family Friendly Leave Act (FEFFLA) of 1994
- c. Federal Leave Sharing (Public Law 103-103, effective January 31, 1994)
- d. Sick Leave for Adoption; Leave for Bone Marrow or Organ Donation (Public Law 103-329, September 30, 1994)
- e. The Family and Medical Leave Act (FMLA) of 1993

4. Definitions.

- a. Leave year means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period of the following calendar year.
- b. Family member. Anyone related by blood or affinity whose close association with the employee is the equivalent of a family relationship, including, but not limited to spouses, children, parents, siblings, in-laws, domestic partners.
- c. A medical certificate means a written statement signed by a registered practicing physician or other practitioner certifying the incapacitation, examination, or treatment, or to the period of disability while the employee, or the employee's family member, was receiving professional treatment. Usually, the duration of leave and the regulation under which it was requested will determine the need for a medical certificate.
- d. A Request for Leave or Approved Absence (OPM-71, Revised 2009 or later) is used by employees to indicate to their supervisors the type, amount and dates of leave they are requesting. Instances where the OPM-71 is required are described in this Directive, however, supervisors may require an

OPM-71 for any leave request if he or she feels it is administratively appropriate or they may accept emails or verbal requests. The OPM-71 is available on the Human Resources page of the FMCS Intranet or the OPM website.

5. Policy.

- a. FMCS leave policies will be administered in a fair and equitable manner for all employees. There is no certain order for using the various family friendly leave options. The employee must consider his or her current leave balances and determine whether the situation meets the requirements and obligations of a specific leave program and which leave policy or program best fits his or her needs.
- b. Both the needs of the employee and the need to accomplish the work of the agency will be considered in arriving at decisions to approve or disapprove leave requests.

6. Responsibilities.

- a. The Director of Human Resources, has the authority to interpret policies and procedures governing leave administration, the reporting of time and attendance.
- b. The Human Resources staff will advise supervisors and employees of entitlements and requirements under Federal leave regulations, and which type or types of leave are available to the employee in a specific situation.
- c. Supervisors are authorized to approve leave for all employees within their area of supervision, with the consultation of the Director of Human Resources, or other managers as detailed in this directive.

- d. All employees have a responsibility to prevent fraud, waste, and abuse of Government resources in all areas, including assuring compliance with the policies and procedures for leave usage set forth in this directive.

7. General Procedures.

- a. Except in emergency situations, all leave taken must be scheduled and approved in advance. Supervisors may require evidence that is administratively acceptable, including medical certification, as appropriate, from an employee who requests leave.
- b. Minimum charge to annual leave, sick leave, and leave without pay is one quarter (1/4) hour.
- c. If an employee who is indebted for advanced leave separates, he or she will have the monetary amount equal to the leave owed deducted from any pay due him or her. If the debt cannot be liquidated from the final payment, debt collection procedures will be invoked. This does not apply when an employee dies or separates due to a disability.
- d. Leave under the Family and Medical Leave Act.
 - (1) Under the Family and Medical Leave Act (FMLA), employees who have completed at least 12 months of federal service are entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for:
 - (a) the birth of child and care of the newborn;
 - (b) the placement of a child with the employee for adoption or foster care;
 - (c) the care of a spouse, child, or parent with a serious health condition; and

- (d) a serious health condition of the employee that makes the employee unable to perform the duties of his or her position.
- (2) FMLA leave differs from LWOP in that an employee who establishes eligibility may not be denied FMLA leave. While the entitlement to FMLA leave is in addition to other types of paid leave available to them, employees may request to substitute their accrued annual leave or sick leave, if appropriate, for unpaid leave under the FMLA. Such requests must be approved in advance by the supervisor.
- (3) An employee must notify his or her supervisor that he or she is invoking his or her entitlement to FMLA leave, subject to the notification and medical certification requirements, when making the leave request by submission of an OPM-71 with the "Family and Medical Leave" section completed.
- (4) An employee may not invoke entitlement to FMLA leave retroactively for any previous absence from work.
- (5) Upon return from such leave, an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.
- (6) If an employee does not use all 12 weeks for one event, he or she may use the balance for another event within the same 12-month period. A new period of entitlement begins 12 months from the date FMLA leave was first invoked.

- g. Under the Federal Employees Family Friendly Leave Act, employees may use up to 104 hours (13 days) of sick leave each leave year to care for a family member if the employee maintains a balance of at least 80 hours of sick leave in his or her sick leave account. Employees may also request advance annual or sick leave or leave without pay for these purposes.
- (1) Employees may complete an OPM-71 indicating sick leave and checking the box for "care of a family member." Employees may also request advance annual or sick leave or leave without pay for these purposes. The OPM-71 may be submitted to the supervisor.
 - (2) The supervisor will verify that the request is valid based on the employee's work schedule, the amount of sick leave to the employee's credit, and any previous use of sick leave for family care prior to approval of the request.
 - (3) For absences of three (3) consecutive days or longer, or for shorter periods of leave that will be taken over a number of pay periods, the supervisor may require appropriate documentation.

8. Annual Leave.

- a. General. Annual leave is earned and used to allow an employee a vacation and to provide periods of time off for personal and emergency purposes.
- b. Earning Rates.
 - (1) Full-time employees earn annual leave as follows:

<u>Length of Service</u>	<u>Accrual Rate/Pay Period</u>	<u>Total Days/Year</u>
Less than 3 years	4 hours	13
3 but less than 15 years	6 hours*	20
15 years of more	8 hours	26
*Note: Employees in the 6-hour category earn 10 hours of annual leave in the last full pay period in the leave year.		

- (2) Part-time employees must have a regularly scheduled tour of duty of at least 1 day each week in the pay period in order to earn leave. The accrual rate for a part-time employee is:

<u>Length of Service</u>	<u>Accrual Rate/Pay Period</u>
Less than 3 years	1 hour for every 20 hours worked
3 but less than 15 yrs	1 hour for every 13 hours worked
15 years or more	1 hour for every 10 hours worked

- c. Leave Schedules. To accommodate vacations and other leave plans, supervisors should begin planning leave schedules at the beginning of each leave year. Maximum staff should be available at anticipated heavy workload periods and adequate staff available at all times for contingencies.
- d. When Annual Leave is Earned. Employees who are appointed for 90 days or more are entitled to earn annual leave upon completion of the first full biweekly pay period. If an appointment is for less than 90 days, an employee is entitled to earn annual leave only after being employed for a continuous period of at least 90 days under successive appointments without a break in service of one workday or more. Employees with an intermittent work schedule do not earn annual leave.

e. Accumulation of Annual Leave.

- (1) For General Schedule employees, annual leave may accumulate from year to year up to 240 hours (30 days) at the beginning of any leave year. An annual leave balance at the beginning of the leave year greater than the maximum accumulation allowed will be forfeited unless the provisions for restoration of forfeited annual leave are met (see paragraph 5.1).
- (2) For Senior Executive Service employees, annual leave accrued and not used may accumulate from year to year up to a maximum of 720 hours (90 days) at the beginning of any leave year.

f. Procedure for Requesting Annual Leave. Employees who wish to take annual leave are required to request and obtain approval from their immediate supervisor in advance. In emergency situations when it is not possible to obtain advance permission, employees must notify their supervisors as early as possible. The supervisor will determine whether the absence constitutes a bonafide emergency and either approve the leave or require the employee to report to work.

g. Criteria for Approval of Annual Leave.

- (1) Although employees automatically earn annual leave and have a right to use it, that right is not unrestricted. It is the prerogative of management to make the final decision on when leave is to be used. In acting upon requests for annual leave, the supervisor must consider whether the employee's services can be spared without disrupting the work of the office and should consider how much leave the employee has to his or her credit.

- (2) Where possible, supervisors should assist employees in scheduling leave to avoid forfeiture. Employees having accumulated compensatory time for overtime work should use the compensatory time before using annual leave. Employees are encouraged to use restored annual leave before using annual leave.
- h. Advancing Annual Leave. The supervisor, after consultation with the Director, Human Resources, may approve requests for annual leave to be advanced up to the amount to be accrued during the remainder of the current leave year. In exercising this authority, the supervisor must be reasonably sure that there are no reasons to prevent an employee from accruing the advanced leave, e.g., planned resignation or retirement. Requests for advanced annual leave may be submitted on an OPM-71.
- i. Use of Annual Leave Instead of Sick Leave. An employee may request annual leave for absences otherwise chargeable to sick leave, provided that the request is made prior to the time the leave is actually charged. Retroactive substitution of annual leave for sick leave is not permitted except under certain circumstances in cases involving liquidation of advanced sick leave.
- j. Annual leave used while in travel status. Leave taken while in travel status must be shown on the travel voucher. No per diem will be approved for any day when the employee is on annual leave for more than four hours.
- k. Lump-sum Payment. Upon separation or transfer to a position where leave cannot be earned and used (excluding Presidential appointments), an employee is paid a lump sum for unused annual leave and any unused restored annual leave to his or her credit.

- l. Upon the death of the employee, the beneficiary will be given a lump sum payment for the balance of annual leave and restored annual leave to the employee's credit at the time of his or her death.
 - m. An employee who enters military service may either obtain a lump-sum payment for any unused annual leave, or allow the annual leave to remain to his or her credit until a return to a Federal civilian position. The latter option, however, applies only to annual leave in the employee's regular leave account. Any unused restored leave in a separate account must be liquidated by lump-sum payment at the time of separation to enter on active duty.
9. Restoration of Forfeited Annual Leave.
- a. Administrative Error. Annual leave forfeited due to an administrative error may be restored to a current employee. A lump-sum payment may be made to an employee who was separated prior to the discovery of an administrative error. Requests must be made in writing explaining the circumstances leading to the forfeiture. Any available documentation should be included. Employees who have separated from the Federal service before discovery of the administrative error must file a claim with the last agency of employment within three years immediately following the date the error was discovered.
 - b. Exigencies of the Public Business. In some cases, critical, operational demands may not permit the use of annual leave, as scheduled and approved. Only the Director has the authority to declare that such a situation exists. The Director has designated the Deputy Directors to act in his absence. Exigencies are rare and should be distinguished from heavy workload periods.
 - (1) When a supervisor believes that an operational demand is of such magnitude that

it is an exigency of public business requiring cancellation of approved annual leave, he or she must confer with the Director, or the appropriate Deputy Director, before notifying the employee that his or her leave has been cancelled.

- (2) The employee must submit (through supervisory channels) the following information, in writing to the Director of Human Resources, to request restoration of any forfeited leave:

- (a) The nature of the operational demand and the individual imposing the demand;
- (b) The commencing and ending dates of the demand;
- (c) The dates of scheduled annual leave and efforts to reschedule the leave;
- (d) Copies of approved forms OPM-71 indicating approval of annual leave prior to the third biweekly pay period before the end of the leave year.
- (e) The supervisor's recommendation for approval or disapproval of the request.

- (3) The Director of Human Resources will assure that all regulatory requirements have been met and will verify the amount of leave available for restoration. The case will then be sent to the Director or his or her designee for final approval.

- c. Sickness of the Employee. When illness, injury, or other medical conditions for which paid sick leave would be approved interfere with or prevent the use of annual leave, the annual leave may be restored for later use provided that it was

scheduled in advance and the period of absence due to illness or injury occurred at such a time in the leave year, or was of such duration, that the annual leave could not be rescheduled. Normally, the annual leave must have been approved in writing prior to the third biweekly pay period before the end of the leave year.

- (1) Employees may request restoration by submitting the following information, in writing, through appropriate supervisory channels to the Director of Human Resources:
 - (a) The dates during which the annual leave was scheduled for use and the number of hours scheduled (include copies of approved OPM-71's)
 - (b) The dates of the illness and the charges to leave during the period of illness;
 - (c) The dates for which the annual leave was rescheduled. If it was not possible to reschedule the leave, state the reason.
 - (2) The supervisor will indicate a recommendation for approval/disapproval of the employee's request. The Director of Human Resources, will assure that all regulatory requirements have been met and will verify the amount of leave available for restoration. The case will then be sent to the appropriate Deputy Director for final approval.
- d. Use of Restored annual leave. Restored annual leave must be scheduled and used no later than the end of the leave year ending two years after:
- a. The date of restoration of the annual leave forfeited because of administrative error; or
 - b. The termination date of the exigency of the

public business which resulted in forfeiture of the annual leave; or

- c. The date the employee is determined to be recovered and able to return to duty if the leave was forfeited due to sickness.

10. Sick Leave.

- a. General. Sick leave is granted for the following reasons:

- (1) Incapacitation to perform regular duties, or lighter duties if available, due to illness or injury.
- (2) Medical, dental, or optical examination or treatment.
- (3) Required confinement due to pregnancy.
- (4) Exposure to contagious disease or when required to care for an immediate family member so exposed.
- (5) Alcohol or drug abuse treatment or rehabilitation.
- (6) Care of a family member in certain circumstances under family friendly legislation as described elsewhere in this directive.

- b. Earning Rates.

- (1) Full-time employees earn sick leave at the rate of 4 hours for each full biweekly pay period.
- (2) To earn sick leave, part-time employees must have a regularly scheduled tour of duty on at least 1 day of each week in the pay period.

Part-time employees earn sick leave at the rate of 1 hour for each 20 hours of duty not to exceed 4 hours of sick leave per 80 hours of duty in any pay period.

(3) Employees with an intermittent work schedule do not earn sick leave.

- c. When Sick Leave is Earned. Sick leave is earned from the first full pay period of employment and its earning is not affected by the type of appointment or length of service. While sick leave is credited to an employee's account at the end of the pay period, it may be used during the pay period in which it is earned.
- d. Accumulation of Sick Leave. Sick leave accumulates without limit.
- e. Procedures for Requesting Sick Leave.
 - (1) An employee must obtain verbal approval, in advance, from the supervisor for any absences due to medical, dental or optical examination or treatment.
 - (2) An employee unable to report for duty due to illness or injury must report the absence to the supervisor, or to an official designated by the supervisor, at the time the employee is scheduled to report for work, or as soon as possible thereafter. Continued absence must be reported to the appropriate official on each succeeding day in the same manner, unless the employee has approval, in advance, not to do so. If the initial call to report absence must be made by a relative or friend on behalf of an employee, a follow-up call by the employee must be made as soon as possible.

- (3) For an absence of more than three consecutive workdays, or for a lesser period when determined necessary by the supervisor, a medical certificate or other administratively acceptable evidence as to the reason for an absence is required.
- f. Criteria for Approval of Sick Leave. An employee is entitled to use accrued and accumulated sick leave whenever he or she has a legitimate reason to do so. However, requests for sick leave for nonemergency medical, dental, or optical examination or treatment, and requests for advance sick leave, even though submitted with proper evidence, may be denied if it is determined that the employee's services are needed. The supervisor should, however, work with the employee to determine a mutually agreeable time to reschedule the leave.
- g. Advancing Sick Leave. In cases of serious disability or ailments, sick leave may be advanced to an employee before it is earned when the employee is, or will become, incapacitated or otherwise requires a large amount of sick leave. The Director of Human Resources must review all requests for advanced sick leave. Approval of advanced sick leave requests is subject to the following conditions:
 - (1) The amount of advance sick leave to full-time employees who have completed their probationary period may not exceed 30 days in any instance. (Career part-time employees are advanced sick leave on a prorated basis.) A probationary employee may be advanced up to 13 days. Temporary employees can only be advanced up to the total leave that would be earned during the term of his or her appointment.
 - (2) All available accumulated sick leave to an

employee's credit must be exhausted; in addition, an employee will be required to use any annual leave that might otherwise be forfeited.

(3) There must be reasonable assurance that the employee will return to duty.

(4) Requests for advance sick leave should be made by use of OPM-71 and must be supported by a valid medical certificate indicating the nature of the illness or disability and the time period of incapacitation for work.

h. Use of Sick Leave for Periods of Annual Leave. If an employee is on approved annual leave and becomes ill, he or she may request substitution of sick leave for annual leave. The supervisor may request documentation to support the request for change, if he or she feels it is necessary.

i. Sick leave in travel status. A traveler who becomes ill or is injured (not due to misconduct) may be allowed per diem for periods of sick leave while in travel status. The total claim may not exceed 14 calendar days, including fractional days, in any one period of absence unless justified and approved. Transportation expense and per diem en route to his or her official station may also be approved. Sick leave taken while in travel status should be shown on the travel voucher.

j. Excessive Use of Sick Leave and Sick Leave Abuse.

(1) If an employee's sick leave record shows an excessive number of intermittent absences for short periods, whether or not the employee has presented apparently legitimate reasons in support of such absences, the employee should be counseled by the supervisor. In determining whether or not an employee has

used an excessive amount of sick leave or seems to be abusing sick leave, the supervisor should consider the following:

- (a) Is there a pattern to the use of sick leave?
 - (b) Is the employee using more sick leave than is being earned?
 - (c) Is the employee using sick leave as soon as it is earned?
- (2) When counseling employees, supervisors should ensure that employees are fully aware of the value and benefits of sick leave and that they are aware of the requirement to follow proper procedures for requesting and obtaining approval for leave.
- (a) If abuse of sick leave is evident, or if after counseling, attendance fails to improve, the supervisor may issue a letter of leave restriction. Letters of leave restriction must be reviewed by Human Resources prior to issuance. In these cases, the supervisor may require the employee to provide a medical certificate for all future requests for sick leave, regardless of duration. The letter must also state the duration of the leave restriction. These periods may be extended, but may not exceed 1 year.
 - (b) When it is determined by the supervisor that sick leave is no longer being abused, the letter of leave restriction must be canceled in writing.
- k. Recredit for Sick Leave. If an employee separates from government service with a sick leave balance, the sick leave will be re-credited to an

employee's account upon re-employment with the federal government.

1. Credit for Unused Sick Leave.

- (1) The length of service of employees under the Civil Service Retirement Service (CSRS) will be increased by the days of unused sick leave upon retirement or upon death if a survivor is entitled to an annuity. The days of unused sick leave that are added are used in counting your number of years and months for annuity computation purposes. Only years and full months of service are used in annuity computations. Odd days are dropped. Sick leave cannot be used in computing the High-3 or for meeting the minimum length of service for retirement eligibility.
- (2) For employees covered by the Federal Employees Retirement System (FERS), unused sick leave is converted into creditable service for retirement at the rate of 50% through 2013 and 100% after 2014. Only years and full months of service are used in annuity computations.
- (3) Under no circumstances is a lump sum payment made for unused sick leave.

11. Temporary Disability. FMCS will make every reasonable effort to assure continued employment for employees who are temporarily unable to perform their regularly assigned duties for legitimate medical reasons. If absence is necessary, the employee may be granted a combination of sick leave, annual leave, or leave without pay to cover these periods of absence. The employee must submit a request for leave for temporary disability to his or her supervisor, in advance, on OPM Form 71. The request must be accompanied by a statement from the attending physician stating the nature of the disability, its anticipated duration, and the types of

tasks the employee should not perform.

12. Leave Transfer Program

a. General Provisions.

- (1) The purpose of the leave transfer program is to set forth procedures and requirements under which the unused accrued annual leave of one employee may be transferred for use by another employee who needs such leave because of a medical emergency.
- (2) New employees must be employed by FMCS for 12 months before becoming eligible to receive leave under this program. Exceptions to this requirement will be reviewed on a case-by-case basis.
- (3) An employee who is under leave restriction is not eligible for this program.

b. Definitions.

- (1) "Accrued leave" for the purposes of this program has been defined by the Office of Personnel Management as leave that has been earned.
- (2) "Family member" means the following relatives of the employee: spouse, and parents and grandparents thereof; children, including adopted children, and spouses thereof; parents; grandparents; brothers and sisters, and spouses thereof; domestic partners; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- (3) "Leave donor" means an employee whose voluntary written request for transfer

of annual leave to the annual leave account of a leave recipient has been approved by the FMCS.

- (4) "Leave recipient" means a current employee for whom FMCS has approved an application to receive annual leave from the annual leave accounts of one or more leave donors.
- (5) "Medical emergency" means a medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.
- (6) "Paid leave status" is the status of an employee while the employee is using accrued or accumulated annual or sick leave.
- (7) "Transferred leave status" is the administrative status of an employee while the employee is using transferred leave donated by other employees.

c. Application to Become a Leave Recipient.

- (1) Employees who are affected by a medical emergency may make application to become a leave recipient by requesting an OPM Form 630, "Leave Recipient Application Under the Leave Transfer Program" from Human Resources and completing it. Employees who are unable to make application on their own behalf may have a personal representative submit the application.

- (2) Before an application to become a leave recipient will be approved, it must be determined that the absence from duty without available paid leave because of the medical emergency is (or is expected to be) at least 24 hours or 30% of the number of hours in the employee's work schedule if part-time.
- (3) The applications will be submitted to the Office of Human Resources. The application must contain the following information:
 - the name, position title, grade and pay level of the applicant;
 - the annual and sick leave balances of the applicant as well as the name and title of the applicant's immediate supervisor;
 - the reasons why transferred leave is needed, a statement from the attending physician or medical practitioner which documents the diagnosis, prognosis, and clinical findings, and which certifies as to the need for and duration of any required absence from work. The Office of Human Resources may request additional information from the applicant, if warranted.
- (4) If the agency determines that medical certification is required from two or more sources, the agency shall pay the expenses associated with obtaining certification from more than one source.

d. Approval of Application to Become a Leave Recipient.

- (1) A committee composed of the Director of Human Resources, and the Deputy Directors or their representatives will review and approve or disapprove the request.
- (2) The committee will determine that the request meets the requirements stated in this directive and will consider input from the employee's supervisor.
- (3) Within ten workdays after the date the application is received, the Director of Human Resources, will notify the employee or the employee's personal representative in writing that:
 - the application was approved and that a request will be issued to all employees requesting leave donations; or
 - the application was not approved and the reason(s) for the disapproval.

e. Request to donate annual leave.

- (1) To donate annual leave, an employee must request a voluntary an OPM Form 630-A, "Request to Donate Annual Leave to Leave Recipient (Within Agency) Under the Leave Transfer Program" or an OPM Form 630-B, "Request to Donate Annual Leave to Leave Recipient (Outside Agency) Under the Leave Transfer Program" from Human Resources. The completed form must be returned to the Office of Human Resources.
- (2) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave he/she

would be entitled to accrue during the leave year in which the donation is made. (For example, full-time employees in the 4-hour leave category can donate up to 52 hours; employees in the 6-hour category can donate up to 80 hours; the 8-hour category can donate up to 104 hours.)

- (3) A leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, may donate no more than the number of hours remaining in the leave year as of the date of the transfer and within the limits stated in the paragraph above.
- (4) Annual leave may not be transferred to a leave donor's immediate supervisor.
- (5) At a donor's request, his or her name will not be disclosed to the recipient.

f. Approval of Requests to Donate Annual Leave.

- (1) The Office of Human Resources will verify the donors leave balance and eligibility to donate leave to the recipient. If the recipient is outside FMCS, Human Resources will forward the donation to the appropriate office at recipient's agency.
- (2) FMCS may accept the transfer of annual leave from leave donors employed by other federal agencies, when, in its judgment, the amount of annual leave transferred from the leave donors employed by FMCS will not be sufficient to meet the needs of the leave recipient.
- (3) Once Human Resources receive enough valid

leave donations to cover the anticipated period of absence, subsequent requests to donate leave will not be approved and the employees will be notified immediately. If the absence is extended beyond the original estimated date, additional donations may be solicited by the Office of Human Resources.

- (4) At the recipient's request, Human Resources will release a list of those employees who donated leave, unless a donor indicated he or she wished to remain anonymous.

g. Accrual of Annual and Sick Leave.

- (1) While an employee is in a transferred leave status, annual and sick leave will accrue at the same rate as if the employee were in a paid leave status. However, the maximum amount of annual and sick leave that may be accrued is 40 hours each. In the case of a part-time employee, the maximum accrual is that for the average number of hours of work in the employee's weekly scheduled tour of duty.
- (2) Any annual or sick leave accrued by an employee while in transferred leave status will be credited to a separate leave account.
- (3) The leave accumulated in the separate leave account will become available for use by the employee at the beginning of the first pay period after the termination of the medical emergency.

h. Use of Transferred Leave.

- (1) The leave recipient will use any available accrued annual and sick leave before using transferred annual leave.

- (2) Annual leave that has been transferred to a specific leave recipient may be substituted retroactively for period of leave without pay or used to liquidate an indebtedness for advanced annual or sick leave granted in connection with the medical emergency.
- (3) Transferred annual leave may not be:
 - transferred to another recipient;
 - included in a lump-sum payment upon the recipient's separation from FMCS;
 - made available for re-credit upon reemployment by a federal agency.

i. Termination of Medical Emergency.

- (1) The medical emergency affecting a leave recipient terminates:
 - when the leave recipient's employment is terminated by the agency that approved his or her application to become a leave recipient;
 - at the end of the biweekly pay period in which the leave recipient's employing agency determines that the leave recipient is no longer affected by a medical emergency; or
 - at the end of the biweekly pay period in which the leave recipient's employing agency receives notice that the Office of

Personnel Management has approved an application for disability retirement for the leave recipient under the Civil Service Retirement or the Federal Employees Retirement System.

- (2) Human Resources will continuously monitor the status of the medical emergency affecting the leave recipient.
- (3) When the medical emergency affecting a leave recipient terminates, no further requests for transfer of annual leave to the leave recipient will be granted, and any unused transferred annual leave remaining to the credit of the leave recipient will be restored to the leave donors.

j. Restoration of Unused Transferred Annual Leave to Donors.

- (1) Transferred annual leave remaining to the credit of a leave recipient when the medical emergency terminates will be restored proportionately to the annual leave accounts of leave donors currently employed by a federal agency on the date the medical emergency terminates.
- (2) Transferred annual leave restored to the account of a leave donor before the beginning of the third biweekly pay period before the end of the leave year will be subject to the annual leave accrual limitation.
- (3) Transferred annual leave restored to the account of a leave donor after the beginning of the third biweekly pay period before the end of the leave year will not be subject to the annual leave accrual limitation until the end of the leave year following the leave

year in which the transferred annual leave was restored.

k. Prohibition of Coercion.

- (1) No employee may directly or indirectly intimidate, threaten, or coerce (or attempt to do so) any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under these regulations.
- (2) The terms "intimidate, threaten, or coerce" include promising to confer or conferring any benefit (such as a promotion, appointment, compensation, or high performance appraisal) or effecting or threatening to effect any reprisal for similar reasons.

- l. Records. All leave recipient and donor information files will be maintained by Human Resources.

13. Leave for Maternity and Paternity Reasons.

- a. An employee should request parental leave as far in advance as possible, particularly if the absence is to be prolonged. This gives the agency time to make necessary workload adjustments.
- b. Supervisors should approve leave equitably and reasonably and with compassion for the employee, understanding that each case may be different.
- c. FMCS assures continued employment for an employee on approved, extended leave unless termination is required by expiration of appointment, reduction-in-force, for cause, or for other reasons unrelated to the absence. An employee will be allowed to return to the position formerly occupied or to a position of like status and pay.

An employee who has given birth and does not plan to return to work, must submit her resignation at the expiration of her period of incapacitation as indicated on a medical certificate.

- d. FMCS will treat pregnancy in the same manner as any other short-term disability. The granting of leave for maternity reasons can be any combination of sick leave, annual leave, and/or leave without pay. The leave policies, regulations, and procedures that apply to a request for leave for maternity reasons are the same as those that apply for requests for sick leave, annual leave, and leave without pay. Sick leave may be used to cover the time required for physical examinations prior to the delivery, as well as the period of incapacitation after the delivery. If, after consulting her doctor, an employee requests a change in duties or there are any other limitations, every reasonable effort should be made to accommodate her.
- e. If, at the expiration of the period of incapacitation, the new mother needs additional time to adjust to a new family member, to make child care arrangements, etc., she may request additional time off. Annual leave or leave without pay is appropriate for this purpose.
- f. If the father requests leave to help care for his children, or to help with household duties, etc., a charge to annual leave or leave without pay is appropriate.
- g. Either or both parents, or another family member, may request leave under the FEFFLA to care for a new child's or mother's medical emergency.
- h. Either or both parents may invoke their right to leave under the FMLA for the birth of a son or daughter and care of the newborn.

14. Leave for Adoption and Foster Care.

- a. Employees may request annual leave, sick leave or leave without pay for appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. Sick leave used for adoption purposes does not count toward the 13-day limit under the FEFFLA.
- b. Employees may use up to 12 administrative workweeks of leave without pay under the FMLA for adoption or foster care purposes. Administratively acceptable documentation must be provided for each period of absence.

15. Leave for Family Responsibilities

- a. Generally, annual leave, advanced annual leave, or leave without pay should be requested by employees to deal with family responsibilities.
- b. Employees may invoke their entitlement to leave under the Family and Medical Leave Act, for the care of a family member with a serious health condition.
- c. Under the Federal Employees Family Friendly Leave Act, employees may use sick leave to care for a family member or to arrange for or attend the funeral of a family member.
- d. Also, in accordance with the Presidential Memorandum on Expanded Family and Medical Leave Policies, employees may schedule and be granted up to 24 hours of leave without pay (or use accrued or advanced annual leave) for the following purposes:
 - (1) to participate in school activities directly related to the educational advancement of a

child;

- (2) to accompany their children to routine medical or dental appointments, such as annual checkups and vaccinations; and
- (3) to participate in school activities such as attending school board meetings, tutoring students, sports and recreation programs, field trips, career days, etc., whether the employee has children in school or not; and
- (4) to accompany their elderly relatives to routine medical or dental appointments or other professional services related to the care of the elderly relative, such as making arrangements for housing, meals, banking services, and other similar activities.

16. Compensatory Time.

- a. Compensatory time may be earned for work performed in addition to an employee's regular work schedule. National Office supervisors must receive approval from the appropriate Deputy Director prior to allowing employees to work compensatory time. (See Directive 5602, Pay Administration.)
- b. Once earned, an employee must use compensatory hours as soon as possible. If compensatory hours are not used within 26 pay periods after they are earned, nonexempt employees will be paid for these hours at the overtime rate in effect at the time the hours were earned. Hours not used within 26 pay periods by exempt employees are forfeited. (See Directive 5602, Pay Administration for definitions of exempt and nonexempt employees under the Fair Labor Standards Act.)
- c. Employees must have their requests to use their compensatory hours approved by their supervisors in advance. Compensatory time may be used in

combination with or substituted for annual or sick leave.

- d. Compensatory time may be used in 1/4 hour increments.

17. Compensatory time off for travel.

- a. Compensatory time off for travel is a separate form of compensatory time off that may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.
- b. To qualify as compensatory time off for travel, the employee must be in an approved official travel status.
- c. Travel status includes only the time spent traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel. Usual waiting time includes the time spent at the airport (e.g., 90 minutes to 2 hours before a scheduled departure) as well as time spent at an intervening airport waiting for a connecting flight.
- d. If an employee travels directly between his/her home and a temporary duty station outside the limits of the employee's official duty station (e.g., driving to and from a 3-day conference), the agency must deduct the employee's normal home-to-work/work-to-home commuting time from the creditable travel time. The agency must also deduct an employee's normal commuting time from the creditable travel time if the employee is required-outside of regular working hours-to travel between home and a transportation terminal (e.g., airport or train station) outside the limits of the employee's official duty station. If the travel time spent outside of regular

working hours to or from a transportation terminal within the limits of his or her official duty station is considered equivalent to commuting time and is not creditable time in a travel status for the purpose of earning compensatory time for travel.

- e. Compensatory time for travel is earned in increments of 15 minutes. Employees must request approval from their supervisor in order to earn credit for compensatory time for travel.
- f. Compensatory time for travel must be used by the end of the 26th pay period after the pay period during which it was earned or the employee must forfeit such compensatory time off. Unused compensatory time for travel will be held in abeyance for an employee who separates, or is placed in a leave without pay status, and later returns following (1) separation or leave without pay to perform service in the uniformed services or due to an on-the-job injury with entitlement to injury compensation under 5 U.S.C. chapter 81. In these cases, the employee must use all of the compensatory time for travel held in abeyance by the end of the 26th pay period following the pay period in which they return to duty, or such compensatory time off for travel will be forfeited.
- g. Compensatory time off for travel must be used before an employee separates, retires, or transfers otherwise it is automatically forfeited. The law prohibits payment for unused compensatory time off for travel under any circumstances.

18. Compensatory time for religious observances.

- a. An employee may be granted compensatory time for religious observances when their personal religious beliefs require the abstention from work during certain periods of time which fall within

their tour of duty. Supervisors may authorize overtime work to employees for the time employees lost in meeting their religious requirements.

- b. Compensatory time off and compensatory time earned for religious observances must be simultaneously scheduled. Compensatory time for this purpose may be used in advance of it being earned.
- c. Employees may request such leave by submitting an OPM-71 to their supervisor for approval far enough in advance to allow the supervisor sufficient time to make very reasonable effort to honor the request. The OPM-71 must clearly specify the nature of the request.
- d. Compensatory time for religious observances is kept in a separate leave account.
- e. If it is determined that an employee's request for compensatory time for a religious observance cannot be granted, the employee will be notified in writing by the supervisor.

19. Leave Without Pay (LWOP).

- a. Leave without pay is an approved period of temporary, nonpay status and absence from duty requested by an employee. Approval of leave without pay is a matter of administrative discretion. With the exception of disabled veterans needing medical treatment, reservists and members of the National Guard desiring leave without pay for military training duties, and certain circumstances under the Family Medical Leave Act, employees cannot demand leave without pay as a matter of right. Requests for extended leave without pay (30 days or longer) will be considered in light of its value to FMCS, and whether it offsets the costs and administrative inconveniences involved. Initial requests for leave without pay will not be approved for periods

in excess of 1 year. In order to grant extended leave without pay, FMCS must expect that the employee will return to duty, and that such benefits will be derived as increased job ability, retention of a desirable employee, and furtherance of a government program.

- b. Leave without pay should be requested on OPM-71 with appropriate documentation or justification attached, as appropriate. Annual leave that might otherwise be forfeited must be exhausted before leave without pay will be approved.
- c. Leave without pay in excess of 30 days requires the completion of a personnel action. A copy of the OPM-71 and supporting information are to be promptly forwarded to the Office of Human Resources, when it is known that such leave without pay is to be taken.
- d. The effects of Leave Without Pay:
 - (1) Full-time employees lose one biweekly accrual of annual and sick leave for each 80 hours spent in non-pay status during the leave year.
 - (2) If an employee is on LWOP before and after a holiday, the employee is not paid for the holiday.
 - (3) The employee is required to pay his or her share of health benefits premiums for periods of nonpay status or when salary is insufficient to cover the cost of premiums. The Human Resources Office will inform the employee of the procedures for paying for his or her share of the premiums.
 - (4) Long periods of leave without pay may affect an employee's Thrift Loan. If payroll deductions are missed for more than 90 days

but less than 1 year, the loan will be reamortized.

- (5) Leave Without Pay in excess of 6 months requires the recomputation of an employee's Service Computation Date.
- (6) Leave Without Pay may delay an employees within grade increase. (See Directive 5602. Pay Administration.)

20. Military Leave.

- a. Any employee, other than temporary, part-time, and WAE, who is a member of the National Guard or a Reserve component of the Armed Forces, will be permitted leave of absence from his or her duties without loss of pay or time on all days during which he or she is ordered to active duty (usually for training purposes), not to exceed 15 calendar days in any one calendar year. Leave in excess of 15 calendar days must be charged to annual leave or leave without pay, as appropriate.
- b. An employee desiring military leave should request it well in advance of the leave period, so that the supervisor may arrange to cover the work. If he or she has alternative training periods from which to select, the employee may be required to select the one most convenient to FMCS.
- c. Requests for military leave should be submitted on OPM-71 form and must indicate the reserve or National Guard organization of which the employee is a member. Supervisors **must** approve military leave.
- d. The employee must furnish a copy of his or her military orders certified as accurate by an appropriate military officer. If actual days on active duty are not shown on the orders, an additional statement is required from appropriate

military authority indicating this information. A copy of the military order and the document certifying active duty days must be forwarded to the Office of Human Resources for appropriate service credit and filing in the employee's electronic Official Personnel Folder (eOPF).

21. Court Leave.

- a. Court leave is the authorized absence of an employee from work status for jury duty or for attending judicial proceedings in a non-official capacity as a witness of a state or local government or on behalf of any party when the United States, the District of Columbia, or a state or local government is a party. Court leave involves no charge to leave or loss of pay.
- b. As a general rule, FMCS will not request that its employees be excused from jury duty. An employee under proper summons will be granted court leave for the entire period of service to the court for jury duty.
- c. When an employee is summoned or assigned by FMCS to testify on behalf of the United States government or the government of the District of Columbia, he or she is in an official duty status and is entitled to his or her regular pay.
- d. An employee in official duty status or on court leave for the above stated reasons may not retain fees received as compensation for such service to the court. Any fees so received must be forwarded to the Office of Budget and Finance for appropriate disposition. Any employee who fails to do so will be required to pay the amount personally, or be charged annual leave for the period during which fees were earned. Money paid to an employee for legitimate expenses (travel, parking, meals, lodging, etc.) incident to a proper summons may be retained.

- e. Court leave should be requested in advance and may use OPM Form 71 accompanied by a true copy of the summons for jury or witness service. If the summons for witness service does not indicate whether the United States, the District of Columbia, or a state or local government is a party, the supervisor must take the necessary steps to assure such participation is documented.
 - f. When an employee serving on jury duty is released, or if he or she finishes witness or jury duty early enough in the day to return to work, the employee is expected to return to duty. If it is practicable to return and he or she does not, the time involved should be charged to annual leave, leave without pay, or absence without leave, as appropriate.
22. Excused Absence (Administrative Leave). An excused absence is an administratively authorized absence from duty without charge to leave or loss of pay and is ordinarily granted on an individual basis. It is impossible to specify all of the instances where administrative leave might be authorized. However, some examples of circumstances where an employee may be granted an excused absence are as follow:
- a. Voter Registration and Voting. An employee may be excused from duty, if necessary, so as to permit him or her to report for work 2 hours after the polls open or to leave work 2 hours before the polls close, whichever results in the lesser amount of time off. Excused absence of not to exceed 1 full day may be granted in unusual circumstances. Where it is possible to register on a non-workday, no excused absence will be granted. For example, if the polls in an employee's area open at 6:00 a.m. and close at 8:00 p.m. and your work hours are 8:30 a.m. to 5:00 p.m., the employee is not eligible for an excused absence as he or she has 3 hours after work to make it to the

polls. If the polls open at 7:00 a.m. and close at 7:00 p.m., and an employee's work hours are 8:30 a.m. to 5:00 p.m., the employee is permitted up to 1 hour of excused absence, the lesser of 1 hours in the a.m. or 1 hour in the p.m.

- b. Civil Defense Activities. An employee may be excused from duty to participate in federally-recognized civil defense programs for a reasonable amount of time but not to exceed 40 hours in a calendar year.
- c. Participation in Military Funerals. An employee who is a veteran may be excused from duty for up to 4 hours in a day to participate in funeral services as a pallbearer or as a member of a firing squad or honor guard.
- d. Blood Donation. An employee who donates blood may be excused from duty for the time necessary for donation and recuperation. Excused absence for this purpose will not exceed 4 hours and must be taken during and immediately after the donation. Any time not taken immediately cannot be saved to be taken later.
- e. Tardiness and Brief Absence. Brief absences from duty of less than 1 hour may be excused when the reasons are justifiable to an employee's supervisor.
- f. Examinations. An employee may be excused from duty not to exceed 4 hours to take a Federal Civil Service examination required for the position he or she currently occupies or one for which the employee is being considered or recommended by the agency.
- g. Attending Conferences and Conventions. An employee may be excused to attend a conference or convention when it is determined by the approving official that attendance will serve the best

interests of the federal service.

- h. Draft Registration. An employee shall be excused from duty for a reasonable amount of time, if necessary, to comply with draft registration requirements of the Military Selective Service Act, as amended.
- i. Funeral of an Immediate Relative Killed in the Line of Duty in the Armed Forces. An employee will be authorized a reasonable amount of excused absence not to exceed 3 days to arrange for or attend the funeral of an immediate member of his or her family killed in a combat zone or otherwise in the line of duty in the Armed Forces.
- j. Physical Examinations. Excused absence is authorized for an employee to take a physical examination required by FMCS or other federal agency, for entry into the Armed Forces, or subsequent and incident to Selective Service registration.
- k. On-the-Job Injuries. If circumstances warrant, an employee shall be excused from work for the balance of the day after obtaining treatment for an injury sustained in the performance of duty. (See Directive 5701. Injury Compensation.)
- l. Visits to Federal Health Unit or Employee Assistance Program (EAP). An employee may be excused from duty to visit the health unit if there is a legitimate reason to do so; i.e., for vaccination, inoculation, medical attention, etc. An employee may also be excused for an appointment made with a counselor through the Employee Assistance Program.
- m. Employees are entitled to use 7 days of paid leave each calendar year to serve as a bone-marrow or organ donor.

23. Group Dismissals (Administrative Leave). The Deputy Directors are authorized to approve group dismissals. Excused absence for groups of employees may only be granted pursuant to certain conditions and circumstances such as hazardous weather, power failure, breakdown of ventilation equipment, etc. Group dismissals may also be authorized for local holidays or events where conditions are such that normal Government business could not be conducted or when participation in local activities is being encouraged by the Government (i.e., official parades, ceremonies, etc.). For example, if an employee receives approval for 8 hours of annual leave due to weather conditions, and the agency is dismissed 4 hours early, the employee is still charged 8 hours of annual leave. Also, an employee must be in a pay status immediately preceding a group dismissal. An employee on leave without pay status at the time a group dismissal is announced would not be paid for Administrative Leave.
24. Unauthorized Absence. Absence from duty without approval or where a prior determination has been made that no leave of any type will be granted is unauthorized absence. Absence of this sort is charged as absence without leave (AWOL). AWOL employees are charged the exact amount of time they are absent from duty in 15 minute increments. Pay is withheld for the entire period of absence without leave. An AWOL determination may subsequently be charged to annual leave, sick leave, or leave without pay if an acceptable reason and/or documentation for the absence is provided.
25. Grievable Actions. Denial or cancellation of any type of leave that has been requested in accordance with the guidance provided within this directive, that the employee feels is unjustified, is grievable under the negotiated grievance procedures for bargaining unit employees and under the FMCS Administrative Grievance Procedures for employees not in the bargaining unit.

DIRECTIVE 5403. TELEWORK PROGRAM

1. Purpose. The Federal Mediation and Conciliation Service (FMCS) Telework Program is established in an effort to realize increased productivity, improvements in employee morale, job satisfaction, and reduced absenteeism. Telework has the potential to improve the quality of worklife for employees by reducing commute time and increasing the amount of time available for family and personal activities. Telework is expected to reduce air pollution, traffic congestion, and the costs associated with travel to the workplace. Telework will help to maintain productivity and continuity of operations during snow and other emergencies without compromising the safety of our employees or the general public.

Telework provides management flexibility—it is not an employee benefit or entitlement. Granting or denying telework in accordance with operational needs of FMCS is within the sole discretion of FMCS management. Employees who have been approved to telework do not have an automatic right to continue to telework. Telework schedules or arrangements may be modified or terminated at any time by FMCS management.

2. Scope. The provisions of this directive apply to all FMCS employees, as noted. A position may be considered eligible for telework only where the employee's fully successful performance of work does not require:
 - a. daily use of specialized equipment or technology that is available only at the official duty station;
 - b. face-to-face contacts with co-workers, managers, and/or customers at the official duty station;
 - c. the employee to provide office coverage, answer phones, receive visitors, sort mail, or provide on-site computer or other technical support; or

REVISED
APRIL 2011

- d. use of work processes or methods that can be more efficiently performed at the employee's official duty station.

3. Authorities.

Telework Enhancement Act of 2010 (Public Law 111-292)

Public Law 106-346

5 U.S.C. Section 610

4. Responsibilities.

- a. The Director, Human Resources, will appoint a Telework Managing Officer (TMO) who will serve as the primary point of contact for telework matters.
- b. Supervisors are responsible for establishing tours of duty for each employee and for ensuring office coverage during official agency hours.

5. Definitions.

- a. Telework is a program that permits employees to work at home or at other approved locations remote to the conventional office site.
- b. A Recurring Telework Schedule typically incorporates a consistent amount of telework as part of the employee's biweekly work schedule. In most cases, a recurring telework schedule will be limited to one day of telework per week. However, if an employee using recurring telework also has an Alternative Work Schedule (AWS), the employee may work only one telework day per pay period. The employee's telework day and AWS day off must be scheduled so that the employee is out of the office only one day per week.
- c. Ad-Hoc Telework may be infrequent or situational based on special assignments, health concerns, hazardous

weather, or other emergencies.

6. Eligibility and Participation

- a. FMCS management will review positions and make a determination of eligibility for participation in the telework program. Eligibility for telework depends on the specific nature and content of the job rather than on the job series and title.
- b. If a position is deemed eligible for telework, the individual in the position may be denied telework based on the performance of the employee, the needs of FMCS or for other reasons solely within the discretion of the Agency.
- c. Participation in the Telework Program by eligible employees is voluntary.
- d. All employees who telework must have an approved written telework agreement.
- e. To the extent that the time and attendance tracking system and procedures allow for it, all employees who telework must record it as such.
- f. Employees must meet the following criteria in order to be eligible to participate in the telework program:
 - (1) The employee's performance must currently be at an acceptable level or better and his or her most recent rating of record must be at an acceptable level or better.
 - (2) The employee must not be on a performance improvement plan (PIP.)
 - (3) The employee must have good time and attendance and not be subject to a leave restriction.
 - (4) The employee must not be serving a probationary

period or trial period, and must not occupy a student or trainee position.

- g. Employees are barred from participation in the telework program if:
- (1) The employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year.
 - (2) The employee has been found to have violated subpart G of the Standards of Ethical Conduct of Employees of the Executive Branch for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

7. Selection Process.

- a. Employees may apply for telework at any time.
- b. Employees may request to participate in the telework program by submitting a Telework Agreement Form (Attachment 1), a Safety Checklist (Attachment 2), and a Request to Establish or Change Work or Telework Schedule form (Attachment 3) to their immediate supervisor. Ongoing arrangements will typically last for 6 months to a year and may be renewed using the same forms.
- c. A telework arrangement may be appropriate to accommodate an employee with a temporary illness or disability if the employee is capable of performing the job at home or at a telework center. If the employee's request to telecommute is to accommodate a disability or illness, the employee may be required to provide a medical certification or other relevant information.
- d. Normally, the request will be acted upon within ten calendar days. An employee whose request is

disapproved may request that the next higher level official reconsider the request.

- e. Telework will not be approved if it will result in insufficient qualified staff to provide adequate office coverage.
 - f. If the approval of all requests in the same work unit would result in insufficient qualified staff to provide adequate office coverage, or if FMCS-owned equipment is required in order to allow all qualified employees to participate in the telework program and equipment is not available, the supervisor will discuss the matter with the affected employees and attempt to reach a mutually agreeable resolution. If all parties do not reach a mutually agreeable resolution, the supervisor may consider the employee's FMCS Entrance on Duty (EOD) date and/or Service Computation Date (SCD) as a factor in granting or denying the requests.
 - g. Supervisors may make an exception to the above provisions on a case-by-case basis. Exceptions must be approved by the employee's second-level supervisor.
8. Official Duty Station, Duty Hours, Time and Attendance.
- a. Participants in the Telework Program shall request a work schedule in accordance with Directive 5401, Hours of Duty.
 - b. The employee's timekeeper will be given a copy of the approved schedule for use in preparing the biweekly "Time and Attendance Reports."
 - c. The official duty station of an employee participating in the flexible work program is the employee's FMCS office.
 - d. The supervisor has the right to direct an employee who is in telework status to report to his or her FMCS office at any time due to special circumstances,

including, but not limited to, office assignments, meetings, and/or training classes. The supervisor will make every effort to give the employee notice in time to travel to the office during the regular commuting time. When sufficient prior notice is given, time spent traveling will not be considered hours of work. When the employee is scheduled for a full day tour of duty at the alternative work site and receives notification to report to the office too late to travel during the normal commuting time, the supervisor may, at his or her discretion, allow travel time to be counted as hours of work.

- e. During scheduled hours of work, employees in the telework program must be as available to supervisors, coworkers, and customers, by telephone, e-mail, voice mail, or other communications media, as if working at their FMCS office.
- f. Overtime and compensatory time must be approved in advance by an authorized official.
- g. Policies and procedures for requesting and using leave shall be in accordance with established procedures.
- h. Employees participating in the Telework Program will not be excused from work because workers at the official duty station are dismissed or not required to work due to an emergency if the emergency does not substantially affect the work being performed at the alternative work site.
- i. The employee is expected to work on official FMCS business during the hours designated for telework. Telework is not to be used to provide medical care or oversight of others, e.g., child or elder care or caring for sick family members. Any indication that an employee is engaging in activities other than FMCS official business while in telework status will be grounds for the supervisor to revoke the employee's telework authorization.

9. Space, Equipment and Services.

- a. FMCS will make a good faith effort to provide, within reason and Agency discretion, the necessary equipment, supplies, and services required for employees to participate in the Telework Program. Employees may provide their own compatible equipment consistent with FMCS network requirements and the availability of technical support and services.
- b. The decision to provide computers or other equipment for use in employees' homes is at the discretion of the supervisor and the second level supervisor. Management may make the decision on a case-by-case basis, considering such criteria as the nature of the work, availability of existing and/or excess equipment, and funding constraints or flexibilities.
- c. Employees may not remove classified material from their official duty stations without prior approval from appropriate authorities.
- d. Alternate work sites used by telecommuters must have adequate work space, lighting, telephone service, power, and adequate security. Employees must complete and submit to their supervisors the Safety Checklist, Attachment 2, prior to the start of telework.
- e. FMCS has the right to inspect home work sites on an ongoing basis to ensure suitability. In most cases, FMCS will provide notice of not less than one workday in advance of the inspection.
- f. Employees must comply with all security measures and disclosure provisions, including password protection and data encryption, so that the Privacy Act and other security standards are not compromised.
- g. Employees must protect all government records and data against unauthorized disclosure, access, mutilation,

obliteration, and destruction.

- h. Employees must take reasonable care in operating all equipment. The servicing and maintenance of government owned equipment is the responsibility of the FMCS.
- i. FMCS will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities) associated with the use of the telework work site, telephone lines, or electrical modifications. The employee does not relinquish any entitlement to reimbursement for appropriately authorized expenses incurred while conducting business for the Agency as provided for by law and regulations; e.g., long distance telephone calls, faxes, copying. If possible, Agency equipment and services should be used.
- j. Supervisors must ensure that equipment assigned to telework participants is properly accounted for.

10. Termination of participation

- a. The telework agreement may be cancelled at any time by the employee by the submission of a new Request to Establish or Change Work or Telework Schedule form.
- b. The telework agreement may be cancelled at anytime by the supervisor.
- c. The telework agreement terminates if the employee transfers from one FMCS office to another. The transferred employee must request a telework agreement from his or her new supervisor in order to continue his or her telework schedule.

11. Other Provisions

- a. Telework agreements must be reviewed by supervisors annually on or about the anniversary of the approval date.

- b. FMCS will provide training to all new telework participants and new supervisors.
- c. Supervisors will give employees approved for telework instructions for obtaining technical support.
- d. Employees who telecommute will be covered by applicable provisions of the Federal Employees Compensation Act and Federal Tort Claims Act.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Telework Agreement

The following constitutes an agreement between the Federal Mediation and Conciliation Service (FMCS)

and _____
(Employee's name)

on the terms and conditions for the employee's participation in the FMCS Telework Program as provided in Directive 5403.

Type of telework: ☐ Ad Hoc ☐ Regularly Scheduled ☐ Regularly Scheduled & AWS

1. The employee who volunteers to participate in the Telework Program agrees to provisions of Directive 5403 and the provisions of this agreement.

2. The employee's official duty station is: _____

3. The employee's primary alternate work site is (include street, city, state, zip code and phone number):

4. Regardless of the telework schedule, the employee agrees to report to his or her FMCS office as directed for training, conferences, mandatory meetings, and to receive assignments and review completed work. The employee may be required to report exclusively to his or her FMCS office for some short duration to perform work that cannot otherwise be performed at the alternate work site.

5. By signing this agreement, the employee agrees to follow established procedures for requesting and obtaining approval of leave. Failure to follow these procedures may result in the termination of this agreement.

6. The employee will be in a pay status while working at the approved alternate work site.

7. The employee's job performance will be appraised in accordance with the employee's performance plan.

8. The employee agrees to perform only official FMCS business while teleworking.

9. The Standards of Conduct continue to apply to employees at their approved alternate work site.

10. The employee will apply approved safeguards to protect government records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the Privacy Act of 1974 (5 USC 552a).

11. If the alternate work site is the employee's residence, the employee is responsible for ensuring that it is safe and adequate and for ensuring it meets applicable building and safety codes. This includes, but is not limited to; ensuring his or her home's electrical system and telephone equipment is adequate for the use of government equipment, and safeguarding government equipment from children and pets.

12. Provided the employee is given not less than one day advance notice, the employee agrees to permit periodic home inspections by FMCS during the employee's normal working hours to ensure proper maintenance of government owned property and work site conformance with safety standards and other specifications in this agreement and Directive 5403.

13. The employee agrees that FMCS will not be responsible for home maintenance, or any other incidental cost, e.g., utilities, telephone lines, associated with the use of the employee's residence if the residence is the approved alternate work site.

14. The employee agrees to report any problems at his or her alternative work location that interfere with his or her ability to work to his or her supervisor immediately. IT problems should be reported to 1-888-538-3339. If the problem cannot be resolved in a reasonable amount of time, the employee is to report to his or her FMCS office or request leave.

15. An employee suffering from work-related injuries and/or equipment or property damages at the alternate work site is covered to the extent provided by the Federal Tort Claims Act, or the Federal Employees Compensation Act (workers' compensation). The employee understands that the employee may be covered under the Federal Employee's Compensation Act if injured in the course of actually performing official duties at the official duty station or the approved alternate work site.

16. The employee understands that if they have either an established recurring telework day(s) or had been previously approved to telework on day(s) work is curtailed (e.g., hazardous weather), they are required to telework on the day(s) of curtailment, provided they are able to do so. If there is a specific reason (e.g., no electricity, no internet service, etc.) that prevents the employee from working on their recurring telework day(s)/pre-approved telework day(s), they must inform their supervisor so that their time and attendance is recorded correctly.

17. The employee understands that on any day(s) when work is officially curtailed, that, if they have been approved for ad hoc telework, they should telework, provided they are able to do so, on the day(s) of curtailment. For appropriate time and attendance purposes, employee understands they must advise their supervisor of the number of hours worked on that day/those days.

18. The employee understands that this agreement may be terminated by the employee at any time.

19. The employee understands that the FMCS may terminate this agreement for cause such as:

- (a) The employee's failure to meet the eligibility requirements set forth in Telework Program Directive 5403,
- (b) The employee's failure to adhere to the provisions of this agreement,
- (c) Changes in work requirements or performance expectations by the supervisor.

20. Telework is not to be used to provide medical care or oversight of others (e.g. child or senior care, or tending to sick family members). Employee is expected to be working on official FMCS business during the time he/she is teleworking.

21. This agreement will be considered for renewal one year from the date approved.

I AGREE TO THE TERMS AND PROVISIONS OF THIS AGREEMENT:

Employee's Signature: _____ Date: _____

ON BEHALF OF FMCS:

Supervisor's Name: _____ Title: _____

Signature: _____ Date: _____

File original with Time and Attendance Records; send copies to the employee and Human Resources

FEDERAL MEDIATION AND CONCILIATION SERVICE

Telework Safety Checklist

This checklist is designed to assess the overall safety of the designated work area of the alternate workplace. Each telework applicant should read and complete the self-certification safety checklist to be sure the telework space is free from recognized hazards that would cause physical harm to you or to your computer or other equipment. Upon completion, sign and date the checklist.

1. Is all electrical equipment free of hazards? (frayed wires, bare conductors, loose wires, flexible wires running through the walls, exposed wires, over-loaded outlets, etc.)
2. Are the phone lines, electrical and extension cords secured away from the traffic pattern?
3. Are carpets well-secured to the floor and free of frayed or worn seams? Are floor surfaces clean and dry?
4. Is the furniture in good condition and appropriate for use in a home office? (i.e., is there: a chair with sturdy rungs and legs and back support; sufficient work space on desk or table top; space for phones, printers and other equipment; file cabinets and storage closets arranged so drawers and doors do not open into walkways, etc.)
5. Is the room free of excess heat or moisture?
6. Is there sufficient light for reading?

I hereby certify that I have reviewed this checklist and that I will take all necessary corrective actions to eliminate any hazard, including any hazard identified in this checklist, before I begin to telework.

Employee's Signature: _____

Date: _____

File original with official time and attendance records; send copies to employee and Human Resources

FEDERAL MEDIATION AND CONCILIATION SERVICE**Request to Establish or Change Work or Telework Schedule**

Employee's Name: _____ Date: _____

I formally request to establish/change my hours of duty and/or work location to work the schedule described below beginning on (date) _____.

- ☐ **Official Hours of Operation:** 8:30 a.m. to 5:00 p.m., Monday through Friday
- ☐ **Modified Flexitour** from _____ a.m. to _____ p.m. (See Directive 5401, "Hours of Duty.")
- ☐ **Ad Hoc or Situational Telework** (See Directive 5403, "Telework Program.")
- ☐ **5-4-9 Alternative Work Schedule (AWS)** Please indicate 8 9-hour days, 1 8-hour day and one day off. (See Directive 5401, "Hours of Duty.")
- ☐ **Telework Work Schedule** (Please indicate Telework day not to exceed one day per week. See Directive 5403, "Telework Program.")
- ☐ **5-4-9 AWS and Telework** (You must be in the office at least 4 days per week.)
- ☐ **Part-time Work Schedule** (for employees with approval to work a part-time schedule.)

1st Week	Monday	Tuesday	Wednesday	Thursday	Friday
Location	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home
Starting times					
Ending times					
2nd Week	Monday	Tuesday	Wednesday	Thursday	Friday
Location	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home
Starting times					
Ending times					

I ☐ approve ☐ disapprove the above schedule.

Signature of Supervisor

Date

File original with official Time and Attendance records; send copies to the employee and Human Resources

DIRECTIVE 5507. Disabled Veterans Affirmative Action
Program(DVAAP)

1. Purpose. To issue guidance concerning the Federal Mediation and Conciliation Service (FMCS) Disabled Veterans Affirmative Action Program (DVAAP) to ensure equal employment opportunity and job advancement for disabled veterans, especially those who are rated 30% or more disabled by the Department of Veterans Affairs.
2. Scope. This applies to all positions within FMCS and positions for which all U.S. citizens can apply.
3. Policy. As much as practicable FMCS will seek to increase the number of veterans on board when vacancies occur by using all available appointment options.
4. Authority.
 - a. Title 5 Code of Federal Regulations (CFR) Part 720, Subpart C.
 - b. 38 United States Code (U.S.C.) Section 4214 Employment within the Federal Government.
5. Responsibility.
 - a. The Director of Human Resources is responsible for:
 - (i) implementing, evaluating, and providing oversight to the FMCS DVAAP;
 - (ii) submitting an annual accomplishment report and the required certification to the Office of Personnel Management;
 - (iii) ensuring that adequate guidance, instruction, and resources are devoted to the program so that the national office and field operating offices possess the necessary understanding to carry out their responsibilities; and

- (iv) keeping the position of FMCS DVAAP Coordinator filled by a qualified staff member.

b. The DVAAP Coordinator is responsible for:

- (i) developing the annual affirmative action plan containing agency wide action items and strategies for hiring disabled veterans. The plan will be reviewed annually and revised as necessary; it will cover the period October 1 to September 30 of each year;
- (ii) implementing appropriate actions contained in the FMCS DVAAP plan;
- (iii) analyzing workforce data and other relevant data to identify problems and deficiencies in the employment and advancement of disabled veterans;
- (iv) conducting a continuing program of affirmative action for disabled veterans, giving emphasis to those who are 30% or more disabled (recruiting, hiring, advancing and personnel programs supporting these activities); and
- (v) reviewing the annual accomplishment report for the signature of the Director of Human Resources.

c. Management officials and supervisors are responsible for supporting and helping FMCS achieve the agency's Affirmative Action Plan objectives by providing full consideration to disabled veteran applicants and employees for promotion opportunities, special programs, and awards.

6. Goals of the DVAAP Program. In order to fulfill our commitment to the employment and advancement of disabled veterans, the DVAAP goals are as follows:

- a. Increase the total number of veterans who are 30% or more disabled, especially minorities and women;

- b. Increase the number of disabled veterans in professional/administrative positions in all grade levels through internal job advancement opportunities; and
 - c. Increase the number of disabled veterans in technical and professional positions through recruitment.
- 7. Requirements for submitting Affirmative Action Plans and Reports. The Federal Mediation and Conciliation Service will follow the outline of the requirements that are requested by the Office of Personnel Management each year.

DIRECTIVE 5601. CLASSIFICATION AND POSITION MANAGEMENT

1. Purpose. This directive provides information to FMCS employees regarding the classification of their positions and provides guidance to supervisors about their role in the classification and position management process.
2. Authority. FPM Chapter 511, Classification; and FPM Chapter 312, Position Management
3. Responsibilities. OPM delegates to the heads of Federal agencies the authority to classify positions. The Director, FMCS, further delegates this responsibility to the Director of Human Resources. Position management is the responsibility of all FMCS managers, and is ultimately controlled by the Deputy Directors who govern the day-to-day operations.
4. Scope. This directive applies to all FMCS employees covered by the general schedule. Although mediators are assigned to standard position descriptions, they are still under the scope of this directive.
5. The Classification Process. Classification is the process of arranging positions according to their similarities and differences. Arranging positions in this manner enables the organization to manage its work, control costs, and provide equal pay for equal work. Position classification is not the special purview of the HR office but rather an important part of the management process.

Before classification takes place, management decides how to organize the work, dividing it among specialists, spreading it out among generalists, assigning duties on a clerical, technical, or professional basis. By assigning work to positions (type, level, and amount) managers, in effect, predetermine the classification of those positions. Those decisions are then committed to paper in the form of position descriptions. Supervisors/ managers are responsible for the content of position descriptions. A position description should describe the major duties of the position, knowledge required, supervisory controls, guidelines used, personal contacts and their purposes, etc. Every employee should have a current position description describing the job he/she is performing. Attachment 2 is a Guide to Preparing Position Descriptions. (Note: Distribution has been made to managers only. Copies are available upon request of the HR office to others who would like one.)

Once the job is committed to paper, the HR office is responsible for actually classifying the position--determining title, series, and grade. To classify a position, the personnel specialist uses position classification standards issued by the Office of Personnel Management (OPM). These standards serve as guidelines by which positions are measured in terms of essential characteristics, such as complexity of assignments, supervisory controls, knowledge required, etc. The standards used in classifying the positions are available in the Division of Personnel Management for review by employees and operating officials at any time. Copies can be sent to regional and district office employees upon request.

Before managers make final decisions on how to organize or reorganize, or write new position descriptions, they should consult both the classification standards and the HR office.

Both will assist in developing staffing patterns, determining work assignments, evaluating supervisory ratios, assessing the need for deputy or assistant positions, and establishing other position management controls. Consultation during the planning stage will help avoid problems when committing the organization to paper.

6. Inappropriate Uses of the Classification Process:

- a. The quantity of work performed and/or general work performance, by itself, is not a factor recognized in the standards. Normally if an employee shows outstanding performance, an award is the appropriate means of recognizing that fact, not a promotion. There are times, however, when an exceptional employee (by virtue of his/her performance) draws more complex assignments which might result in a higher classification. Conversely, poor performance can result in job deterioration and downgrading.
- b. Positions are compared against standards, not against other positions. The classification of what appears to be a similar position in another organization or agency has little bearing on the classification at hand. Each position is unique and is approached from that perspective.
- c. Positions are classified, not the employees in the positions. This is often a difficult distinction for employees to understand, because they are so involved in their jobs.

7. Submitting the Position Description.

- a. Position descriptions are prepared and accompanied by an Optional Form 8 (see Attachment 1 of this directive). Copies of the OF-8 may be obtained from the HR Office.

- b. The position description and OF-8 must be transmitted, through the appropriate national or regional office manager to the HR office indicating the action requested.

- 8. Periodic Review of Position Descriptions. Supervisors have continuing responsibility for the accuracy of the descriptions of the positions they supervise. They should report significant changes in duties or responsibilities as they occur by the preparation of a new position description. In addition, each position description is to be reviewed with the employee once a year at performance rating time. The supervisor and the employee should be in agreement with the description of duties and responsibilities of the position. However, the final authority for assigning work rests with the supervisor.

- 9. Request for Reconsideration. Every effort will be made by the Director of Human Resources to remove the mystery surrounding the classification process. When a job is reviewed and classified an evaluation report is prepared. Prior to finalizing the classification, all information will be offered to the supervisor and the employee. At that time, they can informally address areas that are inaccurate.
 - a. If an employee requests formal reconsideration of the classification of the position he/she must submit a request giving the following information to the Director of Human Resources:
 - (1) Requested title, or grade, or other classification action.

- (2) Complete and accurate description of duties and responsibilities and a new OF-8. If present description is accurate, submit it.
 - (3) Reasons why it is believed the position is erroneously classified.
- b. The Director of Human Resources will evaluate the additional information and prepare and submit a written report (within 30 days after receipt of the request) to the Deputy Director for final decision.

10. Appeal to the Office of Personnel Management (OPM).

- a. An employee may appeal the classification of the position occupied directly to the OPM at any time. Decisions by OPM are final and binding. Therefore, employees are encouraged to request reconsideration by FMCS first. Both channels may not be used at the same time. The appeal must be based on a question of:
 - (1) The correct class or grade of the official position under the General Schedule; or
 - (2) Whether the official position is included in or excluded from the General Schedule.
- b. Addresses for OPM classification appeals offices may be obtained from the Division of Personnel.
- c. In addition to the information listed above, the employee should be sure to provide:
 - (1) Name, mailing address and office telephone number.

- (2) Employing agency and the location of official headquarters.
 - (3) Exact location of the employee's position in the organization.
 - (4) Title and grade of present position.
 - (5) Requested title, series, and grade or other classification action requested.
 - (6) Information on any other appeals or decisions regarding this action.
- d. Upon receipt of an appeal, the OPM makes whatever investigation of the facts it considers necessary and notifies FMCS and the employee of its decision.
11. Relationship of a Classification Appeal to Employee Appeals, Grievances and Complaints. The filing of a classification appeal does not affect any other rights or privileges the employee may have under other provisions of law or regulation.
12. Position Management is getting the right balance of economy, efficiency, skills utilization, attraction and retention of competent employees, employee development and motivation, and achievement of public policy objectives. There is no merit in having the least possible salary costs if this means you cannot attract and develop capable employees. Nor can you always provide maximum variety and interest in all jobs and still get maximum utilization of skills.

Review of the following checklists may generate some ideas about steps you can take to improve position management.

- Is there some work being performed that does not need to be done? If so, is action being taken to eliminate it?
- Have you combined duties and positions in the most effective way without harming mission accomplishment?

- Has your organizational structure kept pace with mission changes?
- Have you avoided unnecessary spreading out of high-level duties?
- Are all of your vacant positions needed? Can some be restructured at lower grades?
- Are work methods and processes as efficient as they should be?
- Have you given necessary attention to the career development of employees?
- Are employees aware of them?
- Is the work arranged to help give employees a sense of accomplishment?
- Have you taken steps to eliminate deputy/assistant positions that are not really needed?
- Have you avoided splitting the organization into many small segments?

Supervisors/managers also have an opportunity to consider each of the following factors before taking any action to fill a vacant position.

- Is the position still needed?
- Are funds available to cover its cost?
- Should action be taken to fill the position?
- Can the position's duties be reassigned to other positions?
- Does the organization's staffing pattern reflect a

suitable balance among kinds of positions (i.e., professional, technical, administrative, and clerical support)?

- Would hiring at the "entry" or "technician" level provide a balance between employees who perform the full performance level duties of the organizational unit and developmental employees who perform the more routine and lower level duties?

Optional Form 8

Instructions for Completing
(Form)

Attachment 2
Directive 5601

GUIDE TO PREPARING POSITION DESCRIPTIONS

This guide has been prepared to assist supervisors who are responsible for assigning duties and responsibilities to employees and documenting that information in the form of a position description. Since most new standards are prepared in FES (Factor Evaluation System) format, this guide has also been prepared in that fashion.

ORIGINAL ISSUANCE
JANUARY 1994

EACH OF THE FOLLOWING SECTIONS PROVIDES A DESCRIPTION OF THE INFORMATION THAT SHOULD BE CONTAINED IN THAT PORTION OF THE POSITION DESCRIPTION.

Major Duties and Responsibilities

This section of the position description answers the question, "What does the employee do in this position?" It should briefly describe the major duties performed in plain, clear language. It may be preceded by an introductory statement or paragraph that describes the general nature of the position and how it fits into the organization. Duties are best described by using active verbs. Avoid verbs and verb phrases like: assumes, participates, supports, works closely with, serves as authority for, assists, maintains liaison, handles, processes, responsible for, etc. These words have a variety of connotations and meanings. They are not specific enough to describe accurately the worker activity being performed.

Factor 1, Knowledge Required by the Position

What levels of knowledge and skills are required and used in doing acceptable work in the position? This includes:

- . The nature or kind of knowledge and skills needed, and
- . How these knowledge and skills are used in doing the work.

Knowledge are information or facts such as procedures, work practices, rules and regulations, policies, theories and concepts, principles, and processes the employee must know to be able to do the work. When you list a particular knowledge, it is understood that skill is used in applying that knowledge.

Knowledge Example #1, Clerk

- a. Kind of Knowledge: Knowledge of the terminology used with a variety of diagnostic and treatment procedures provided general medical patients
- b. How used: (to record and report medical

information such as X-ray
and test results.)

Knowledge Example #2, Clerk-Typist

- a. Kind of Knowledge: Knowledge of English grammar,
spelling, and punctuation
(to correct obvious errors in
material being typed.)

Sometimes, it is easier to describe a requirement as a skill rather than as a knowledge. A knowledge exists before skill can be demonstrated, for example: A person who knows the typewriter keyboard can acquire a particular level of proficiency through practice to show "skill in typing." Skills usually can be observed, that is, you can see a person type and review the typed material easily to decide that the person has "knowledge of the typewriter keyboard." Therefore, it is common practice to describe skills associated with a certain dexterity as shown below.

Skill Example #1, Voucher Examiner

- a. Kind of Skill: Skill in using a calculator
b. How used: (to compute totals, discounts,
taxes, transportation charges,
etc.)

Skill Example #2, Shorthand Reporter

- a. Kind of Skill: Skill in taking dictation
b. How used: (at higher speeds to provide
verbatim transcriptions.)

OTHER TIPS:

1. The classification standard may be used as a reference regarding how knowledge are treated in the occupation.
2. Show only the knowledge and skills that are essential for full performance of the work. Generally Factor 1 can be

adequately described with four or five knowledge or skills. If you have a list of twenty, some of them can probably be combined into a broader description.

3. Avoid listing "abilities." For example, "ability to examine vouchers" is too vague to be used in evaluating Factor 1. Instead, show what the employee has to know to do the examination. The example below shows how two positions involving "ability to examine vouchers" would require different knowledge because of differences in what the vouchers and the mental processes, insights and understandings needed.

WRONG

Ability to examine vouchers.

Ability to examine vouchers
and transportation accounts.

BETTER

Knowledge of domestic
travel regulations to
check vouchers for
compliance and accuracy
of terminology.

Knowledge of
professional
accounting concepts,
principles, and theories
to audit the total
accounting system.

4. Don't describe personal characteristics such as patience, adaptability, integrity, or creativity.
5. After you have completed Factor 1, doublecheck the listed knowledge and skills to assure they agree with the duties described. For example, if you list "Skill in operating an electric typewriter," the duties statement should show what the employee types.

Factor 2, Supervisory Controls

"Supervisory Controls" has three parts;

- . How the work is assigned.
- . The employee's responsibility for carrying out the

-
- . work, and
How the work is reviewed.
 - a. How is the work assigned? Supervisors have direct or indirect controls over the work in the way assignments are made, instructions are given, priorities and deadlines are set, and objectives and boundaries are defined, for example: a supervisor might make assignments with detailed instructions concerning how to do the work; with instructions only for new, difficult, or unusual aspects of the work; with suggestions for procedures; or with information only about the objective to be achieved, priorities, and deadlines.
 - b. What is the employee's responsibility for carrying out the work? To what extent is the employee expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives? For example: an employee might do the work exactly as instructed; do routine assignments independently without specific instruction; refer situations not covered by instruction to supervisor; handle all work independently according to policies, previous training or accepted practice; or resolve conflicts which arise by determining approaches to be taken and methodology to be used.
 - c. How is the work reviewed? What is the nature and extent of the review of work? For example: there may be close and detailed review of each phase of the assignment; detailed review of the finished work; spot-check of finished work for accuracy; or review only for adherence to policy.

Example #1,

File Clerk

- a. How work Assigned: The file room supervisor assigns work, advises of changes of procedures, and is

available for assistance when required.

- b. Employee Resp: (Routine work is performed independently following set procedures.)
- c. How Work Reviewed: [The work is reviewed for accuracy by spot-checking, the ease with which filed items are found, and through complaints from users.]

Example #2,

Clerk-Stenographer

- a. How work Assigned: The administrative law judge dictates without interruption and provides any special instructions that differ from normal procedures.
- b. Employee Resp: (The clerk-stenographer independently transcribes and collates material into final form, with responsibility for format, word usage, and grammar.)
- c. How Work Reviewed: [Completed work is relied upon for accuracy; however, errors may be detected when content is reviewed.]

Factor 3, Guidelines

The factor "Guidelines" has two parts:

- . The nature of guidelines for performing the work, and
- . The judgment needed to apply the guidelines or develop new guides.

- a. What guidelines are used in doing the work? Guides may be operating procedures and policies, traditional practices, or references such as desk manuals, dictionaries, style manuals, or the Federal Personnel Manual. Individual jobs vary in the degree to which the guidelines are specific, applicable, and available for doing the work, for example: dictionaries and style manuals are available, applicable, and specific on matters involving punctuation and spelling; a Federal Personnel Manual is available in the Personnel Office, but may not apply to a particular personnel problem.
- b. How much judgment is needed in using the guidelines? The existence of specific instructions, procedures, and policies may limit the opportunity of the employee to interpret or adapt the guidelines. On the other hand, the absence of a method for a phase of work may require the employee to use considerable judgment in researching related methods to develop a new one.

Explain the nature of guidelines and the extent to which the employee follows them explicitly or uses judgment in deciding between alternatives, in interpreting, in adapting, or in developing guidelines.

Example #1, File Clerk

- a. Guides: Written and oral guides provide specific instructions for filing material.
- b. Judgment: (A substantial portion of these instructions is easily memorized and little interpretation is necessary. When instructions do not apply, the problem is referred to the supervisor.)

Example #2, Engineer

- a. Guides: Guidelines include agency

regulations and directives, manufacturers' catalogs and handbooks, precedents, and files of previous projects.

- b. Judgment: (While these guidelines are generally applicable, the engineer makes adaptations in dealing with problems such as limited funds or the need to modify the facility for loads and stresses not anticipated in the original design.)

Factor 4, Complexity

Complexity has three parts:

- . The nature of the assignment,
 - . The difficulty in identifying what needs to be done, and
 - . The difficulty and originality involved in performing the work.
- a. Be sure to study the classification standard before describing this factor in the PD. The kind of information needed to describe "Complexity" differs from occupation to occupation. a. What is the nature of the assignment? Briefly describe the general nature and variety of the tasks, methods, functions, projects or programs carried out in the position being described.
- b. What facts or conditions does the employee consider in identifying what needs to be done? The employee may have little or no choice about what needs to be done. On the other hand, certain facts may have to be developed, checked, analyzed, interpreted, or evaluated by the employee before work progresses. The level of difficulty in carrying out the work varies depending on whether the facts or conditions are clear-cut and directly apply to the problem or issue; vary according

to the nature of the subject matter, phase, or problem being handled; or involve unusual circumstances and incomplete or conflicting data.

- c. After considering the facts, what actions or responses does the employee make? In some situations, the work is easily mastered; the employee takes the obvious course of action. The level of difficulty and originality increases as the employee is required to consider differences in courses of action and refine methods or develop new techniques, concepts, theories, or programs in solving problems.

Explain the three parts of Complexity for the position being described.

Example #1,

Mail Clerk

- a. Nature of Assignment: Opens, sorts, and routes mail by general subject matter to approximately 150 delivery points and by specialized subject matter to 70-80 points.
- b. Identifying What (Examines the Needs to Be Done:
content of a variety of materials to identify and associate subject matter with closely related technical units.)
- c. Difficulty & Originality: [Determines proper routing or other action to be taken]

Example #2,

Clerk Stenographer

- a. Nature of Assignment: In addition to taking and transcribing

- b. Identifying What dictation with highly specialized terminology from many different dictators, performs a variety of duties such as collecting material for inclusion in the final copy.
(Checks apparent needs to be done: discrepancies of statements of fact indicated material by referring to source material in the file.)
- c. Difficulty & [Makes changes in wording originality: to clarify language and to insure compliance with Agency correspondence rules.]

Factor 5, Scope and Effect

"Scope and Effect" has two parts:

- . The purpose of the work, and
 - . The impact of the work product or service.
- a. What is the ultimate goal to be achieved in the position? "Purpose of work" concerns the end objective such as conclusions reached, decisions or recommendations made; treatment or service provided, reports written, and approvals or denials made. More specific examples are "to prepare statistical charts," "to perform cross-match blood tests," and "to make Voice-of-America broadcasts."

NOTE: This subfactor is different from the nature of the assignment under Factor 4,

Complexity. Nature of the assignment concerns the kind and variety of tasks, functions or projects required to fulfill the purpose or objective of the work. Factor 4 deals with "how" the work is done.

- b. What is the impact of the work product or service? Who or what benefits from the employee's work? For example, statistical charts help supply management officials in identifying areas needing improvement; and many people in foreign countries depend on VOA broadcasts for reliable reporting of the world news.

Example #1,

File Clerk

- a. Purpose: The purpose of the work is to maintain control and reference files for incoming correspondence.
- b. Impact: (This work contributes to the efficiency of daily operations of the Agency.)

Example #2,

Engineer

- a. Purpose: The technical expertise provided by the engineer.
- b. Impact: (Affects the designs of mechanical systems aboard floating plants and equipment used in dredging activities throughout the agency nationwide.)

Factor 6, Personal Contacts

"Personal Contacts" is considered to be a one-part factor covering the people and conditions under which contacts are made. Describe the face-to-face, radio, or telephone contacts which the

employee has in terms of the "work relationship" of the people contacted to the employee. Different kinds of contacts might be coworkers on the same project, applicants seeking jobs, immigrants entering the U.S.A., manufacturers' representative selling products, contractors providing services, professors giving technical advice, etc.

Indicate if the people come from elsewhere or the contacts occur outside the agency. Describe any unusual circumstances or conditions such as problems in making appointments, (e.g., inaccessibility of people in high-level positions) problems in identifying the role or authority of the people contacted, or the use of different ground rules for different contacts.

Example #1,

Mail Clerk

Contacts are with coworkers, personnel on the mail route in units throughout the installation, and U.S. Postal Service employees who deliver mail to the unit.

Example #2,

Engineer

Intra-agency personal contacts include other engineers and architects on the base, procurement personnel, officials and managers of the user services, and headquarters engineering experts who approve construction projects. Meets with architect-engineer firms, contractors, and manufacturers involved in providing supplies/services for construction projects at the work site and at their places of business.

Factor 7, Purpose of Contacts

"Purpose of Contacts" is a one-part factor.

Explain the purpose of the personal contacts described in Factor 6, for example: to give or exchange information; to resolve problems; to provide service; motivate, influence, or interrogate persons; or to justify, defend, negotiate, or settle matters. As appropriate, include other information which might affect the nature of the contacts, for example: dealing with people who are skeptical, uncooperative, unreceptive, hostile (such as patients or inmates); and settling controversial issues or arriving at compromise solutions with people who have different viewpoints,

goals, or objectives.

Example #1,

Mail Clerk

The personal contacts involve exchange of information regarding the processing, delivering or dispatching of mail.

Example #2,

Shorthand Reporter

Contacts are made to arrange for recording the proceedings of the grand jury, identify attorneys, and secure seating charts.

Example #3,

Engineer

Resolves difficulties and controls the work performed by engineers within the offices. Some persuasion may be necessary to obtain agreement on technical points and methods that conflict with those of other engineers. Discusses contract requirements or developments with manufacturing concerns, architect engineers and construction firms.

Factor 8, Physical Demands

"Physical Demands" is a one-part factor.

Describe the nature of physical demands placed on the employee such as climbing, lifting, pushing, balancing, stooping, kneeling, crouching, crawling, or reaching. Indicate how often and how intense the activity is (prolonged standing requires more effort than intermittent standing). Include any physical characteristics or special abilities needed such as specific agility or dexterity requirements.

Factor 9, Work Environment

"Work Environment" is a one-part factor.

Describe the physical surroundings in which the employee works (for example, in an office where there are normal, everyday

risks) and any special safety regulations or precautions which must be observed to avoid mishaps or discomfort (for example, use of protective clothing or gear).

To summarize, each position description should include the following information:

Major Duties

Factor 1, Knowledge Required by the Position

- . Kind or nature of knowledge and skills needed; and
- . How these knowledge and skills are used in doing the work.

Factor 2, Supervisory Controls

- . How the work is assigned.
- . The employee's responsibility for carrying out the work; and
- . How the work is reviewed.

Factor 3, Guidelines

- . The nature of guidelines for performing the work, and
- . Judgment needed to apply the guidelines or develop new guides.

Factor 4, Complexity

- . Nature of the assignment,
- . Difficulty in identifying what needs to be done, and
- . Difficulty and originality involved in performing the work.

Factor 5, Scope and Effect

- . Purpose of the work, and
- . Impact of the work product or service.

Factor 6, Personal Contacts

People and conditions under which contacts are made

(except supervisor).

Factor 7, Purpose of Contacts

Reasons for contacts in Factor 6; skill needed to accomplish work through person-to-person activities.

Factor 8, Physical Demands

The nature, frequency, and intensity of physical activity.

Factor 9, Work Environment

The risks and discomforts imposed by physical surroundings and the safety precautions necessary to avoid accidents or discomfort.

DIRECTIVE 5602. PAY ADMINISTRATION

1. Purpose. This directive provides practical information regarding general matters relative to pay, overtime/compensatory time, the Fair Labor Standards Act (FLSA), COLA's, etc.
2. Policy. It is the general policy of FMCS to set rates of pay at the highest level permissible under Federal regulations, consistent with sound management principles.
3. Scope. This directive applies to all GS/GM employees.
4. Authorities. Title 5, C.F.R.
5. Responsibilities.
 - a. The Director, Human Resources, administers policies relating to all pay administration matters in compliance with the statutory provisions and regulations set forth by the Office of Personnel Management (OPM) including the computation and payment of employee salaries and related payments.
 - b. Supervisors and managers may exercise discretion, within legal and regulatory strictures, in approving requests for overtime, compensatory time, and other pay matters under their jurisdiction.
 - c. Employees are responsible for becoming familiar with their rights and responsibilities regarding pay. All employees have a continuing responsibility to prevent fraud, waste, and abuse of Government resources including assuring compliance with the policies and procedures set forth in this directive.
6. General Schedule Rates of Pay. The General Schedule sets out the rates of pay for GS and GM employees by grade and

step. The General Schedule is the underlying pay rate used to compute promotions, within-grade increases, highest previous rate, pay retention, and certain other special payments for employees not covered under a special salary rate. (See paragraph 8.)

7. Locality-Based Comparability Payments. General Schedule (GS and GM) employees and Senior Executive Service (SES) employees located in the contiguous United States are entitled to locality-based comparability payments. These payments are computed as an addition to the General Schedule rate. Locality adjustments are considered basic pay for retirement, life insurance, premium pay, severance pay purposes, and lump sum payments for unused annual leave upon separation. The locality payment is also used to compute worker's compensation. Locality rates are determined by an annual comparison of non-Federal and Federal rate of pay and are separate from any General Schedule pay increases.
8. Special Salary Rates. Some of clerical positions, specifically requiring a fully qualified typist, stenographer, and/or word processing skills, are paid under special salary rates. These rates have been developed and approved by OPM for payment to employees in geographically covered areas. Employees affected by special salary rates will be notified by the personnel office of the initial establishment of a special rate, any increase in that rate, or decreases in or discontinuance of special rates. The following also applies:
 - a. General Increases. The annual general pay adjustment has no effect on special rate salary schedules. Adjustments in special rate schedules result from a separate annual review conducted by Federal agencies and approved by OPM. Normally the percentage of the increase will be equal to the increase in the annual general schedule pay adjustment. Notification by OPM of approval of an increase is not always simultaneously received with the approval of the general increase. However, adjustments in special salary rates resulting from the annual review will be effective at the same time as the increase in the General Schedule rates.

- b. Employees on Pay Retention. A special rate employee on pay retention is entitled to 50 percent of the increase in the maximum rate of the special rate schedule.
 - c. Conversions between Pay Systems.
 - (1) If an employee moves from a position covered under a special salary rate to one that is covered under the general schedule, the employee will be paid at the lowest rate of the general schedule grade that equals or exceeds his or her rate of pay immediately prior to the conversion (you won't lose any money).
 - (2) If an employee is promoted out of a special salary rate into a General Schedule position, he or she is entitled to pay that exceeds the special rate scale by not less than two step increases of the grade from which he or she is promoted.
 - (3) Employees are entitled to the higher of the special salary rate for their series, grade, step, and location, or the locality rate for their location.
9. Cost of Living Allowances (COLAs).
- a. Cost of living allowances are established by OPM and are payable to individuals with duty stations in nonforeign areas located outside the contiguous United States, such as Alaska, Hawaii, Puerto Rico, and territories and possessions of the U.S. so designated by the Secretary of State.
 - b. Cost of living survey findings are used to calculate a comparative cost index between Washington, D.C. and each area covered. This index determines the amount of the COLA (expressed as a percentage of the employee's basic pay) to be paid to eligible employees.
 - c. OPM notifies Federal agencies of any changes in rates.

Allowance rates are subject to change, up or down, after each review. Employees will be notified of any rate change and the information will be officially reflected on an SF-50, Notification of Personnel Action.

10. Highest Previous Rate. The general rule states that when an employee moves into a position by any means other than a new appointment, he or she may be paid at any rate for his or her grade that does not exceed his or her highest previous rate. The application of the highest previous rate rule is discretionary. An employee may be paid at any rate from the minimum step for the grade hired to the maximum eligibility. The FPM further states that agencies should consider options that are of maximum benefit to the employee. FMCS will, therefore, honor the highest previous rate rule unless precluded by a budget situation not within management control or any other law or regulation prohibiting it.
11. Within Grade Increases (WGI). An employee becomes eligible for consideration of a WGI when he or she has completed the required waiting period (and meets all performance requirements--refer to Directives 5304 and 5310) provided he/she has not already received an equivalent increase.
 - a. Length of waiting periods. For a full-time or part-time employee, the waiting periods for advancement to the next higher steps are:
 - Steps 2,3,and 4 52 calendar weeks
 - Steps 5,6,and 7 104 calendar weeks
 - Steps 8,9,and 10 156 calendar weeks
 - b. Impact of LWOP on the Waiting Period. Time in a nonpay status (or LWOP) is creditable service in the computation of a waiting period for an employee with a scheduled tour of duty, regardless of whether the employee is full-time or part-time, when it does not exceed, in the aggregate:
 - 2 workweeks in the waiting period for steps 2, 3, and 4
 - 4 workweeks in the waiting period for steps 5,

- 6, and 7
-- 5 workweeks in the waiting period for steps 8, 9,
and 10

- c. Equivalent Increase. An equivalent increase is an increase or increases in an employee's rate of basic pay equal to or greater than the difference between the rate of pay for the general schedule occupied by the employee and the rate of pay for the next higher step of that grade. The general increase is not considered in determining the last equivalent increase.

Examples:

- (1) On 11-18-79, employee is promoted to GS-5/1. On 01-13-80 GS-5/1 accepts a GS-4/5 position (an increase of \$332). The difference between steps at the GS-4 level is \$333. Therefore, this is not an equivalent increase. On 07-13-80, the GS-4/5 accepts a position at GS-3/8, the increase in pay is \$158. The difference of \$158 alone is not considered an increase, the sum of the increases (\$332 plus \$158) equals \$490 which exceeds the difference between GS-3/8 and GS-3/9. The employee received an equivalent increase on 07-13-80 and begins the new waiting period for the within grade increase on that date.
- (2) On 05-02-82, a GS-13/2 employee is reassigned to a GM-13 position, a salary remains the same. On 10-3-82, the employee receives a general increase of \$694, and a merit increase of \$1,675. On 02-20-83, the employee is reassigned to a GS-13 position and is placed at step 3. We must not determine the date of the employee's last equivalent increase and set the anniversary date for the next within grade increase. (The increase of \$694 is not counted because it was a statutory increase.) The difference between steps at the GS-13 level is \$1,164; the employee received a merit pay increase of \$1,675 on 10-3-82. Since this exceeds the amount of a step in the GS-13 scale, the employee

received his or her last equivalent increase on 10-3-82. The anniversary date is set at that date and this employee would receive his/her next step increase on 10-2-83.

Suppose, however, that this same employee received a merit increase of only \$1,050 (rather than \$1,675); \$1,050 is not equal to the difference between the steps (\$1.164). When the GM salary was converted to the GS-13 scale at the time the employee moved out of GM (02-20-83) the increase in pay was \$808. The amount of both increases (\$1,050 plus \$808) exceeds the amount for a WGI (\$1,164); so, the date for having received an equivalent increase is 02-20-83. The anniversary date is set on that date, and the employee is eligible to advance to step 4 on 02-19-84.

12. Pay Adjustments Involving PMRS Employees. When a reassignment is made from GM to GS, pay will be set under regulations governing the GS pay system. The pay will be fixed at the rate for the lowest step of the grade that equals or exceeds the pay rate at the time of reassignment.
13. Grade and Pay Retention. The law provides that an employee who is placed in a lower grade as a result of reduction in force, or whose position is reduced in grade as a result of reclassification of the position, is entitled to retain for a period of 2 years the grade held immediately before that placement or reduction. It also provides the authority for granting an employee indefinite pay retention. The Director, FMCS, may offer grade and pay retention to other individuals and situations to which they would not otherwise apply (i.e., management action such as reorganization or reclassification action announced in writing).
 - a. Grade Retention. Grade retention permits an employee who meets specific requirements to retain his/her grade for certain purposes (step increases, comparability increases, retirement and life insurance, and eligibility for training and promotion) for a period of 2 years. The retained grade is not used for purposes of

applying any reduction-in-force procedures, in determining whether an employee is covered by the merit pay system, in determining whether the employee has been demoted for the purpose of terminating grade or pay retention, or for determining an employee's "exempt/nonexempt" status under the FLSA. The grade of the position occupied rather than the retained grade, is to be used for these purposes. If the rate of basic pay to which the employee is entitled is within the rate range of the retained grade, the employee will be placed in the step appropriate for that rate of basic pay. If it is not within the rate range, the employee will be placed in step '0.

Eligibility for grade retention terminates under several different conditions (outlined in FPM Chapter 536). Generally, it terminates at the end of the 2-year period.

- b. Pay Retention. Unless excluded by law or regulation, pay retention is granted to any employee whose rate of basic pay would otherwise be reduced as a result of the expiration of the 2-year period of grade retention. (There are other circumstances where pay retention would be granted, but this is the most common instance.)

At the expiration of grade retention (and the beginning of pay retention), the salary will be compared to the steps of the lower grade. The new salary will be established at the step that most nearly approximates the salary at that time without being less. (In some cases, this will result in a small salary increase.) From that time on, the employee will receive general pay increases and within-grade increases based on the step of the lower grade. Pay retention does not apply because there was no loss of pay.

Often, salaries that are in the higher steps of a grade cannot be matched in the lower grade. In this case the employee is entitled to pay retention and will receive 50 percent of each general pay increase until such time as the employee's salary equates to a scheduled salary within the range of the lower grade.

Retained pay generally is terminated when an employee reaches salary parity with the lower grade (other conditions are described in FPM Chapter 5).

14. Overtime Provisions.

- a. Pay provisions under Title 5 and the Fair Labor Standards Act (FLSA) authorize the payment of compensation to full-time, part-time, and intermittent employees for overtime work that has been performed by the employee.
- b. With the exception of emergency situations, all overtime work must be requested by the supervisor on an FMCS Form AB-48 (See Attachment 1) and approved by the appropriate Deputy Director or his or her designees in advance.
- c. Management cannot accept the benefits of an employee's work without compensating him or her for that work. Therefore, supervisors and managers must exercise whatever controls are necessary to ensure that overtime work is not performed unless it is intended that the employee be paid or granted compensatory time as appropriate.
- d. Under the concept of "suffer and permit," any work performed by an employee constitutes working time if his or her supervisor knows or has reason to believe it is being performed and does nothing to prevent it. Thus, an employee entitled to earn overtime who is allowed to begin work prior to the scheduled tour of duty, or to continue to work during meal periods or at the end of the tour, even though the work was not requested, is entitled to be paid compensation for overtime work.

- e. Employees should be mindful that, unless overtime work is officially authorized, all work performed is limited to regularly scheduled duty hours.
- f. Except in the most unusual of circumstances, employees should not be allowed to take paid leave and be paid for overtime worked on the same day. Overtime will be used to off-set any leave without pay in the same pay period in accordance with the appropriate regulations.
- g. Supervisors must distribute overtime equitably among employees within their units.
- h. The following indicates the similarities and differences in the two pay authorities as they related to nonexempt employees who are covered under both Title 5 and FLSA and to exempt employees who are covered under Title 5 only. Nonexempt employees must be paid under whichever authority (Title 5 or FLSA) that provides the greater benefit.
 - (1) Title 5. Employees paid overtime pay under this authority are compensated for overtime work that exceeds 8 hours in a day or 40 hours in a week for an employee who is not on an Alternative Work Schedule. Rates of pay for overtime work for GS/GM employees are as follows:
 - (a) An employee whose basic rate of pay does not exceed GS-10, step 1, is paid overtime at the rate of one and one-half times his/her basic pay rate. (The basic pay rate is the rate of pay fixed by law or administrative action for a position before any deduction and exclusive of additional pay of any kind.)
 - (b) An employee whose basic rate of pay exceeds GS-10, step 1, is paid overtime at the rate of one and one-half times the rate for GS-10, step 1.

- (2) FLSA. The FLSA sets forth two categories of employees: those designated as "non-exempt" and therefore subject to the provisions of the Act and those designated as "exempt" and therefore not subject to the provisions of the Act. General guidelines have been established to identify those positions that are generally non-exempt (covered) or exempt (not covered). The status of questionable positions is determined in the classification process by the personnel office during the review of individual position descriptions. Employees may request a review of the decision on the status of their positions (exempt/non-exempt) through the classification appeals procedure. Any employee who wishes to discuss his/her status should contact the personnel office.
- (a) Non-Exempt. All FMCS employees in positions at the GS-10 level and below are covered by the FLSA. The Act requires that covered employees be compensated for all hours of work that are controlled by and for the benefit of FMCS. An employee covered by the FLSA overtime pay at a rate of one and one-half times his or her regular pay. The FLSA uses a single work week as its standard for computing overtime entitlement. An employee is not entitled to overtime under the FLSA until he or she has completed actual work in excess of his or her weekly tour of duty, exclusive of absences for holidays, annual and sick leave usage, or any other excused absence with pay.
- (b) Exempt. All FMCS employees in positions at GS-11 and above are not covered by the FLSA. Employees designated as "exempt" under FLSA are usually compensated for overtime worked in the form of compensatory time off in lieu of payment. On rare occasions, an "exempt" employee may elect to request payment of

overtime in lieu of compensatory time as an appropriate form of compensation. Such a request shall be directed, in writing, through the supervisor, who shall forward the request and any recommendations to the Deputy Director. The employee's request shall set forth the number of hours involved and the justification for payment in that instance.

12. Compensatory Time.

- a. The nature of "exempt" work makes it likely that persons will, on occasion, be called upon to work hours in excess of the 40 hour work week or in excess of the 8 hour administrative work day. For exempt employees, a certain amount of overtime work is considered incidental to the position and no additional compensation is considered appropriate. There are, of course, situations in which the performance of official duties make excessive demands upon the personal time of exempt employees and for which they should be compensated. The appropriate form of compensation, in most cases, is compensatory time. Sound judgment and common sense, rather than strict adherence to the 8 hour work day or 40 hour work week, should serve as the guiding principles behind requests for compensatory time.
- b. Employees whose annual earnings equal or exceed the maximum salary for a GS-15 may not earn compensatory time.
- c. Non-exempt employees may request to earn compensatory time in lieu of paid overtime. However, they may not be compelled by their supervisors to work overtime for compensatory time off if they are entitled to paid overtime.
- e. Employees may not be allowed to work compensatory time when the workload is such that they will be unable to take the time off within a reasonable period.

- f. Compensatory time may be earned and used in one-half hour increments. If compensatory hours are not used within 6 pay period after it is earned, employees will be paid for these hours at the overtime rate in effect at the time the hours were earned.
- g. See Directive 5402, Absence and Leave, for instructions for using compensatory time and for compensatory time for religious observances.

17. Holiday Pay.

- a. An employee who performs work on a holiday is entitled to basic pay, plus premium pay at a rate equal to basic pay, for work schedule for that day. Work performed on a holiday in excess of the employee's scheduled hours is paid overtime or credited as compensatory time.
- b. It is in the public interest to relieve employees from work to participate in civil activities which the Government has an interest in encouraging. Unless it is unavoidable, employees are not to work on Federal holidays.
- c. See Directive 5401, Hours of Duty, for additional information on Holidays.

18. Sunday Pay. Sunday pay differential is for employees who have a regular work schedule that includes a Sunday. FMCS has no such work schedules.

13. Night Pay. Authorization of night pay differential is appropriate for regularly scheduled work performed between the hours of 6 p.m. and 6 a.m. Such employees are paid for that work at their rate of basic pay plus 10 percent of that pay.

DIRECTIVEReasonable Accommodation

1. Purpose. This document sets forth the procedures the Federal Mediation and Conciliation Service (FMCS) will use to process requests for reasonable accommodation by applicants and employees with disabilities.
2. Policy. It is the policy of FMCS to comply fully with the reasonable accommodation requirements of the law. FMCS will provide reasonable accommodation for known physical or mental limitations of qualified applicants and employees with disabilities unless an accommodation would impose an undue hardship on the Agency.
3. Authority. The Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments of 2009, requires federal employers to provide reasonable accommodation for qualified individuals with disabilities unless the accommodation would pose an undue hardship for the agency. Executive order 13164 and Equal Employment Opportunity Commission (EEOC) policy guidance requires each federal agency to establish written procedures for processing requests for reasonable accommodation by applicants and employees with disabilities.
4. Key Terms.

An individual with a disability: (1) a person who has a physical or mental impairment that substantially limits one or more major life activities; (2) a person who has a record of such impairment; or (3) a person who is regarded as having such impairment.

Reasonable accommodation: any change in the work environment or in the way that job duties customarily are performed that enables an individual with a disability to enjoy equal opportunities.

Essential functions: job duties that are so fundamental to the position that an individual holds or desires that he/she cannot do the job without performing those functions. A function can be deemed essential if, among other things: (1) the position exists specifically to perform that function;

(2) there are a limited number of other employees who could perform the function; or (3) the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position will be done on a case-by-case basis.

Qualified individual with a disability: an individual with a disability is qualified if he/she: (1) satisfies the requisite skill, experience, education, and other requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodations.

Undue hardship: FMCS is not required to provide a particular reasonable accommodation if it would cause significant difficulty or expense for the Agency. Determination of undue hardship will be made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the accommodation on the operations of FMCS.

Disability manager: an FMCS employee designated by the FMCS Director to serve as the disability manager. The disability manager will be responsible for processing, coordinating, and tracking requests for accommodation, and for deciding whether to grant a requested accommodation or some alternative form of accommodation, or to deny the request. The FMCS disability manager is the Human Resources Director or his/her designee.

5. Procedures for Requesting Reasonable Accommodation. Requests for reasonable accommodation will be handled on a case-by-case basis and involve an interactive process between the employee or applicant and FMCS management. The employee or applicant, however, carries the initial duty to inform management in his/her chain of command of the disability that may require an accommodation.

Management then has the responsibility to initiate an interactive process to identify the precise limitations resulting from the disability and the potential reasonable accommodation that could overcome those limitations.

Initiating the process: an employee must direct an oral or written request for reasonable accommodation to his/her immediate supervisor, the disability manager, or the FMCS Equal Employment Opportunity (EEO) Program Manager. Officials responsible for receiving such requests must be alert to accommodation requests even if the individual does not use words such as "reasonable accommodation," "disability," or "Rehabilitation Act." An applicant for employment may make an oral request (followed up in writing) or written request to an FMCS employee in the office of human resources with whom the applicant has had contact in the application process. A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant. Upon receiving an accommodation request, FMCS shall initiate a dialogue among the disability manager, an affected supervisor, and the employee or applicant.

Obtaining medical information to evaluate the request: if the disability manager believes that medical information or documentation is necessary to evaluate a request for reasonable accommodation, he/she shall request it. If the information provided is incomplete, the disability manager will provide the employee or applicant with a written request for additional medical documentation identifying the information or documentation needed. A health care professional may provide necessary documentation for an applicant or employee, or the disability manager may request that the individual sign a release of medical information pertinent to his/her condition

The disability manager will evaluate the medical documentation. If he or she deems it necessary, the disability manager may, at FMCS's expense, consult with a physician chosen by FMCS and/or may request that the individual be examined by a physician chosen by FMCS. An individual's failure to provide appropriate information or documentation or to cooperate in FMCS's efforts to obtain such information or documentation can result in a denial of a reasonable accommodation request.

All medical information and documentation that FMCS obtains regarding a request for reasonable accommodation will be kept in a file separate from the individual's personnel file. The disability manager will maintain custody of all

records obtained or created during the processing of requests for reasonable accommodation. These records will be maintained and safeguarded in accordance with the Privacy Act and the Freedom of Information Act.

In some cases, the disability manager may determine that the individual does not have a disability under the law but that he/she may have a temporary medical condition that warrants other consideration. In such cases, the individual may consult with the office of human resources on leave or other programs appropriate to the circumstances.

Selecting an appropriate accommodation: the parties will communicate throughout the decision making process regarding the request and potential accommodations. The employee or applicant may not be entitled to the specific accommodation requested. The disability manager will suggest possible accommodations in consultation with appropriate FMCS officials, such as staff in the office of information technology and administrative services.

Reassignment will be considered only if: (a) no reasonable accommodations are available to enable the individual to perform his/her current job; or (b) the only other effective reasonable accommodation would cause FMCS undue hardship. FMCS is not required to reassign an individual or create a position as a means of reasonably accommodating an employee.

Time frames for processing accommodation requests: the disability manager will generally determine whether to grant or deny an accommodation request within 15 business days of receiving all information relevant to the request. The disability manager may expedite processing of the request or may extend time frames in the selection process to allow disabled applicants to compete for job vacancies.

6. Granting/Denying a Reasonable Accommodation Request. If a request for accommodation is granted, the disability manager will inform the requesting individual of the projected time frame for providing the accommodation. The time frame may depend on the nature of the accommodation, but will be as short as reasonably possible. If the disability manager denies the request, he/she will respond in writing to the requesting individual with the specific reasons for the denial

DIRECTIVE 5801. LABOR-MANAGEMENT RELATIONS**1. General Provisions.**

- a. Policy. It is the policy of FMCS to develop and maintain a constructive, forward-looking program of labor-management relations within the Service. Employees have an obvious and proper interest in the terms of their employment and the conditions under which they work. Individually and through their labor organizations, employees can contribute substantially to the development of improved personnel policies, practices, and working conditions. FMCS policy emphasizes management's affirmative willingness to deal with recognized labor organizations to the full extent provided under Title VII of the Civil Service Reform Act of 1978.
- b. Limitations. Management officials shall not engage in any practices prohibited by Title VII of the Civil Service Reform Act of 1978 in their dealings with labor organizations and employees. Similarly, the provisions of Title VII are applicable to all labor organizations accorded recognition or seeking recognition under the Act.
- c. Communications. Recognition accorded labor organizations shall not preclude individual employees or groups of employees of FMCS from conferring freely with their supervisors on any matters affecting their duties, working conditions, and employment status. They also have the right to designate a representative of their own choosing in a grievance or appellate action (except when the grievance is covered under a negotiated procedure which limits representation to the exclusive representative).

- d. Appeals. FMCS recognizes that not all disputes which may arise between labor organizations and FMCS management can be fully resolved within the Service. In keeping with this, FMCS fully supports the provisions for appeals to the Federal Labor Relations Authority or the Federal Service Impasses Panel.

2. Rights of Employees as Individuals.

- a. Union Membership Rights. Each employee of FMCS has, and shall be protected in the exercise of, the right to form, join and assist a labor organization or to refrain from any such activity. In the exercise of this right, the employee shall be free from interference, coercion, restraint, discrimination, or reprisal.
- b. Limitations. This right does not extend to participation in the management of a labor organization, or acting as a representative of any such organization, when such participation or activity would result in a conflict of interest or otherwise be incompatible with law, executive orders, or with the official duties of the employee.
- c. Right to Invoke Grievance or Appellate Procedure. Each employee of the FMCS, regardless of whether he or she is in a unit of exclusive recognition, may exercise grievance or appellate rights established by law or regulations, and may choose his or her own representative in a grievance or appellate action, except when presenting a grievance under a negotiated procedure. An employee in a unit of exclusive recognition may seek adjustment of a grievance under a negotiated procedure without union intervention. However, the adjustment may not be inconsistent with the terms of the agreement and the exclusive representative must be given opportunity to be present at the adjustment.

3. Recognition of Labor Organizations.

- a. National Consultation Rights. The FMCS shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Authority. Such rights granted an organization shall be subject to the conditions set forth in Title VII of the Civil Service Reform Act of 1978.
- b. Exclusive Recognition.
 - (1) The FMCS shall accord exclusive recognition at the request of a labor organization which meets the requirements for such recognition under the terms of Title VII of the Civil Service Reform Act of 1978.
 - (2) Subject to the conditions and limitations specified in Title VII of the Civil Service Reform Act of 1978, a labor organization recognized as exclusive representative shall be entitled to act for, and to negotiate agreements covering all employees in the bargaining unit for which it is recognized; and shall have the right to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the bargaining unit.

Title VII also makes a labor organization responsible for representing the interest of all such employees without discrimination and without regard to labor organization membership. Bargaining units in the FMCS will be consistent with the provisions of Title VII, as amended.

- (3) The FMCS, through appropriate officials designated by the Director, shall meet with designated representatives of such labor organizations at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations. This extends to the negotiation of agreements and the execution of written memoranda of understanding incorporating any agreements reached by the parties. However, these obligations shall be subject to the limitation set forth in Title VII of the Civil Service Reform Act of 1978.
4. Recognition of Other Organizations. The recognition of a labor organization shall not preclude or restrict the FMCS from consulting or dealing with other associations and individual employees in a manner consistent with the provisions of Title VII. Such consultations and dealings shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy.
5. Unit Determination. Questions as to the appropriate unit for the purpose of exclusive recognition and related issues including the supervision of elections and questions as to the eligibility of labor organizations for national consultation rights shall be decided by the Federal Labor Relations Authority.
6. Approval of Agreements. All agreements negotiated by FMCS and a labor organization as the exclusive representative(s) of the employees in the unit are subject to the approval of the Director. An agreement shall be approved if it conforms to Title VII of the Civil Service Reform Act of 1978, applicable laws, existing published FMCS policies and regulations, and regulations of other appropriate authorities.

7. Negotiation Disputes and Impasse Resolution.

- a. The procedure for resolving negotiation impasses shall be that agreed to by the parties, provided that no agreed-upon procedure shall be inconsistent with the provisions of Title VII of the Civil Service Reform Act of 1978, or the procedures prescribed by the Federal Service Impasses Panel. In lieu of the services of the Federal Mediation and Conciliation Service, however, the parties shall mutually agree upon suitable third-party mediation assistance.
- b. If third-party mediation does not resolve a dispute, either party or the mediator may request the Federal Service Impasses Panel to consider the matter. Requests to the Panel and any utilization of arbitration or third-party fact-finding with recommendations to assist in the resolution of the impasse are subject to the Panel's regulations and policies.

8. Official Time. Employees who represent a recognized labor organization shall be on official time when conducting labor-management business to the extent provided in their contract. Any agreed-upon use of official time shall not be inconsistent with the provisions of Title VII of the Civil Service Reform Act of 1978.

9. Official Facilities. The use of official facilities by employee organizations shall be subject to standards and procedures established by FMCS consistent with Title VII of the Civil Service Reform Act of 1978 and other applicable regulations.

DIRECTIVE 5803. PERSONNEL SECURITY1. Program and Policies.

a. FMCS Personnel Security Program. In Executive Order 10450, the President directed all Departments and Agencies of the Federal Government to adopt a uniform and effective program to ensure that the employment of any civilian officer or employee is clearly consistent with the interests of national security. In accordance with the order, FMCS maintains an internal program of personnel security as described in this directive. Provisions of this program must be carefully observed in all staffing actions.

b. Policy.

- (1) It is the policy of FMCS to employ and to retain only those persons whose employment is found to be clearly consistent with this directive and with the interests of national security.
- (2) To the fullest extent possible, preappointment investigation shall be made of all persons being considered for employment in FMCS. Post employment investigations may be approved by the Director or Deputy Director of FMCS. (See paragraph 4.a. of this directive.) These investigations, depending upon their scope, will be used not only to satisfy the requirements of the security program, but also to provide background information on the qualifications and suitability of persons being considered for the more important positions in FMCS.

- c. Distinction Between Security and Suitability. Suitability refers to the character, reputation, and fitness of any applicant or employee, while security refers to employment in a sensitive position which is specifically within the interests of national security. By decision of the courts, questions of security do not arise in cases of applicants and employees for nonsensitive positions. Therefore, removals under the security laws and regulations involve only sensitive positions and the interest of the national security, while removals under general personnel laws may be for such cause as will promote the efficiency of FMCS. FMCS will evaluate suitability to perform sensitive positions of both applicants and probationary employees as a separate evaluation from that of national security interests. Where an Agency finding of unsuitability occurs, the applicant will not be employed and the probationary employee may be separated. The Director or Deputy Director of FMCS shall make such final determinations for probationary employees and the Personnel Security Officer for applicants.

2. Security Requirements.

- a. National Security. This term relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs against or from espionage, sabotage, subversion, and any and all acts or situations likely to weaken or destroy the United States.
- b. Sensitive Position. A sensitive position is any position in FMCS, the occupant of which could bring about, by virtue of the nature of the position, a materially adverse effect on the national security.
- c. Security Categories of Positions Within FMCS. Positions within FMCS are divided into the following categories:

(1) Critical-Sensitive Positions.

- (a) Access to TOP SECRET defense information.
- (b) Development or approval of war plans, plans or particulars of future or major or special operations of war, or critical and extremely important items of war.
- (c) Development or approval of plans, policies or programs which affect the overall operations of an agency i.e., policymaking, or policy-determining positions.
- (d) Investigative duties, the issuance of personnel security clearances, or duty on a personnel security board.
- (e) Fiduciary, public contact, or other duties demanding the highest degree of public trust.

(2) Noncritical-Sensitive Positions. Sensitive positions which do not meet the criteria in (1) above, but contain duties which encompass one or more of the following:

- (a) Access to SECRET defense information.
- (b) Duties which may directly or indirectly adversely affect the national security.
- (c) Duties which demand a high degree of confidence and trust.

3. Security Standards.

- a. No person shall be employed or retained as an employee in FMCS in a sensitive position unless such employment is clearly consistent with the interests of national

security.

- b. Information regarding an applicant for employment, or an employee, in a sensitive position in FMCS which may preclude a finding that the employment is clearly consistent with the interests of national security shall relate, but shall not be limited to, the following:

- (1) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.
- (2) Any deliberate misrepresentations, falsifications, or omission of material facts.
- (3) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.
- (4) Any illness, including mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.
- (5) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause the person to act contrary to the best interests of national security.
- (6) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting another to commit, or attempt to commit, any act of sabotage, espionage, treason or sedition.

- (7) Establishing or continuing sympathetic associations with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation whose interests may be inimical to the interest of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.
- (8) Advocacy of use of force or violence to overthrow the Government of the United States, or of the alternation of the form of Government of the United States by unconstitutional means.
- (9) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group or combination of persons which is totalitarian, Fascist, Communist, or subversive or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of Government of the United States by unconstitutional means.
- (10) Intentional, unauthorized disclosures to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard to security regulations.
- (11) Performing or attempting to perform assigned duties or otherwise acting so as to serve the interests of another government in preference to the interests of the United States.

- (12) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of the individual's alleged disloyalty or other misconduct.
4. Security Investigations. Every appointment in FMCS shall be subject to an investigation. The scope of the investigation depends upon the relationship of the position to the national security.
- a. Sensitive Positions. In conformance with Executive Order 10405, full field investigations shall be conducted on all persons appointed to both Critical-Sensitive and Noncritical-Sensitive positions.
- (1) The Office of Personnel Management (OPM) will conduct all investigations for FMCS.
- (2) A person occupying a position that is redesignated as sensitive may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this directive.
- (3) In case of an emergency, a sensitive position may be filled for a limited period of time by a person with respect to whom a full field investigation has not been completed, if the Director or Deputy Director finds that such action is necessary in the interest of national security. Such a finding shall be made a part of the personnel record of the person concerned.
- b. Nonsensitive Positions.
- (1) The national security is not involved in the case of nonsensitive positions; hence, a security investigation is not conducted. The scope of investigation of applicants for such positions

shall be such as to determine their suitability for employment. In no event shall the investigation include on a preappointment or post-appointment basis, at the discretion of the Service, less than a National Agency Check (including a check of the fingerprint files of the Federal Bureau of Investigation) and written inquiries to appropriate law enforcement agencies, former employers and supervisors, references, and schools attended by the person to be investigated.

- (2) Whenever an investigation being conducted on an applicant for a nonsensitive position develops information relating to any of the matters described under Security Standards, in paragraph 3. above, the matter shall be referred to the Federal Bureau of Investigation for a full field investigation in order to determine suitability for Federal employment.

5. Security Evaluations.

- a. Personnel Security Officer. The Director of Personnel Management is designated as the Personnel Security Officer of FMCS and makes all security determinations regarding the employment of persons in sensitive positions.
- b. Evaluation. The Personnel Security Officer shall evaluate full field investigation reports and other information received from OPM, the FBI, and other sources against Security Standards, in paragraph 3. and shall determine whether the employment of an employee or applicant in a sensitive position is clearly consistent with national security. In the absence of derogatory information of a security nature, the Personnel Security Officer shall find that employment in a sensitive position is clearly consistent with national security, and shall close on a favorable basis.

c. Security Clearances.

- (1) The Personnel Security Officer shall designate the level of clearance to be granted by this Agency based upon the following:
 - (a) Employee occupies a sensitive position.
 - (b) A full field investigation with a "favorable" determination.
- (2) The designation of the level of clearance shall be set forth on FMCS Form S-1. (See Attachment 1 to this directive for sample form).
 - (a) The employee's immediate superior.
 - (b) The employee.
 - (c) The central security file.
 - (d) The employee's Official Personnel Folder.
- (3) The level of clearance shall be issued by the Personnel Security Officer on this form.

d. Reevaluation of Employees in Critical-Sensitive Positions. The incumbent of each critical-sensitive position within the Service shall, five years after appointment, and at least once each succeeding five years, submit an updated personnel security questionnaire to the Personnel Security Officer. That official shall review the questionnaire, together with the personnel file of the incumbent, previous reports of investigations concerning the incumbent, and any other appropriate documents. The Personnel Security Officer shall then determine what further action, if any, is appropriate (for example, a check of local police and credit records, a national agency check, or an updated full field investigation).

6. Nonselection of Applicant on Security Grounds. A person being considered for a sensitive position shall, whenever

appropriate, be given an opportunity to explain or refute derogatory information developed in an investigation before being rejected or nonselected on security grounds. This practice will prevent errors which might otherwise result from mistakes in identity or mitigating circumstances which are unknown to FMCS.

7. Suspension of Employee on Security Grounds.

- a. Suspending Officer. The Deputy Director is designated as the Suspending Officer for purposes of this directive. The authority of the Director of FMCS to suspend any employee in a sensitive position without pay, on security grounds, is delegated to the Suspending Officer, subject to the provisions of this directive.
- b. Evaluation by Personnel Security Officer. Upon receipt of an investigation report containing derogatory information concerning an employee in a sensitive position relating to any of the matters listed in the Security Standards, in paragraph 3. above, the Personnel Security Officer shall gather additional facts and information relating to the case. The Personnel Security Officer shall evaluate all available data against the Security Standards and forward the data and the evaluation to the Suspending Officer.
- c. Action by Suspending Officer.
 - (1) The Suspending Officer shall determine the action to be taken with respect to the employee involved, giving full consideration to the evaluation of the Personnel Security Officer. A personal interview will be held with the employee prior to suspension, and the General Counsel will be consulted on the drafting of charges. Before issuing a letter of charges, the Department of Justice shall be consulted to assure that the employee's rights are fully considered and protected, e.g., whether the proposed charges are

fully supported, and the extent to which the confrontation and cross-examination of witnesses may be required in a hearing, if any. The Suspending Officer may:

- (a) Clear the employee of all charges and provide a written determination to that effect to be included in the investigation file, or
 - (b) Immediately suspend the employee, without pay, after preparation of a letter of charges, which is to be given the employee at the time of the notice of suspension.
- (2) Factors to be considered in making the determination required in paragraph (1) above shall include, but not be limited to:
- (a) The seriousness and conclusiveness of the derogatory information developed.
 - (b) Any mitigating circumstances.
 - (c) The possible access, authorized or unauthorized, of the employee to security information or material.
 - (d) Opportunity, by reason of nature of position, for committing acts adversely affecting national security.
- (3) The written statement of charges furnished the employee at the time of the notice of suspension shall be drawn as specifically as possible, consistent with the requirements of protecting the national security. The General Counsel will be consulted and provide an opinion as to the sufficiency of the information justifying suspension, and to ensure that the charges are specific enough to be meaningful to the employee.

The statement of charges will be delivered to the employee at the time of suspension.

- (4) Upon receipt of the statement of charges, the employee shall advise the Suspending Officer of the employee's intent to answer. The employee shall answer within 30 days after receipt of the statement of charges and may submit statements and affidavits to the General Counsel who shall consider them for sufficiency.
- d. Recommendation to Director. The General Counsel shall consult with the Personnel Security Officer, and the two shall jointly recommend disposition of the case to the Director of FMCS. If they are in disagreement, individual recommendations shall be made.
 - e. Action by Director. On the basis of a review of the case, the Director of FMCS shall make an initial determination as follows:
 - (1) If the Director finds that reinstatement of the employee to the position is clearly consistent with the interests of national security, the Director shall clear the employee of all charges. The employee shall be compensated for time lost during the period of suspension.
 - (2) If the Director finds that retention of the employee in the position is not clearly consistent with the interests of national security, but that employment in another position in FMCS is clearly consistent therewith, the employee shall be reassigned to such other position. The employee

shall be compensated for time lost during the period of suspension. NOTE: The Director may, in lieu of action under the security regulations, take appropriate adverse action under the general personnel regulations for unsuitability or other such cause as would promote the efficiency of FMCS, in accordance with the procedures set forth in Directive 5808, Adverse Actions.

- (3) If the Director finds that retention of the employee in any position is not clearly consistent with the interest of national security, the employee shall be given written notice of the Director's initial determination and the charges on which it is based. The employee shall be informed of the right to a hearing on these charges. If the employee exercises such right, the employee shall remain suspended, without pay, until final decision is rendered.
- (4) Whenever an adverse action proposed on security grounds affects any employee previously cleared by another Agency, the Director of FMCS shall consult with the head of that Agency to make certain that all relevant information has been considered.
- (5) Copies of all notices of personnel actions taken in security cases shall be supplied, at once, to OPM. Such actions are to include appropriate language under "Remarks" on the personnel action form when an employee resigns while security charges are pending.

8. Hearing on Proposed Removal or Reassignment.

- a. Employee's Right to Hearing. When the initial

determination of the Director of FMCS is to reassign or remove a suspended employee on security charges, the employee shall have the right to a hearing before a board of three impartial, disinterested persons, selected in accordance with the procedure set forth in paragraph b. below. The employee's request for a hearing must be made to the General Counsel within ten days after the receipt of the Director's initial determination.

- b. Security Hearing Board. The Security Hearing Board shall consist of three civilian officers or employees of the Federal Government, selected by the Director of FMCS from rosters maintained for that purpose by OPM. No officer or employee of the Service shall serve as a member of a Security Hearing Board for the case of any employee of FMCS, nor may any person serve as a member of a Security Hearing Board for the case of an employee with whom acquainted. The General Counsel shall be present at the hearing held by the Security Hearing Board solely to act as an advisor to the Board on procedural matters and to advise the employee, if not represented by counsel, as to rights under the law, Executive Order, and the pertinent regulations.
- c. Conduct of Hearing.
 - (1) The hearing shall be conducted expeditiously, in an orderly manner, and in a serious business-like atmosphere of dignity and decorum. All testimony shall be given under oath or affirmation.
 - (2) The Security Hearing Board shall take whatever action is necessary to insure the employee full and fair consideration of the case. The employee shall be entitled to:
 - (a) Participate in the hearing.
 - (b) Be represented by counsel chosen by the employee.

- (c) Present witnesses and offer other evidence in the employee's own behalf and in refutation of the charges brought against the employee.
 - (d) Cross-examine witnesses produced by FMCS in support of the charges.
- (3) The hearing will be scheduled at or near the official duty station of the employee. Necessary travel expenses of the employee will be borne by FMCS. Travel for witnesses or counsel for the employee will not be borne by FMCS.
- (4) The hearing shall not be open to the public or the press. There shall be present at the hearing only the members of the Security Hearing Board, the General Counsel, a stenographer, the employee, the employee's counsel, FMCS employees immediately concerned, and the witnesses. Witnesses shall be present at the hearing only when actually giving testimony.
- (5) The hearing shall be opened by the reading of:
 - (a) The letter setting forth the charges against the employee.
 - (b) The statements and affidavits submitted by the employee in answer to the charges.
 - (c) The Director's initial determination based upon the employee's initial submittal.

- (6) Both FMCS and the employee may introduce such evidence as the Security Hearing Board may deem proper in the particular case. Rules of evidence shall not be binding on the Board, but reasonable restrictions shall be imposed as to the relevance, competence, and materiality of matters considered so that the hearing may not be unduly prolonged. If the employee is, or may be, handicapped by the nondisclosure of factual information to the employee, or by lack of opportunity to cross-examine confidential informants, the Board shall take that fact into consideration. If a person who has made charges against the employee is called as a witness, but does not appear, the failure to appear shall be considered by the Board in evaluating such charges.
- (7) The employee or counsel shall have the right to control the sequence of witnesses called by the employee. Every effort shall be made to produce witnesses at security hearings to testify on behalf of the Government so that such witnesses may be confronted and cross-examined by the employee, so long as the production of such witnesses does not jeopardize national security. Reasonable cross-examination of witnesses by the employee or counsel shall be permitted.
- (8) The Security Hearing Board may, at its discretion, invite any person to appear at the hearing and testify. However, the Board shall not be bound by the testimony of such witnesses by reason of having called the person and shall have full right to crossexamine the individual.
- (9) The Security Hearing Board shall give due consideration to documentary evidence developed by investigation. The fact that such evidence has been considered will be made part of the transcript of the hearing.

- (10) The Security Hearing Board shall conduct the proceedings in such manner as to protect from disclosure information affecting national security.
- (11) A complete verbatim transcript shall be made of the hearing by a qualified reporter, and the transcript shall constitute a permanent part of the record. Upon request, the employee or counsel shall be furnished a copy of the transcript.
- d. Decision of Security Hearing Board. The Security Hearing Board shall reach its conclusion and base its advisory decision on the transcript of the hearing. The Board shall take into consideration the employee's inability to attack the credibility of witnesses that do not appear. The advisory decision of the Board shall be in writing and signed by all members of the Board. One copy of the advisory decision will be sent to the employee, and one copy of the advisory decision, together with the complete record of the case, including investigative reports, will be sent to the Director of FMCS for final decision.
9. Final Decision by the Director. The final decision on all security cases, other than favorable, shall be made by the Director of FMCS. Before decision, the Director shall thoroughly review all documents in the case, including the record of the hearing. The employee shall be furnished a written statement of the Director's final decision.
10. Reemployment of Persons Removed for Security Reasons. No person whose employment has been terminated for security reasons by any department or Agency of the Federal Government shall be reemployed by FMCS unless the Director of FMCS determines that such employment is clearly consistent with the interests of national security and unless OPM determines such person to be eligible for reemployment. The findings of the Director and the determination of OPM shall be made a part of the personnel record of the employee concerned.

11. Reporting Violations of Law to Department of Justice. Any violations of law disclosed in the investigations or proceedings under the security program shall be reported immediately to the Internal Security Division, U. S. Department of Justice.

12. Personnel Available for Security Hearing Boards. When requested, qualified personnel from FMCS shall be made available to serve on Security Hearing Boards for other Agencies. The Director of FMCS shall periodically and personally review the list of such persons to ensure that persons selected for such service possess the highest degree of integrity, ability, and good judgment in order to fully safeguard the interests of the Government and the rights of its employees.

FEDERAL MEDIATION AND CONCILIATION SERVICE
(FORM)

DIRECTIVE 5806. FMCS ADMINISTRATIVE DISPUTE RESOLUTION SYSTEM**1. Purpose.**

This Directive establishes policies, procedures, and timeframes for filing and resolving employment disputes under the FMCS Administrative Dispute Resolution System.

2. References.

Title 5, Code of Federal Regulations, Chapter 771

3. Policies.

The following policies apply:

- Employee complaints will receive appropriate consideration. Employees, supervisors, and managers are encouraged to observe time limits in the dispute resolution process.
- FMCS strongly encourages the use of Alternative Dispute Resolution procedures throughout this system to resolve disputes in the workplace.
- Use of this system is a protected activity. There must be no restraint, interference, coercion, discrimination, or reprisal against an employee or an employee's designated representative because of the filing of an employment complaint. Employees who provide information concerning matters related to complaints are similarly protected. An individual who engages in restrictive activities may be committing a prohibited personnel practice which could warrant severe disciplinary action.

4. Coverage.

Those covered:

All non-bargaining unit FMCS employees, or former employees for whom personal relief can properly be provided, except as specifically excluded below.

Those excluded:

- Non-citizens and employees appointed and paid under special and relatively rare authorities not common to FMCS.
- Applicants for employment.
- Bargaining unit employees covered by a contract except as related to matters specifically excluded from coverage by the negotiated grievance procedure. The agreement must specifically and affirmatively exclude any matters that will not be covered under the negotiated grievance procedure.

5. Included and Excluded Matters.

This section defines what matters are included and excluded from the Administrative Dispute Resolution System.

a. Included Matters.

Except as discussed under Excluded Matters, the Dispute Resolution System is available to resolve matters of concern or dissatisfaction relating to the employment of an individual and under the control of agency management. This includes any matter in which an employee alleges that coercion, reprisal, or retaliation has occurred for using the Dispute Resolution system.

b. Excluded Matters.

This Directive does not apply to the following:

- The content of established FMCS or government-wide regulations and policies.
- An action required to be taken by FMCS under provisions of a statute or instructions of the Office of Personnel Management.
- A dispute over a matter for which an employee has an entitlement to file an appeal, complaint, or formal challenge in some other forum. This includes matters that are reviewable by the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM), the Comptroller General (CG), or the Federal Labor Relations Authority (FLRA).

NOTE: A disputed action that is filed in another forum first shall be considered an election to proceed in that forum. Participation in informal pre-complaint counseling as set forth in 29 CFR 1614.105 does not constitute an election of the EEO complaint procedures.

- Failure to select an employee for promotion from a group of properly ranked and certified candidates, or failure to grant a noncompetitive promotion.
- Separation or termination of an employee for unsatisfactory performance or misconduct during a probationary or trial period.
- A notice of proposed action which, if effected, would be covered under this system or excluded from coverage as a matter appealable or reviewable by EEOC, MSPB, OPM, CG, or FLRA.

- An action which terminates a temporary or term promotion and which returns the employee to the position from which the employee was temporarily promoted or to a similar position at the same grade where the employee was informed in advance that the promotion is only temporary.
- The return of an employee from an initial appointment as a supervisor or manager to a non-supervisory or non-managerial position for failure to complete the supervisory or managerial probationary period satisfactorily.
- Senior Executive Service (SES) performance-based actions such as performance evaluations or the return of an SES career appointee to the General Schedule or another pay system during the 1-year probationary period.
- The content or substance of performance elements and standards established by FMCS for an employee's position.
- Non-receipt of an award or the amount of an award.
- A decision to grant or deny a(n) SES pay rate increase.
- Failure to grant a recruitment, retention, or relocation bonus.
- Establishment of a Performance Improvement Plan following an unacceptable rating.

6. Representation.

An employee has a right to be represented at any stage of a complaint by a personally chosen representative. The employee must designate the chosen representative in writing, providing

the representative's name, complete mailing address, and telephone number. A designated representative must be willing to represent the employee and must be available to do so. FMCS may disallow a representative if the agency determines that the representative would:

- be in a position which is a conflict-of-interest,
- be required to perform other priority work for the agency, or
- give rise to unreasonable delays in the processing of the complaint and/or unreasonable costs to the agency.

At any step in the process, the Agency officials receiving the complaint or the proposed representative's supervisor may recommend disallowing the employee's choice of representative. A recommendation to disallow a representative will toll the time limits for the complaint at the point it is issued. The recommendation with supporting rationale will be presented to the Director, Office of Human Resources (OHR) within three days of receiving written notification of the representative's identity.

Copies of the recommendation will also be provided to the complainant and the proposed representative. The complainant will submit any rebuttal to the Director, OHR on the recommendation to disallow the representative within three days of receipt of the recommendation. The Director, OHR will issue a written decision on the recommendation within 10 days of receipt of the recommendation. The decision of the Director, OHR, is final, and the dispute resolution process will resume at the point where it was previously tolled.

7. Official Time.

Employees and their representatives, if employees of FMCS and in an active duty status, are entitled to a reasonable amount of official time to present an employment complaint. In addition

to the actual time required for an employee (and/or representative) to present or discuss a complaint with the appropriate management official, the complainant and the representative are entitled to up to 4 hours of official time to prepare their presentation. Arrangements for use of official time must be made with the appropriate supervisor(s) prior to presentation. The time allowed will depend on the facts and circumstances of each case.

8. Alternative Dispute Resolution.

Throughout the dispute resolution process, but particularly at the informal step, the parties are encouraged to use an alternative dispute resolution process (ADR) process involving mediation. The decision to use ADR is entirely voluntary and must be mutually agreed to by the parties. If the parties opt for mediation, the Director, OHR will identify a skilled mediator to mediate the dispute.

Every attempt will be made to select a mediator and complete the mediation process within 15 days of filing the informal complaint or whenever the parties agree to use the ADR process. However, the parties may mutually agree to extend the 15-day time limit to allow mediation to work. If the parties reach a settlement as a result of the ADR process the terms will be reduced to writing in a formal agreement signed by the parties.

NOTE: All agreements must be reviewed by the Office of General Counsel and the Office of Human Resources before they are finalized and agreed to by the Agency.

9. Dispute Resolution Procedures.

Step 1. Informal Employment Complaint.

Employees must submit an informal employment complaint within 15 days of the act or occurrence that is the basis of the complaint or within 15 days of the date the employee became aware of the act or occurrence.

The informal complaint must:

- be submitted in writing;
- clearly indicate that it is a complaint;
- clearly describe the matter(s) in dispute; and
- specify the personal relief or corrective action being sought.

An informal employment complaint must be filed at the lowest level within the agency with authority to grant the relief or corrective action sought. Generally, this will be the employee's immediate supervisor. If the individual who receives the complaint does not have the authority to resolve the complaint, that official must forward the complaint to the official who has the authority to do so. The official attempting to resolve the informal complaint becomes the Informal Deciding Official (IDO) who attempts resolution within 15 days through corrective action, clarification, or other adjustments. The IDO responds to the complaint in writing.

If the informal employment complaint is resolved, the IDO issues a memorandum to the employee via certified mail that:

- outlines the issues in the dispute;
- describes the resolution that was reached; and
- contains the employee's signature acknowledging that the complaint is resolved.

If the informal complaint is not resolved to the complainant's satisfaction, the IDO issues a memorandum via certified mail to the employee that:

- outlines the issues in the dispute and the efforts made to resolve them;
- informs the complainant of the attempted resolution;
- advises the employee that a formal employment complaint may be filed, identifies the official with whom it must be filed, and specifies the 15 day time limit to file a formal complaint.

The informal procedure will be waived and a formal employment complaint may be filed when:

- the matter in dispute is an Official Reprimand or a suspension of 14 days or less; or
- The IDO fails to notify the complainant of attempted resolution after 15 days and the 15-day time limit has not been extended by mutual agreement.

Step 2. Formal Employment Complaint.

Employees who wish to proceed with a formal employment complaint must file it with the Deciding Official (DO) within the 15-day time limit specified in the memorandum terminating the informal complaint or within 15 days of the effective date of a disciplinary action. Requests for extensions of time limits must be addressed to the DO. The DO will either accept or reject the complaint.

The formal complaint must:

- be in writing;
- include the complainant's name, position, title, grade, organizational unit, and location;
- include the complainant's designation of a representative, if applicable;
- be signed by the complainant a designated representative;
- identify the matter(s) still unresolved;
- specify the personal relief being sought; and
- explain why the proposed resolution at the informal level was not acceptable.

The formal complaint may not concern any matter that was not presented as part of the informal complaint, except for allegations of reprisal for filing the informal complaint.

If the complaint is accepted:

The DO will obtain sufficient facts to adjudicate the matter(s) in dispute fairly. If the DO determines that fact-finding is necessary, and that he or she cannot or should not do it, the Director, OHR will select from a list of individuals chosen by the Director, FMCS to serve as fact-finders when necessary. Costs for the fact-finder's service will be paid by FMCS.

The fact-finder will make whatever inquiry is necessary to complete the case file for the DOs decision. Before sending a report of findings to the DO, the fact-finder will share the file with all of

the parties involved and give them an opportunity to review and comment on the file.

The fact-finder will send a report to the DO within 30 days or as soon as is practicable under the circumstances. The fact-finder will not issue a recommendation or opinion.

The DO will issue a proposed disposition within 90 days from the initiation of the informal complaint that advises the parties of the following:

- the agency's position on the matter(s) in dispute and whether any corrective action will be implemented;
- the 15-day time limit within which the complainant may request a final review by the Director, FMCS;
- the agency's intention to close the complaint without further action, if the complainant does not submit a request for a final review by the Director, FMCS within 15-day time limit (in such an event, the proposed disposition becomes the agency's final decision).

A copy of the dispute resolution file will be included with the decision that is provided to the parties.

If the complaint is rejected:

The DO must inform the employee in writing via certified mail of the reason(s) for the rejection and that the employee may request a final review by the Director, FMCS.

Complaints can be rejected if they:

- are filed untimely,
- concern a matter excluded from coverage,
- are filed by employees excluded from coverage,
- concern a matter over which the DO or FMCS has no control,
- do not conform to the filing requirements of a formal complaint, or
- fail to request personal relief.

10. Final Review.

Within 15 days of receiving the decision, the employee may request a final review of the proposed disposition of a formal complaint by the Director, FMCS.

The request must:

- indicate the issue(s) over which disagreement remains, and
- include any and all evidence to support the continued request for personal relief, and

The Director, or the Director's designee, will review the complete dispute resolution file and issue a final written decision on the case within 30 days. The Director or designee may uphold the decision in whole or in part, or refer it for additional fact-finding or informal resolution. The Director's decision is the final administrative action by FMCS on an employment complaint, and there is no appeal available outside of FMCS.

11. Time Limits

The following timeframes have been established to insure that each employment complaint will be brought to a prompt conclusion. When the complexities of a particular case necessitate departure from these standards, the responsible agency official must advise the complainant of the reason for the delay and the date the complainant may expect action on the complaint to recommence. If, at any point in the process, the parties mutually agree to pursue ADR as described in Section 8 of this Directive, the processing time limits will be suspended until the ADR attempt is completed. In all instances "days" mean calendar days.

Action	By	Time Limit
Informal Employment Complaint Filed	Employee	Within 15 days of the act or occurrence or within 15 days of the date the employee became aware of the act or occurrence.
Resolution Attempted on Informal Complaint	Informal Deciding Official (IDO)	Within 15 days of receiving the informal complaint. Notifies the complainant in writing.
Formal Employment Complaint Filed	Employee	Within 15 days of receiving the notice of the decision on the informal complaint or within 15 days of the effective date of a disciplinary action.
Proposed Disposition on Formal Complaint Issued	Designated Official (DO)	Within 90 days from the date the complainant originally filed the informal complaint. If the complaint is not resolved timely, notifies the employee in writing.
Final Review Requested	Employee	Within 15 days of receiving the proposed disposition.
Final Review	FMCS Director or Designee	Within 30 days of receiving the request for a final review.

12. Cancellation.

A formal complaint may be canceled at any step of the process if:

- the complainant requests in writing that the complaint be canceled;
- no relief can be provided because of separation of the complainant;
- the complainant fails to provide sufficient detail to identify clearly the matter(s) in dispute or to specify the personal relief being sought;
- the complainant requests that disciplinary or other adverse action be taken against another employee;
- the complainant (or designated representative) fails to comply with appropriate timeframes and procedures in the agency's Dispute Resolution System;
- the complainant previously, or later, files an appeal, complaint, or other formal challenge on the same matter being considered in the complaint; or
- there is any other action or circumstance that results in there being no basis for additional relief or retroactive monetary award.

A cancellation of a complaint must be communicated to the complainant in writing and advise the complainant of the right to have the decision to cancel reviewed by the Director, FMCS.

13. Attorney Fees.

Employees may request payment of attorney fees in cases where back pay is awarded and the employee's representative otherwise meets the requirement for attorney fees as provided in 5 USC 5596 and 5 CFR 550.807(f). Fees or other expenses associated

with the filing of a complaint are not payable under any other circumstance.

14. Delegation of Authority.

This section identifies the agency official with delegated authority to decide on employment complaints within FMCS.

Informal Deciding Official (IDO)

In FMCS, the IDO is usually the employee's immediate supervisor or the lowest level official with authority to make a decision on the matter in dispute. In cases where the immediate supervisor has been substantially involved in the matters giving rise to the particular complaint, the second level supervisor will usually serve as the IDO.

Deciding Official (DO)

In FMCS, the DO is usually the second-level supervisor, or the person to whom the IDO reports. The DO's proposed disposition is final if the complainant does not ask for a final review by the Director, FMCS.

Final Agency Decision

Final review authority for all complaints under the Administrative Dispute Resolution System rests with the Director, FMCS or an official designated by the Director. There is no avenue for appeal beyond the Director's review.

15. Summary of Responsibilities.

Employees

- Comply with appropriate time limits established by the Directive.
- Submit complaints with sufficient detail to identify the matters in dispute and the personal relief sought.
- Cooperate and participate with agency officials to find resolutions to concerns.

Informal Deciding Officials (IDOs)

- Attempt to resolve informal complaints through corrective action, clarification, or mediation within 15 days of receipt of the complaint.
- Notify employees of the termination of informal complaints and the 15-day limit within which to file formal complaints when informal complaints are not resolved.

Deciding Officials (DOs)

- Accept or reject formal complaints.
- Attempt to resolve formal complaints in a fair and impartial manner.
- Issue proposed dispositions of formal complaints within 90 days of initiation of informal complaints and notify employees of the 15-day limit within which to request final agency decisions.

Director, OHR

- Provides guidance to employees and supervisors concerning employment complaints.

- Assists IDOs, DOs, and Director in responding to complaints.
- Maintains the dispute resolution file which will contain, at a minimum, copies of the informal and formal complaints and official responses.

16. Glossary

Bargaining Unit Employee. An employee included in an appropriate exclusive bargaining unit as determined by the FLRA for which a labor organization has been granted exclusive recognition.

Days. Calendar days. If the last day of a time limit is a non-workday (holiday or weekend), the deadline is automatically extended to the next workday.

Deciding Official (DO). The agency official responsible for receiving a formal complaint, deciding whether it should be accepted or rejected, obtaining sufficient facts to attempt to resolve the matter, and issuing a proposed disposition on the complaint.

Fact-finder. A person appointed to conduct appropriate inquiries into a complaint and to prepare a written report of findings for the Deciding Official.

Employment Complaint. A request by an employee, or a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management, relating to the employment of the employee(s).

Dispute Resolution File. A separate file established by FMCS agency in connection with a complaint and contains all documents (or copies) related to the complaint.

Informal Deciding Official (IDO). Usually the immediate supervisor or the lowest level supervisor who has authority to make a decision on the matter in dispute at the informal level.

Personal Relief. A specific remedy requested by the employee in an employment complaint. The requested remedy must benefit the employee personally and may not include an action affecting another employee of the agency. Failure to request personal relief is grounds for rejection of the complaint.

Proposed Disposition. Issued by the DO, the agency's position on the matter in dispute and whether any corrective action will be implemented. The proposed disposition will become the final agency decision, unless the complainant requests that the complaint be reviewed by the Director, FMCS or the Director's designee.

DIRECTIVE 5807. HEALTH SERVICES

1. Policy. Health maintenance is primarily the responsibility of the individual employee. However, the health and fitness of FMCS employees for efficient performance of their assigned duties is an important element in a progressive system of personnel management and in effective administration of FMCS programs.

Accordingly, it is FMCS policy to provide a safe work environment for all employees and to maintain an effective, constructive occupational health program. In this way we will promote the health fitness of our employees for efficient performance of their assigned work.

2. Scope. The provisions of the health services program described in this directive apply to all FMCS employees.
3. Authorities. This directive is issued in accordance with the following authorities:
 - a. Section 7901, Title 5, U.S.C.
 - b. OMB Circular A-72
 - c. Federal Employees' Compensation Act
 - d. FPM Chapter 792
4. Responsibilities.
 - a. The Office of Personnel Management has the overall responsibility for developing and improving health services programs in cooperation with the Departments of Health and Human Services (Public Health Service) and Labor.
 - b. The Department of Health and Human Services (Public Health Service) provides consultative services on occupational medical standards and methods, evaluates agency health programs, and operates employee health units on a reimbursable basis.

- c. The Department of Labor will authorize medical and other services for employees who incur occupational illness or injury and provide advice on the appraisal and elimination of health risks.
 - d. The General Services Administration will provide adequate space and equipment for the operation of health units.
 - e. The Director of Personnel, is responsible for the health services program within FMCS.
 - (1) Coordinate all phases of the FMCS occupational health program;
 - (2) Recommend policies and guidelines outlining the nature and extent of the occupational health program;
 - (3) Review and recommend action on all contracts and other agreements for the provision of health services;
 - (4) Provide advice and assistance to Service officials on occupational health matters; and,
 - (5) Arrange for health education programs, literature, and other information for Service personnel.
5. Program Objectives. The objectives of the employee health program are:
- a. To protect employees against hazards in their work environment;
 - b. To facilitate placement of employees who may require accommodation;
 - c. To:assure adequate medical care and rehabilitation of the occupationally ill and injured;

- d. To provide health education and encourage personal health maintenance; (FMCS is concerned with the whole health of its employees, at least to the extent of providing advice regarding preventive measures for off-the-job health as well as on-the-job health, and by making referrals to competent medical specialists); and,
 - e. To provide extra occupational medical services, such as voluntary examinations and special preventive programs to avoid large-scale absences.
6. Health Unit Services. Since FMCS is a small Federal agency, arrangements for health services will be coordinated with other Federal agencies in the same locations as FMCS offices. Services obtained by FMCS for our employees in the various duty locations will necessarily vary, depending on the location of employees and the sources of occupational health services available in the area. If the program of health services provided by another Federal Agency does not cover all of the services listed, attempts will be made to supplement the service from other sources. These sources may include those from voluntary health agencies who provide low or no-cost screening programs and other services. To the extent practicable, the following services will be provided.
- a. On-the-Job Care. This includes first aid and immediate medical care for work and non-work-related illness. It also includes referral of employees to private medical practitioners for definitive medical care for non-work-connected disability or illness; and, referral of employees to appropriate Office of Workers' Compensation designated practitioners or facilities for work-connected disability or injury. Follow up on status of ill or injured employees is also provided. (Note: Specific information regarding on-the-job

injuries and occupational illnesses is in a separate directive.)

- b. Treatments Ordered by Private Physicians. In accordance with the policy of the Agency health unit physicians may administer treatments and medications furnished by the employee and prescribed by the employee's personal physician or prescribed by a physician providing medical care in cases under the Office of Workers' Compensation Programs.
 - c. Immunization Programs. Immunization may be provided at necessary intervals to employees against illness determined to be medically advisable for the geographic area concerned.
 - d. Health Screening Programs. Screening examinations may be administered by health units, contract sources, or voluntary health agencies to determine the presence or absence, through standard medical procedures, of the symptoms of serious disease as reasonable need is determined.
 - e. Health Maintenance Examinations. Depending upon the resources of the health services facility, physical examinations may be provided employees at their request. Age limits (e.g., 40 and above) and other limits (e.g., employees of a certain grade level and above) may be imposed. Some examinations may be comprehensive; others may be more limited, depending upon facilities available.
 - f. Health Education Guidance. Arrangements will be made through health facilities, or otherwise, to provide employees information and guidance through films, publications, and other informational materials, lectures, and individual counseling on matters related to health maintenance.
7. Safeguarding Employee Privacy. Employee participation in any health unit services activity is strictly voluntary; and, completion of any questionnaire required by the health

facility is entirely optional. (You should be aware, however, that some types of treatment cannot be administered unless the appropriate information is provided.) The collecting, processing, and final disposition of medical specimens and information will be safeguarded to ensure that only the employee or someone specifically designated by the employee, in writing, is apprised of the results, and that no individual employee findings resulting from such services will be made available to agency personnel, management, or supervisory officials.

8. Medical Records. Employee health records are strictly confidential and are maintained by the health unit providing the services or in the Employee Medical Folder maintained by the Personnel Office.

DIRECTIVE 5808. EMPLOYEE ASSISTANCE PROGRAM

1. Purpose. This directive provides guidance to FMCS employees and supervisors concerning the availability and the nature of the Employee Assistance Program (EAP). The EAP deals with a broad range of employee personal problems that adversely affect job performance or conduct.
2. The provisions of this directive are applicable throughout the service and apply to all FMCS employees.
3. Authorities.
 - a. Public Laws 91-616, 96-24, and 92-255 provide for prevention, treatment, and rehabilitation programs and services for employees with alcohol and drug problems.
 - b. Public Laws 96-180 and 181 authorized agencies to extend program services to families of employees with an alcohol and drug problem and employees with family members(s) with an alcohol or drug problem.
 - c. Public Law 79-658 authorizes agencies to establish health services programs for the purpose of promoting and maintaining the physical and mental fitness of employees. It also permits agencies to extend alcohol and drug abuse programs to other emotional problems that impact adversely on job performance.
 - d. 5 CFR 792
 - e. FPM Chapter 792
 - f. FPM Supplement 792-2
4. Definitions.
 - a. The EAP Administrator is the Personnel Director. The EAP Administrator also serves as the Drug Program Coordinator. The EAP Administrator is responsible for ensuring the development, implementation, and review of the agency EAP.

- b. The EAP Coordinator is a senior personnel management specialist who is also assigned responsibility for performance appraisal and employee relations. The EAP Coordinator in the Personnel Office coordinates the program agencywide.
 - c. The Employee Assistance Counselor is the individual who services this agency under contract for professional counseling services and referrals.
5. Responsibility. The Personnel Office is responsible for oversight and implementation of the FMCS EAP, and will provide, with the support of the Director, high level direction and promotion of the EAP. The EAP Coordinator in the Personnel Office will work closely with the contracted EAP counselor, whenever appropriate, to plan a course of action that benefits the employee as well as the agency.
6. What is the EAP? The EAP is a contracted, professional counseling service that offers short-term counseling (generally one to four sessions) to FMCS employees at all geographic locations. Typical problems appropriate for the EAP include: family problems (childcare, eldercare, marital), emotional problems, drug or alcohol abuse, financial problems, stress or stress-related problems, physical illnesses (dealing with AIDS, cancer, etc.) and legal problems. EAP counselors can help by:
- a. Diagnosing the problem and determining its severity
 - b. Detecting early signs of potentially serious problems
 - c. Helping people to gain an understanding of their problem
 - d. Providing information about their problem via brochures, books, workshops
 - e. Finding the best community resources for appropriate referrals

- f. Finding the most cost-effective community resources in conjunction with the employee's individual health plan
 - g. Outlining alternatives for treatment
 - h. Teaching skills that can help individuals solve their problems in the future
 - i. Helping supervisors to cope with and refer troubled employees to the EAP
 - j. Helping supervisors with their problems
 - k. Helping families of employees with problems and to employees with family members who have problems, especially drug or alcohol related problems.
7. Referral for Drug Use. The FMCS EAP plays an important role in preventing and resolving employee drug use by: demonstrating FMCS's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and follow-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program. Specifically, the EAP will:
- a. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitor the employees' progress through treatment and rehabilitation;
 - b. Provide needed education and training to all levels of FMCS on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP with the drug testing program, and related treatment, rehabilitation, and

confidentiality issues;

- c. Ensure that confidentiality of test results and related medical treatment and rehabilitation records is maintained in accordance with OPM regulations.

Any employee found to be using drugs must be referred to the EAP. The EAP is administered separately from the drug testing program, and is available to all employees without regard to a finding of drug use. The EAP will provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use.

In the event the employee is not satisfied with the program of treatment or rehabilitation, he/she may seek review of the EAP Counselor's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator is final and is not subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment. Assertions that the counselor (in making a reprisal) failed to consider the nature and severity of the problem; location and/or cost of the treatment; intensity of the treatment environment; availability of inpatient/outpatient; other special needs (transportation, child care, etc.); or employee preferences will not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

Upon request, employees should be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session, up to a maximum of four hours, during the assessment/referral

phase of rehabilitation. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category.

8. Self-Referral to the EAP. An otherwise responsible employee (or supervisor) may experience a serious problem--perhaps the sudden death of a family member, sexual harassment within or outside the workplace, etc.--and may independently wish to seek out the assistance/advice of the EAP Counselor. These employees should not only be encouraged to do so, but should also be commended for confronting their problems before they become the agency's problems. The employee is not required to provide details to his/her supervisor regarding the nature of the personal problem and/or the reason for the visit to the EAP. Upon request, he/she should be granted a reasonable amount of administrative leave for appointments. The EAP coordinator will assist supervisors/ employees with referrals.
9. Supervisory Referral. Supervisors are responsible for the effective performance of their employees in the work place. Consequently, supervisors are in a critical position to observe and intervene in a "preventative" capacity; i.e., before the employee becomes overwhelmed by his/her problems and the work becomes seriously impaired. Supervisors, by their formal relationship with their employees, are in an excellent position to motivate the employee to acknowledge the existence of a work-related problem and to seek help through the EAP. The EAP counselor can help an employee identify his/her problem and develop a plan of action to resolve it.

If the supervisor contacts the EAP to discuss an employee problem, the EAP counselor may suggest various options. In some cases, this advice may lead directly to a solution of the problem without further involvement. They can also work closely with the personnel office in working through problems. In other cases, the EAP counselor can assist the supervisor during each phase of the constructive intervention process.

10. Constructive Intervention involves these steps:

- a. Identifying an Employee's Job-Related Problem. The following can serve as a guide to identifying a troubled employee. Any continuing and repeated behavior pattern should be noted and documented.

(1) ABSENTEEISM

- . Use of unauthorized leave
- . Excessive sick leave
- . Frequent monday absences, Friday absences, or monday and Friday absences
- . Excessive tardiness, especially on Monday mornings, or, in returning from lunch/breaks

(2) ON-THE-JOB ABSENTEEISM

- . Continued absences from the office--more than the job requires Long coffee breaks
- . Malingering

(3) GENERALLY LOWER JOB EFFICIENCY

- . Difficulty in recalling instructions, details, etc.

- . Increasing difficulty in handling complex assignments Difficulty in recalling own mistakes or making far too many errors Taking more time than usual with assignments missing deadlines repeatedly
 - . Complaints from co-workers, general public
- (4) SPASMODIC WORK PATTERNS
- . Alternate periods of very-high and very-low productivity
- (5) COMING TO WORK IN AN OBVIOUSLY ABNORMAL OR IMPAIRED CONDITION
- (6) POOR WORK RELATIONSHIPS Over-reacts to real or imagined criticism Unreasonable resentments
- . Begins to avoid associates

Supervisors are human, too, and may show signs of unmanageable personal problems. However, in addition to the above indicators there are other indicators which are largely dependent on the level and type of management position involved. On the first management level, a supervisor may: begin to issue conflicting instructions to employees; use employees time and skills inefficiently; submit incomplete reports and data; or, become lax in supervisory duties, etc.

On higher management level, patterns of declining job performance are more subtle: budgets or programs may begin to be mismanaged; schedules fail to be coordinated; or, the agency fails to deliver proper service, and so on.

The decision-making aspect of higher management positions is crucial. Managers who begin to make decisions on the basis of insufficient data and

poor judgment can significantly impair the efficiency of an organization.

All employees, including supervisors and managers, exhibit some of these job performance problems occasionally. It is a pattern of job performance problems over a period of several weeks or months that should be noted and documented. It is important to remember that:

- . The supervisor is not expected to be a diagnostician
- . Identification and referral is based strictly on poor job performance/conduct
- . The responsibility to correct unsatisfactory work performance or behavior resulting from personal problems rests with the employee. Failure to do so, for whatever reason, will result in appropriate corrective or disciplinary action. However, the supervisor is responsible for noting deficiencies, working with the employee in trying to improve these deficiencies, and referring the employee to the EAP when appropriate.

b. Documenting the Job Problem. When a supervisor is faced with declining or conduct problems, he/she should document observable, verifiable facts. Documentation is an absolute necessity if corrective or disciplinary action is required. In documenting a problem the following guidelines should be followed:

- (1) Be specific--date, time, place--about poor job performance and/or inappropriate conduct.
- (2) Write down observations (not opinions, conclusions, or evaluations)
- (3) Keep it confidential--share only with employee.
- (4) Keep notes on a regular basis, so that good as well as poor performance is included.

- c. Confronting the Employee About the Job Problem. Constructive confrontation is advisable with an employee who has a long standing work performance, attendance, and/or conduct problem. A supervisor has a legitimate right to confront an employee when the employee's job performance/conduct is below standard. It is highly probable that a troubled employee's performance will improve if he/she is confronted constructively and consistently. On the other hand, if he/she is ignored or warned in an inconsistent and arbitrary manner, it is highly unlikely that his/her performance will improve.

The EAP counselor can provide a supervisor with invaluable professional advice about how to prepare for the confrontation with the troubled employee. The counselor can coach him/her on effectively communicating the need for the employee to improve his/her performance/conduct. Dangerous pitfalls and potential troublesome areas to avoid can also be discussed.

The discussion with the employee must be based on objective data (such as actual performance that relates to performance goals and standards or specific instances of tardiness or other conduct issues) rather than vague references to the issues. Such a discussion can prove to be motivational for the employee. Some helpful hints are:

- (1) Realistic Preparation
 - (a) Select a place and time for the discussion that affords privacy.
 - (b) Have all documentation in hand during your discussion with the employee.
 - (c) Be consistent. Do not be more tolerant with one employee than you would with another.

- (d) Be aware of your expectations. What is acceptable or unacceptable?
- (e) Do not attempt to label or diagnose the employee's problem; be concerned only with correcting poor job performance/conduct.

(2) Details of Discussion

- (a) Point out that the agency recognizes the employee's value, including years of service, past performance, technical skills, previous level of competence, and dependability.
- (b) Don't hedge, use your documentation outline and tell the employee exactly what performance standard/conduct is unacceptable.
- (c) Remember your goal is to restore this person as a productive member of FMCS. Base your job performance discussion on just that.
- (d) The employee may sometimes try to play the supervisor against either upper management or the union. If the employee is a bargaining unit member, consider having the union representative present.
- (e) A plan for improvement should be developed, and a commitment from the employee should be obtained.

- (f) There must be no doubt in the individual's mind that the job performance/conduct is unacceptable and that the employee, regardless of any and all their problems, has a very real problem that must be faced immediately.

- (g) There should be no discussion of the underlying cause of job performance/conduct problems--even if the supervisor is almost certain as to its nature. The individual should simply be offered the help of the EAP for whatever problem may be causing poor job performance/conduct, or be prepared to accept the consequences. During the meeting, a supervisor needs to be aware of and ready for the fact that the employee may try to sidetrack him/her.
- d. Referring the Employee to the EAP. After the employee's performance/ conduct has been documented and discussed with the employee during a confrontational interview, referral to the EAP is appropriate.

The actual referral can be either informal or formal in nature. The informal referral is appropriate when good communications still exist between the supervisor and the employee and when there is a good expectation that the employee will follow through and contact the EAP on his/her own.

A formal memorandum of referral is appropriate when communication is poor and serious problems exist. Although the referral is in writing, it does not become part of the Official Personnel File (OPF). However, formal referral should be reviewed by the EAP Coordinator in the Personnel Office prior to issuance. It is notification of the existence of the EAP and how to contact it. It may also include:

- (1) A clear statement of the purpose of the memo--referral to the EAP.
- (2) Documentation of declining job performance/conduct.

(3) That use of the EAP is voluntary, not compulsory, and is confidential.

(4) Mention of follow-up evaluation of the employee's performance within a specific time.

- e. Follow-Up. The follow-up stage begins after the supervisor has observed the employee, documented his/her performance/conduct, confronted the employee with an objective documentation about the areas needing improvement, and referred the employee to the EAP. During the follow-up phase, he/she should continue to monitor the employee to determine if the performance/conduct problem improves and if the employee is (or is not) performing on an acceptable level. The supervisor should also continue to observe and document all levels of performance/conduct, whether it is substandard, standard, or exceptional; arrange follow-up meetings with the employee on a pre-scheduled basis in order to evaluate the employee's on-going job performance; and follow through on agreed-upon consequences.

If job performance continues below acceptable levels, an appropriate and progressive personnel action must be considered. The EAP Coordinator in the Personnel Office should be contacted for assistance in these cases.

11. Confidentiality. Confidentiality is the cornerstone of the EAP. Professional ethics dictate that information exchanged between the employee and EAP remain private. This information is confidential in the same way that an employee's medical record is confidential. However, with the employee's signed consent, the supervisor can generally expect answers to the following questions:

- a. Did the employee keep his/her appointment?
- b. Will additional sessions be needed?

c. What can I do to help?

However, the best indicator is whether or not the employee's job performance/ conduct improves.

Attachment 1
Directive 5813

Directive 5901. Education and Training

5901.1 Purpose

This directive establishes the general policies of the Federal Mediation and Conciliation Service (FMCS) for the delivery and management of training for agency employees.

5901.2 Authority

- a. 5 USC, Chapter 41, Training
- b. 5 CFR, Part 410, Training

5901.3 Policy

To assist in achieving FMCS mission and performance goals by improving employee and agency performance, FMCS shall establish, conduct, maintain, and evaluate programs and plans for the training of agency employees.

5901.4 Definition of Training

Training is a planned, prepared, and coordinated course or program designed to improve individual and agency performance and assist in achieving FMCS mission and performance goals. This includes training that:

- (a) Supports FMCS strategic plan and performance objectives
- (b) Improves an employee's current job performance
- (c) Allows for expansion or enhancement of an employee's current job or position description
- (d) Meets organizational needs in response to workforce initiatives or program changes.

5901.5 Options for Developing Employees

FMCS will use a full range of options to meet its mission-related agency and employee development needs, such as classroom training, on-the-job training, technology-based training, employee self-development activities, coaching, mentoring, shadowing, details, rotational assignments, and cross training.

5901.6 Responsibilities

- (a) Employee
 - (1) Together with his/her supervisor, takes responsibility for his/her development, which includes, but is not limited to, identifying training needs to improve individual and agency performance and the most effective and efficient methods to meet those needs
 - (2) Requests approval for training according to the procedures in 5901.9
 - (3) When appropriate, jointly creates an Individual Development Plan (IDP) with immediate supervisor. Trainings listed on IDP must still follow approval process as set in 5901.9
- (b) Immediate Supervisor
 - (1) Assesses employee, work unit, and FMCS training needs
 - (2) Gathers and disseminates to employees information about available training
 - (3) Reviews training requests and determines whether request supports FMCS performance goals in accordance with 5901.4
 - (4) If training request is approved, processes the request according to the

Directive 5901. Education and Training

procedures in 5901.9

(5) If training request is disapproved, discusses the reason(s) with employee. When appropriate, jointly creates an IDP with the employee. Trainings listed on IDP must still follow approval process as set in 5901.9

(c) **Second-Level Supervisor**

- (1) Ensures that training request supports FMCS performance goals in accordance with 5901.4
- (2) If approved, processes the request according to the procedures in 5901.9
- (3) If disapproved, returns the request to the immediate supervisor with an explanation of the decision

(d) **Education and Training (E & T) Director**

- (1) Ensures the overall coordination of FMCS training
- (2) Monitors FMCS's training budget allocations and certifies that funds are available for training requests
- (3) Works with managers to identify training and development needs
- (4) Determines best approach to design, development and delivery of FMCS training
- (5) Collaborates with managers in the development of customized training courses
- (6) Evaluates the effectiveness of FMCS training

5901.7 Funding

Education and Training activities are funded from moneys collected through the arbitrator listing and user service fees. The yearly funding level and budget for education and training activities will be approved by the Director. Moneys over this amount collected in a fiscal year or carried over from a preceding year will be retained in the education and training fund to offset shortfalls in funds collected in subsequent years. Congressional funding will only be requested to finance special projects or meet a deficiency in collected funds.

5901.8 Financial Assistance for Training

(a) **Coverage:** FMCS may provide an employee with financial assistance for training, including:

- (1) Tuition, conference, and course registration costs
- (2) Fees
- (3) Books and supplies
- (4) Travel

(b) **Limitations**

- (1) Financial assistance is subject to the availability of funds in the training budget and supervisory approval.
- (2) Supervisors may require a Continuing Service Agreement for any single training over a \$5000 threshold for tuition and/or registration fees

(c) **Allocation of Training Funds:**

- (1) Seminars Workshops Conferences and Trainings-Field (SWCT-F) are funds distributed and administered by field managers for each sub-region. Moneys are given for:

Directive 5901. Education and Training

- (i) General training fund
- (ii) New Mediators
- (iii) Trainees
- (2) Seminars Workshops Conferences and Trainings-National Office (SWCT-N) funds are administered in the National Office directly by the Education and Training Department.

5901.9 Requesting, Obtaining Approval, and Payment for Training

(a) SWCT-F (Field) Funds

- (1) Employee submits Authorization, Agreement and Certification of Training Form (SF 182) and all other relevant documentation to immediate supervisor to request and obtain approval for training and financial assistance.
- (2) DMS
 - (i) Determines if the request supports FMCS's performance goals.
 - (ii) Verifies funds are available in the local SWCT-F training budget.
 - (iii) Decides whether to approve or deny request and notifies employee.
 - (iv) Seeks second-level supervisor approval if cost exceeds \$5000.00 threshold for an individual course tuition and/or registration fee.
 - (v) Pays tuition, fees, and other expenses (excluding travel if employee has agency travel card) using his/her Government credit card.
 - (vi) Forwards an electronic copy of the signed and approved SF 182 to E&T for entry into the Learning Management System (LMS)
 - (vii) Certifies when employee completes training.

(b) SWCT-N (National Office) Funds

- (1) Employee submits the Authorization, Agreement and Certification of Training Form (SF 182) and all other relevant documentation to immediate supervisor to request and obtain approval for training and financial assistance.
- (2) Immediate supervisor:
 - (i) Determines if the request supports FMCS's performance goals.
 - (ii) If recommending approval of the request, signs and forwards the SF 182 and registration materials: (a) to second-level supervisor for approval if cost exceeds \$5000.00 threshold for an individual course tuition and/or registration; or (b) to E & T Director if cost is below \$5000.00 threshold.
 - (iii) If denying the request, meets with employee to discuss decision.
- (3) Second-level supervisor:
 - (i) Reviews all documents.
 - (ii) If request is approved, notifies immediate supervisor and forwards documents to E&T.
 - (iii) If request is denied, returns documentation to employee's immediate supervisor with explanation.
- (4) E&T Director:
 - (i) Verifies funds are available in the SWCT-N training budget.
 - (ii) Makes final decision on whether to authorize training and notifies all parties of decision.
 - (iii) Designates E & T staff to pay costs associated with training using the E & T staff designee's government credit card/check.

Directive 5901. Education and Training

- (iv) Ensures that training information is entered into the LMS.
- (c) No-cost Training (e.g. free webinars, conferences or other training events that do not require registration costs).
 - (1) Employee submits completed SF 182 to immediate supervisor to request and obtain approval for no-cost training.
 - (2) Immediate supervisor notifies employee of decision to approve or disapprove request.
 - (3) If approved, immediate supervisor forwards SF 182 to E&T.

5901.10 Individual Development Plan.

- (a) An Individual Development Plan (IDP) identifies an employee's developmental goals in the context of FMCS's Strategic Plan. This plan lists activities that an employee will complete so as to acquire the knowledge, skills, and abilities needed to meet current and future performance goals.
- (b) The employee and supervisor work together to create the IDP, ensuring linkage to FMCS's strategic goals.
- (c) A completed IDP is particularly important when FMCS funds are requested for developmental activities. IDP related training requests must still follow 5901.9.

FMCS National Office Employee Core Competency Inventory

Instructions

Please complete this inventory with your Supervisor. The “job specific” area should reflect performance elements.

It is important to note that the data from this inventory is not being used as part of any performance evaluation procedure. The data will provide training developers with information that will be used to improve and measure the effectiveness of the FMCS education and training programs.

NAME: _____

DATE: _____

Please rate your current level of knowledge, skill, or ability in the following areas.

	Poor	Adequate	Better Than Adequate	Excellent
Work Quality, Productivity & Customer Service				
Deliver quality products/services that address customer requirements	1	2	3	4
Meet essential deadlines and commitments	1	2	3	4
Communicate clearly, courteously, and effectively	1	2	3	4
Improve and apply technical knowledge/skills to carry out assignments effectively	1	2	3	4
Use available resources efficiently	1	2	3	4
Teamwork and Cooperation				
Share skills/knowledge effectively; work cooperatively with others to achieve goals	1	2	3	4
Willingly accept and complete a fair share of the workload	1	2	3	4
Adapt willingly and in a timely way to changing assignments, priorities, and responsibilities	1	2	3	4
Apprise employees of relevant information	1	2	3	4
Computer Skills				
Ability to communicate using Electronic Mail	1	2	3	4

Appendix 1 Directive 5900

	Poor	Adequate	Better Than Adequate	Excellent
Ability to access FMCS Intranet and Internet	1	2	3	4
Ability to use word processing	1	2	3	4
Job Specific				
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4

Additional Questions

Please list any special skills and or interests you have, include work and non-work related items.

Do you have any foreign language skills, If so please indicate the language and your level of proficiency.

FMCS Mediator Core Competency Inventory

Instructions

Please complete this inventory with your Director of Mediation Services.

It is important to note that the data from this inventory is not being used as part of any performance evaluation procedure. The data will provide training developers with information that will be used to improve and measure the effectiveness of our education and training programs.

Name: _____

Mediator Number: _____

Date: _____

Please rate your current level of knowledge, skill, or ability in the following areas.

	Poor	Adequate	Better than Adequate	Excellent
FMCS Background				
FMCS history, mission and services	1	2	3	4
FMCS procedures and policies	1	2	3	4
Collective Bargaining and Labor Management Relations (CC #1)				
Labor relations systems and process	1	2	3	4
Economic, industry and sector trends	1	2	3	4
Settlement patterns and issues	1	2	3	4
Legislation, laws and executive orders	1	2	3	4
Assistance to the Parties in the Negotiation of Collective Bargaining Agreements (CC#2)				
Mediation techniques	1	2	3	4
Mediation theory	1	2	3	4
Innovative bargaining processes	1	2	3	4
Workforce and labor issues	1	2	3	4
Corporate financial statements, marketing and strategic planning	1	2	3	4
Grievance mediation	1	2	3	4

	Poor	Adequate	Better than Adequate	Excellent
Improving Labor Management Relations (CC #3)				
Labor-Management Committee/Partnerships	1	2	3	4
Steward/Supervisor Training	1	2	3	4
Contract Administration Training	1	2	3	4
Relationship-by-Objective	1	2	3	4
Partners in Change	1	2	3	4
Labor-Management Worksite Committees	1	2	3	4
Committee Effectiveness Training	1	2	3	4
Interest Based Bargaining	1	2	3	4
Conflict Resolution Training	1	2	3	4
Facilitation Training	1	2	3	4
Designing Preventive Mediation Training	1	2	3	4
Conducting Needs Assessments	1	2	3	4
Utilizing the Electronic PM Curriculum Materials	1	2	3	4
Training Techniques	1	2	3	4
Facilitation and Problem Solving (CC#4)				
Facilitation skills and techniques	1	2	3	4
Problem solving skills and techniques	1	2	3	4
Ability to communicate effectively	1	2	3	4
Processes to Improve Organizational Effectiveness (CC#5)				
Organizational development theory and practices	1	2	3	4
Organizational change models	1	2	3	4
Strategic planning	1	2	3	4
New work systems (modular production, TQM, SPC, ISO 9000)	1	2	3	4
Design and Implementation of Conflict Resolution Systems (ADR) (CC #6)				
FMCS ADR policies and practices	1	2	3	4
Non labor mediation techniques	1	2	3	4
Mediation of EEO disputes	1	2	3	4
Mediation of multi-party disputes	1	2	3	4
Mediation of regulatory negotiations	1	2	3	4
Dispute systems design	1	2	3	4
ADR mediation training	1	2	3	4
Education Advocacy and Outreach (CC#7)				

	Poor	Adequate	Better than Adequate	Excellent
Explain the role of FMCS and services	1	2	3	4
Explain the role, value of mediation and other conflict resolution techniques	1	2	3	4
Explain the role, value of collective bargaining and labor-management relations	1	2	3	4
Diffusion of best practices	1	2	3	4
Develop a marketing plan				
Utilize external communication strategies and tools	1	2	3	4
Knowledge, Skill and Ability in Information Systems (CC#8)				
Ability to use electronic casemain system	1	2	3	4
Ability to communicate using electronic mail	1	2	3	4
Ability to access FMCS Intranet and Internet	1	2	3	4
Ability to use word processing to develop preventive mediation program handouts	1	2	3	4

Additional Questions

Please list any special skills and or interests you have, such as teaching, training design, computer skills, artistic talent. Please include work and non-work related items.

Do you have any foreign language skills, If so please indicate the language and your level of proficiency.

FMCS Leadership Core Competency Inventory

Instructions

Please complete this inventory with your Deputy Director.

It is important to note that the data from this inventory is not being used as part of any performance evaluation procedure. The data will provide training developers with information that will be used to improve and measure the effectiveness of our education and training programs.

NAME: _____

DATE: _____

Please rate your current level of knowledge, skill, or ability in the following areas.

	Poor	Adequate	Better than Adequate	Excellent
Work Quality, Productivity & Customer Service				
Deliver quality products/services that address customer requirements	1	2	3	4
Meet essential deadlines and commitments	1	2	3	4
Communicate clearly, courteously, and effectively	1	2	3	4
Improve and apply technical knowledge/skills to carry out assignments effectively	1	2	3	4
Use available resources efficiently	1	2	3	4
Teamwork and Cooperation				
Share skills/knowledge effectively; work cooperatively with others to achieve goals	1	2	3	4
Willingly accept and complete a fair share of the workload	1	2	3	4
Adapt willingly and in a timely way to changing assignments, priorities, and responsibilities	1	2	3	4
Management and Coaching				
Establish realistic work objectives and priorities linked to organizational and FMCS strategic goals	1	2	3	4
Use management practices that support EEO, labor-management partnership, and merit systems principles	1	2	3	4
Comply with performance appraisal system, including providing constructive feedback to employees	1	2	3	4
Work with employees to identify and prioritize	1	2	3	4

	Poor	Adequate	Better than Adequate	Excellent
training and continuous improvement needs				
Effectively adjust/reallocate resources in response to workload, resource, or priority changes	1	2	3	4
Appropriately assign responsibility and delegate authority	1	2	3	4
Apprise employees of relevant information	1	2	3	4
Computer Skills				
Ability to use electronic casemain system	1	2	3	4
Ability to communicate using Electronic Mail	1	2	3	4
Ability to access FMCS Intranet and Internet	1	2	3	4
Ability to use word processing	1	2	3	4
Leadership				
Communicate and promote organizational and FMCS mission, values, goals, activities and/or policies.	1	2	3	4
Promote optimum performance through performance recognition and encouragement	1	2	3	4
Solicit employee ideas/recommendations and promote and adopt feasible ones	1	2	3	4
Encourage teamwork and cooperation among employees	1	2	3	4
Coordinate with other work units to achieve common goals	1	2	3	4
Take initiative in planning and implementing organizational and FMCS work	1	2	3	4
Job Specific				
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4

Additional Questions

Please list any special skills and or interests you , include work and non-work related items.

Do you have any foreign language skills, If so please indicate the language and your level of proficiency.

Appendix 4 Directive 5900

Federal Mediation and Conciliation Service Continuous Improvement Plan (CIP)

Name _____ Mediator Number _____ Date _____ Office/Region _____.

Learning Objective and Related Core Competency	Learning Action (course title, seminar, or other developmental assignment)	Target Date for Activity	Date Activity Completed	Cost of Activity (travel/ tuition costs.)	How was Learning Applied* (List all applications to service delivery for learning action)

*To be completed by the Supervisor.

This CIP is a continuous document tracking learning activities and application over a two year period. Employees and Supervisors should review the CIP every 6 months (February and July.) It should be sent to the education and training department every February. You are encouraged to make this an electronic form by completing it in Word and forwarding it via electronic mail.

AUTHORIZATION, AGREEMENT AND CERTIFICATION OF TRAINING			A. Agency, code agency subelement and submitting office number		B. Request Status (Mark (X) one) <input type="checkbox"/> Resubmission <input type="checkbox"/> Initial <input type="checkbox"/> Correction <input type="checkbox"/> Cancellation	
Section A - TRAINEE INFORMATION Please read instructions on page 6 before completing this form						
1. Applicant's Name (Last, First, Middle Initial)			2. Social Security Number/Federal Employee Number		3. Date of birth (yyyy-mm-dd)	
4. Home Address (Number, Street, City, State, ZIP Code) (Optional)			5. Home Telephone (Optional) (Include Area Code)		6. Position Level (Mark (X) one)	
					<input type="checkbox"/> a. Non-supervisory <input type="checkbox"/> b. Manager <input type="checkbox"/> c. Supervisory <input type="checkbox"/> d. Executive	
7. Organization Mailing Address (Branch-Division/Office/Bureau/Agency)			8. Office Telephone (Include Area Code and extension)		9. Work Email Address	
10. Position Title.		11. Does applicant need special accommodation? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, please describe below		
12. Type of Appointment	13. Education Level (click link to view codes or go to page 7)		14. Pay Plan	15. Series	16. Grade	17. Step
Section B - TRAINING COURSE DATA						
1a. Name and Mailing Address of Training Vendor (No., Street, City, State, ZIP Code)			1b. Location of Training Site (If same, mark box) <input type="checkbox"/>			
			1c. Vendor Telephone Number		1d. Vendor Email Address	
2a. Course Title	2b. Course Number Code	3. Training Start Date (Enter date as yyyy-mm-dd)			4. Training End Date (Enter date as yyyy-mm-dd)	
5. Training Duty Hours	6. Training Non-Duty Hours	7. Training Purpose Type (click link to view codes or go to page 9)			8. Training Type Code (click link to view codes or go to pages 10-12)	
9. Training Sub Type Code (click link to view codes or go to pages 10-12)	10. Training Delivery Type Code (click link to view codes or go to page 12)	11. Training Designation Type Code (click link to view codes or go to page 13)		12. Training Credit	13. Training Credit Type Code (click link to view codes or go to page 13)	
14. Training Accreditation Indicator (Check below) <input type="checkbox"/> Yes <input type="checkbox"/> No	15. Continued Service Agreement Required Indicator (Check below) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	16. Continuing Service Agreement Expiration Date (Enter date as yyyy-mm-dd)			17. Training Source Type Code (click link to view codes or go to page 13)	
18. Training Objective				19. AGENCY USE ONLY		
Section C - COSTS AND BILLING INFORMATION						
1. Direct Costs and Appropriation/Fund Chargeable			2. Indirect Costs and Appropriation/Fund Chargeable			
Item	Amount	Appropriation Fund	Item	Amount	Appropriation Fund	
a. Tuition and Fees			a. Travel			
b. Books and Materials			b. Per Diem			
c. TOTAL			c. TOTAL			
3. Total Training Non-Government Contribution Cost			6. BILLING INSTRUCTIONS (Furnish invoice to):			
4. Document/Purchasing Order/Requisition Number						
5. 8-Digit Station Symbol (Example - 12-34-5678)						

Section D - APPROVALS

1a. Immediate Supervisor - *Name and title*

1b. Area Code/Telephone Number

1c. Email Address

1d. Signature

1e. Date

2a. Second-line Supervisor - *Name and title*

2b. Area Code/Telephone Number

2c. Email Address

2d. Signature

2e. Date

3a. Training Officer - *Name and title*

3b. Area Code/Telephone Number

3c. Email Address

3d. Signature

3e. Date

Section E - APPROVALS/CONCURRENCE

1a. Authorizing Official - *Name and title*

1b. Area Code/Telephone Number

1c. Email Address

1d. Signature

☐

Approved

☐

Disapproved

1e. Date

Section F - CERTIFICATION OF TRAINING COMPLETION AND EVALUATION

1a. Authorizing Official - *Name and title*

1b. Area Code/Telephone Number

1c. Email Address

1d. Signature

1e. Date

TRAINING FACILITY - Bills should be sent to office indicated in item C6. Please refer to number given in item C4 to assure prompt payment.

Privacy Act Statement

Authority – This information is being collected under the authority of 5 U.S.C. § 4115, a provision of The Government Employees Training Act.

Purposes and Uses – The primary purpose of the information collected is for use in the administration of the Federal Training Program (FTP) to document the nomination of trainees and completion of training. Information collected may also be provided to other agencies and to Congress upon request. This information becomes a part of the permanent employment record of participants in training programs, and should be included in the Governmentwide electronic system, (the Enterprise Human Resource Integration system (EHRI) and is subject to all of the published routine uses of that system of records.

Effects and Nondisclosure – Providing the personal information requested is voluntary; however, failure to provide this information may result in ineligibility for participation in training programs or errors in the processing of training you have applied for or completed.

Information Regarding Disclosure of your Social Security Number (SSN) Under Public Law 93-579, Section 7(b) – Solicitation of SSNs by the Office of Personnel Management (OPM) is authorized under provisions of the Executive Order 9397, dated November 22, 1943. Your SSN will be used primarily to give you recognition for completing the training and to accumulate Governmentwide training statistical data and information. SSNs also will be used for the selection of persons to be included in statistical studies of training management matters. The use of SSNs is necessary because of the large number of current Federal employees who have identical names and/or birth dates and whose identities can only be distinguished by their SSNs.

Note: This agreement must be signed by the nominee for Government training that exceeds 80 hours (or such other designated period, less than 80 hours as prescribed by the agency) for which the Government approves payment of training costs prior to the commencement of such training. Nothing contained in this SAMPLE agreement below shall be construed as limiting the authority of an agency to waive, in whole or in part, an obligation of an employee to pay expenses incurred by the Government in connection with the training.

Continued Service Agreement

Employees, who are selected to training for more than a minimum period as prescribed in Title 5 USC 4108 and 5 CFR 410.309, see your supervisor for more information on the internal policies to implement a continued service agreement.

Employees Agreement to Continue in Service

To be completed by applicant:

1. I AGREE that, upon completion of the Government sponsored training described in this authorization, if I receive salary covering the training period, I will serve in the agency three (3) times the length of the training period. If I received no salary during the training period, I agree to serve the agency for a period equal to the length of training, but in no case less than one month. (The length of part-time training is the number of hours spent in class or with the instructor. The length of full-time training is eight hours for each day of training, up to a maximum of 40 hours a week).

NOTE: For the purposes of this agreement the term “agency” refers to the employing organization (such as an Executive Department or Independent Establishment), not to a segment of such organization.

2. If I voluntarily leave the agency before completing the period of service agreed to in item 1 above, I AGREE to reimburse the agency for fees, such as the tuition and related fees, travel, and other special expenses (EXCLUDING SALARY) paid in connection with my training. These fees are reflected in Section C Costs and Billing Information. Note: Additional information about fees and expenses can be found in the Guide to Human Resource Reporting (GHRR).

<http://www.opm.gov/feddata/ghrr/index.asp>

3. I FURTHER AGREE that, if I voluntarily leave the agency to enter the service of another Federal agency or other organization in any branch of the Government before completing the period of service agreed, I will give my organization written notice of at least ten working days during which time a determination concerning reimbursement will be made. If I fail to give this advance notice, I AGREE to pay the full amount of additional expenses 5 U.S.C. 4108 (a) (2) incurred by the Government in this training.

4. I understand that any amount of money which may be due to the agency as a result of any failure on my part to meet the terms of this agreement may be withheld from any monies owed me by the Government, or may be recovered by such other methods as are approved by law.
5. I FURTHER AGREE to obtain approval from my organization and the person responsible for authorizing government training requests of any proposed change in my approved training program involving course and schedule changes, withdrawals or incompletions, and increased costs.
6. I acknowledge that this agreement does not in any way commit the Government to continue my employment. I understand that if there is a transfer of my service obligation to another Federal agency or other organization in any branch of the Government, the agreements will remain in effect until I have completed my obligated service with that other agency or organization.

Period of obligated Service: _____

Employee's Signature: _____

Date: _____

Agency Training Electronic Reporting Instructions

General Instructions:

1. You must complete all questions in sections A-E on the training application. In addition, your financial institution must complete Section F Certification of Training Completion and Evaluation section.
2. Electronic Requirements - An agency should only submit data for completed training that is defined as a training event for which the student has accomplished all components in the title of the event.
3. Collection of training data requires completed training events and that all mandatory data elements have been recorded. Training may vary from agency to agency. This form provides conformity and standardization for the required core data.
4. Codes for underlined elements will link you to the chart. Identify the correct code, then return to the form (links will not automatically return you to the form).

Section A - Trainee Information

1. **Applicant's Name** - Last Name, First Name, Middle Initial.
2. **Social Security Number** - Use employee's nine (9) digit SSN. (123-45-6789)
OR
Federal Employee Number - The unique number that Enterprise Human Resources Integration (EHRI) will assign to an employee to identify employee records within the EHRI system. (Agency)
3. **Date of Birth (format yyyy-mm-dd)** - Employee's date of birth (e.g. if employee's birth date is March 25, 1951, it would appear as (1951-03-25).
4. **Home Address** - Employee's home address, include the street number, city, state, and zip code.
5. **Home Telephone Number** - Employee's area code, home telephone number.
6. **Position Level** - Select whether the employee's position level is one of the following:
 - 6a. **Non supervisory** - Anyone who does not have supervisory/team leader responsibilities.
 - 6b. **Supervisory** - First line supervisors who do not supervise other supervisors; typically those who are responsible for an employee's performance appraisal or approval of their leave.
 - 6c. **Manager** - Those in management positions who typically supervise one or more supervisors.
 - 6d. **Executive** - Members of the Senior Executive Service (SES) or equivalent.
7. **Organization Mailing Address** - This is the internal agency address of the employee Branch-Division/Office/Bureau/Agency, include the street name, city, state and zip code.
8. **Office Telephone Number** - Insert the employee's area code, office telephone number and extension.
9. **Work E-mail Address** - Agency e-mail address.
10. **Position Title** - Employee's current position within the agency.

Section A - Trainee Information (Continued)

11. **Does Applicant Need Special Accommodations?** - Indicate "Yes" or "No". If the applicant is in need of special arrangements (brailing, taping, interpreters, facility accessibility, etc), describe the requirements in the space provided or on a separate sheet.
12. **Type of Appointment** - The employee type of appointment (e.g., Career Conditional (CC), Career (C), Temporary (Temp.), Schedule A, etc.).
13. **Education Level** -Use the employee educational level codes listed below.

<u>Code</u>	<u>Short Description</u>	<u>Long Description (If Applicable)</u>
1	No formal education or some elementary school--did not complete	Elementary school means grades 1 through 8, or equivalent, not completed.
2	Elementary school completed--no high school	Grade 8 or equivalent completed.
3	Some high school--did not graduate	High school means grades 9 through 12, or equivalent.
4	High school graduate or certificate of equivalency	
5	Terminal occupational program--did not complete	Program extending beyond grade 12, usually no more than three years; designed to prepare students for immediate employment in an occupation or cluster of occupations; not designed as the equivalent of the first two or three years of a baccularate degree program. Includes cooperative training or apprenticeship consisting of formal classroom instruction coupled with on-the-job training.
6	Terminal occupational program--certificate of completion, diploma or equivalent	See code 5 above for definition of terminal occupational program. Two levels are recognized: (1) The technical and/or semi-professional level preparing technicians or semiprofessional personnel in engineering and nonengineering fields; and (2) the craftsman/clerical level training artisans, skilled operators, and clerical workers.
7	Some college--less than one year	Less than 30 semester hours completed.
8	One year college	0-59 semester hours or 45-89 quarter hours completed.
9	Two years college	60-89 semester hours or 90-134 quarter hours completed.
10	Associate Degree	2-year college degree program completed.
11	Three years college	90-119 semester hours or 135-179 quarter hours completed.
12	Four years college	120 or more semester hours or 180 or more quarter hours completed--no baccularate (Bachelor's) degree.
13	Bachelor's Degree	Requires completion of at least four, but no more than five, years of academic work; includes Bachelor's degree conferred in a cooperative business, industry, or Government to allow student to combine actual work experience with college studies.

Section A - Trainee Information (Continued)

<u>Code</u>	<u>Short Description</u>	<u>Long Description (If Applicable)</u>
14	Post-Bachelor's	Some academic work beyond (at a higher level than) the Bachelor's degree but no additional higher degree.
15	First professional	Signifies the completion of academic requirements for selected professions that are based on programs requiring at least two academic years of previous college work for entrance and a total of at least six academic years of college work for completion, e.g., Dentistry (D.D.S. or D.M.D.), Law (LL. B. or J.D.), Medicine (M.D.), Theology (B.D.), Veterinary Medicine (D.V.M.), Chiropody or Podiatry (D.S.C. or D.P.), Optometry (O.D.), and Osteopathy (D.O.).
16	Post-first professional	Some academic work beyond (at a higher level than) the first professional degree but no additional higher degree.
17	Master's degree	For liberal arts and sciences customarily granted upon successful completion of one (sometimes two) academic years beyond the Bachelor's degree. In professional fields, an advanced degree beyond the first professional but below the Ph.D., e.g., the LL.M.; M.S. in surgery following the M.D.; M.S.D., Master of Science in Dentistry; M.S.W., Master of Social Work, and MA, Master of Arts.
18	Post-Master's	Some academic work beyond (at a higher level than) the Master's degree but no additional higher degree.
19	Sixth-year degree	Includes such degrees as Advanced Certificate in Education, Advanced Master of Education, Advanced Graduate Certificate, Advanced Specialist in Education Certificate, Certificate of Advanced Graduate Study, Certificate of Advanced Study, Advanced Degree in Education, Specialist in Education, Licentiate in Philosophy, Specialist in Guidance and Counseling, Specialist in Art, Specialist in Science, Specialist in School Administration, Specialist in School Psychology, and Licentiate in Sacred Theology.
20	Post-sixth year	Some academic work beyond (at a higher level than) the sixth-year degree but no additional higher degree.
21	Doctorate degree	Includes such degrees as Doctor of Education, Doctor of Juridical Science, Doctor of Public Health, and the Ph.D. (or equivalent) in any field. Does not include a Doctor's degree that is a first professional degree, per code 15.
22	Post-Doctorate	Work beyond the Doctorate.

14. Pay Plan - The employee's pay plan. (e.g., GS, WG, ES...**Pay Band**)

15. Series - The position classification four digit series. (e.g., 0201)

16. Grade - The employee's grade level. (1-15)

17. Step - The employee must insert the appropriate step. (1-10)

Section B - Training Course Data

- 1a. **Name and Mailing Address of Training Vendor** - Street number, city, state, and ZIP code of the appropriate vendor. (Agency specific)
- 1b. **Location of the Training Site** - Provide mailing address of the training site if different from 1a. (Agency specific)
- 1c. **Vendor Telephone Number** - Self explanatory. (Agency specific)
- 1d. **Vendor E-mail Address** - Self explanatory. (Agency specific)
- 2a. **Course Title** - Insert the title of the course or the program that the employee is scheduled to complete.
- 2b. **Course Number Code** - Insert the Course Number Code.
3. **Training Start Date** - Insert the start date of the training completed by the employee. (yyyy-mm-dd)
4. **Training End Date** - Insert the end date of the training completed by the employee. (yyyy-mm-dd)
5. **Training Duty Hours** - Insert the number of duty hours for training.
6. **Training Non Duty Hours** - Insert the number of non-duty hours for training.
7. **Training Purpose Type** - Insert the purpose for taking this course or program using the appropriate training purpose type code.

<u>Code</u>	<u>Short Description</u>	<u>Long Description (If Applicable)</u>
01	Program/Mission	Training to provide the knowledge, skills and abilities needed as a result of agency mission, policies, or procedures.
02	New Work Assignment	Training to acquire the knowledge, skills and abilities needed as a result of assignment to new duties and responsibilities when such training is not part of a planned, career development program (e.g., training provided to a staffing specialist who has been newly assigned to a position involving classification duties).
03	Improve/Maintain Present Performance	Training to provide the knowledge, skills and abilities needed to improve or maintain proficiency in present job.
04	Future Staffing Needs	Training to provide the knowledge, skills, and abilities needed to meet future staffing needs (e.g., to implement succession planning).
05	Develop Unavailable Skills	Training to acquire the knowledge, skills and abilities needed for fields of work for which the labor market cannot produce a sufficient number of trained candidates (e.g., air traffic controllers or Information Technology (IT) professionals).
06	Retention	Training/education used to address staffing issue of retaining an employee (e.g., academic degree training).

8. **Training Type Code** - There are three (3) different Training Type Codes. The employee must select one from the Training Type Codes. (Select from the chart on pages 10-12.)
9. **Training Sub-Type Code** - There are *Sub-Type Categories* for each of the three (3) different Training Type Codes. Select one (1) Sub-Type Category code that applies to the training type code you selected. (Select from the chart on pages 10-12.)

Section B - Training Course Data (Continued)

Training Type Code	Training Sub Type Code
01 - Training Program Area Description: Functional or specialized training programs.	01 - Legal Education or training in the concepts, principles, and theories, or techniques of law.
	02 - Medical and Health Education or training in the concepts, principles, and theories, or techniques of medicine.
	03 - Scientific Education or training in the concepts, principles, and theories, or techniques of disciplines such as the physical, biological, natural, and social sciences; education; economics; mathematics; or statistics.
	04 - Engineering or Architecture Education or training in the concepts, principles, and theories, or techniques of disciplines such as architecture and engineering.
	05 - Human Resources Education or training in the concepts, principles, and theories of such fields as: public administration, personnel training, equal employment opportunity, human resources policy analysis, succession planning, performance management, classification, and staffing.
	06 - Budget/Finance Business Administration Education or training in the concepts, principles, and theories of business administration, accounts payable and receivable, auditing and internal control, and cash management.
	07 - Planning and Analysis Education or training in the concepts, principles, and theories of systems analysis; policy, program or management analysis; or planning, including strategic planning.
	08 - Information Technology Education and training in the concepts and application of data and the processing thereof; e.g., the automatic acquisition, storage, manipulation (including transformation), management, system analysis, movement, control, display, switching, interchange, transmission or reception of data, computer security and the development and use of the hardware, software, firmware, and procedures associated with this processing. This training type does not include any IT training on agency proprietary systems.
	09 - Project Management Education and training in the concepts, principles, and theories necessary to develop, modify, or enhance a product, service, or system which is constrained by the relationships among scope, resources, and time.
	10 - Acquisition Education or training in the concepts, principles, and theories or techniques related to the 1102 occupation, e.g., procurement, contracting.
	11 - Logistic Specialty Training for professional skills of a specialized nature in the methods and techniques of such fields as supply, procurement, transportation, or air traffic control.
	12 - Security Training of a specialized nature in the methods and techniques of investigation, physical security, personal security, and police science.

Section B - Training Course Data (Continued)

Training Type Code	Training Sub Type Code
01 - Training Program Area (continued)	13 - Clerical (Non-supervisory clerical/administrative) Training in skills such as office management, typing, shorthand, computer operating, letter writing, telephone techniques; or word processing.
	14 - Trade and Craft Training in the knowledge, skills, and abilities needed in such fields as electronic equipment installation, maintenance, or repair; tool and die making; welding, and carpentry.
	15 - Foreign Affairs Training for professional skills of a specialized nature in the methods and techniques of such fields as foreign languages, foreign culture, diplomacy, or strategic studies.
	16 - Leadership/Manager/Communications Courses Training that addresses skill areas such as Leadership/Management and Communication (e.g., written, oral and interpersonal) coursework.
02 - Developmental Training Area Description: Formal developmental/training programs.	20 - Presupervisory Program Development/training program for non-supervisors.
	21 - Supervisory Program Development/training program which provides education or training in supervisory principles and techniques in such subjects as personnel policies and practices (including equal employment opportunity, merit promotion, and labor relations); human behavior and motivation; communication processes in supervision, work planning, scheduling, and review; and performance evaluation for first-line supervisors.
	22 - Management Program Development/training program which provides mid-management level education or training in the concepts, principles, and theories of such subject matters as public policy formulation and implementation, management principles and practices, quantitative approaches to management, or management planning organizing and controlling. (Supervisors of supervisors; GS-14/15 supervisors; GS-14/15 direct reports to SES).
	23 - Leadership Development Program Formal developmental program that provides leadership training and development opportunities.
	24 - SES Candidate Development OPM-approved program to prepare potential SES members.
	25 - Executive Development Continuing development for leaders above the GS-15 level.
	26 - Mentoring Program Formal stand-alone program with established goals and measured outcomes. Open to all who qualify; protégées and mentors paired to facilitate compatibility, training and support provided, and company benefits directly.
	27 - Coaching Program Formal stand-alone program which provides ongoing partnership with an employee and coach that helps employee produce desired results in professional life.

Section B - Training Course Data (Continued)

Training Type Code	Training Sub Type Code
03 - Basic Training Area Description: Fundamental and/or required training programs.	30 - Employee Orientation Training of a general nature to provide an understanding of the organization and missions of the Federal Government, employing agency or activity, or a broad overview and understanding of matters of public policy.
	31 - Adult Basic Education Education or training to provide basic completeness in such subjects as remedial reading, grammar, arithmetic, lip reading or Braille.
	32 - Federally Mandated Training Mandatory training for all employees Governmentwide. This includes training mandated by federal statute or regulation; such as in the areas of computer security awareness (5 CFR 930.301-305), ethics (5 CFR 2638.703 and 704), or executives, managers, and supervisors (5 CFR Part 412).
	33 - Work-life Training to promote work-life (e.g., health and wellness training, employee retirement/benefits training, etc).
	34 - Soft Skills Training involving development of employees ability to relate to others (e.g., customer service, dealing with difficult people, etc).
	35 - Agency Required Training Agency specific training required by the agency and provided to Federal employees in order to achieve the goals and objectives of the Agency as needed. For example: agency training based on Inspector General's Audit; agency training aimed at improving individual's needs based on Performance Improvement Plan (PIP); agency training based on signing agreement between Union and Management.

10. Training Delivery Type Code --

Code	Short Description	Long Description (If Applicable)
01	Traditional Classroom (no technology)	Individual or multiple person led, face-to-face training.
02	On the Job	Formal methods/activities planned and structured to promote learning by doing; e.g., detail assignments/programs.
03	Technology Based	Methods mainly using technology, which may include tutorials embedded in software, CD ROM products, Web-based courses, and interactive media.
04	Conference/workshop	An organized learning event which has an announced educational or instructional purpose; more than half the time is scheduled for a planned, organized exchange of information between presenters and audience which meets the definition of training in 5 U.S.C. 4110; content of the conference/retreat is germane to improving individual and/or organizational performance; and developmental benefits will be derived through the employee's attendance.
05	Blended	Training that requires two or more methods of delivery that must be completed in order to satisfy the educational requirements.
06	Correspondence	Self-study course material: Training provided via the assignment of non-interactive methods such as a book, document, regulation, or manual.

Section B - Training Course Data (Continued)

11. **Training Designation Type Code** - Select and insert the appropriate training credit designation type code:

<u>Code</u>	<u>Short Description</u>	<u>Long Description (If Applicable)</u>
01	Undergraduate Credit	N/A
02	Graduate Credit	N/A
03	Continuing Education Unit	N/A
04	Post Graduate Credit	N/A
05	N/A	N/A

12. **Training Credit** - Amount of academic credit hours of continued education units (1, 1.5, or .75) earned by the employee for the completed training. (This should be completed by the agency).

13. **Training Credit Type Code** - Select and insert the appropriate training credit designation type code:

<u>Code</u>	<u>Short Description</u>
01	Semester Hours
02	Quarter Hours
03	Continuing Education Unit

14. **Training Accreditation Indicator** - Insert a Yes (Y) or No (N).

15. **Continued Service Agreement Required Indicator** - Insert Yes (Y) or No (N) or non applicable (N/A) in appropriate space. (Agency response.)

16. **Continued Service Agreement Expiration Date** - (Enter date as yyyy-mm-dd).

17. **Training Source Type Code** --

<u>Code</u>	<u>Short Description</u>	<u>Long Description (If Applicable)</u>
01	Government Internal	Training provided by a Federal department, agency, or independent establishment for its own employees.
02	Government External	Training provided by an interagency training activity, or a Federal department, agency, or independent establishment other than the one which currently employs the trainee.
03	Non-government	Sources include commercial or industrial concern, educational institutions, professional societies or associations, or consultants or individuals who are not Government employees, (but are contracted to develop and/or provide training course or program.)
04	Government State/Local	Training provided by a state, county, or municipal Government. Education provided by State-operated or other public educational institutions is reported as non-Government.
05	Foreign Governments and Organizations	Training provided by non United States entities which may or may not be outside the United States.

18. **Training Objectives** - It is important that the objectives for the employee(s) enrolling in this course or program is related to the strategic objectives of the organization for which the employee works. Provide text to explain how the training event meets agency objective(s) and purpose type.

19. **Agency Use Only** -For use by an agency as needed.

Section C - Costs and Billing Information

1. *Direct costs and appropriation/fund chargeable*

- a. **Training Tuition and Fees Cost** - Insert the actual/final cost of training tuition and fees for training completed by the employee that was paid for by the Federal Government.
- b. **Books and Materials Costs** - Insert the materials cost for training completed by the employee that was paid for by the Federal Government. (Refer to the Guide for Human Resources Reporting Guide at <http://www.opm.gov/feddata/guidance.asp> for more information).
- c. **Total Cost** - Insert the actual/final cost.

2. *Indirect costs and appropriation/fund chargeable*

- a. **Training Travel Cost** - Insert the actual/final travel cost excluding per diem for training completed by the employee that was paid for by the Federal Government.
- b. **Training Per Diem Cost** - Insert the actual/final per diem cost (e.g., meals, lodging, miscellaneous expenses) for training completed by the employee that was paid for by the Federal Government.
- c. **Total Cost** - Insert the actual/final cost.

3. *Total Training Non-Government Contribution Cost* - Insert the cost contributed by the employee or other non-Government organizations for the training completed by the employee.

4. *Document/Purchase Order/Requisition Number* - Enter Document/Purchase Order/Requisition Number for reimbursement of training costs to responsible Training Vendor. This number is to be referenced in the billing process.

5. *8-Digit Station Symbol* - Fill in 8-digit station symbol of the nominating Agency Finance Office.

6. *Billing Instructions* - Enter name and mailing address of nominating Agency Finance Office for billing purposes.

Section D - Approvals

1-3e. *Approvals* - To be completed by the employee's immediate and/or second-line supervisor(s) before submission of application to nomination Agency Training Office.

Section E - Approvals/Concurrence

1-1e. *Approval/Concurrence* - To be completed by the nominating Agency Official who is authorized to approve or disapprove request.

Section F - Certification of Training Completion and Evaluation

NOTE: Agency Certifying Officials are certifying the employee has completed the requirements for the training and an evaluation has been completed. The requirement to evaluate training is found in 5 CFR 410.601. The agency head shall evaluate training to determine how well it meets short and long-range program needs of the agency and the individual. The needs should be aligned with the strategic plan to strengthen and develop the performance and behavior of the individual whose positive results will impact the performance of the agency.

Block 11 - SWCT Explanation of Charges on Travel Voucher

REVISED 2-12-99

This form should be completed to explain all SWCT expenses in Block 11 of the travel voucher (including National Office sponsored events).

Name: _____ **Voucher Month:** _____

(Please identify course name, conference attended for training (non EAO activity and associated core competency for each activity.)

1. Activity _____

Date(s): _____

Total travel and per diem amount: \$ _____

Associated Core Competency: _____

2. Activity: _____

Date(s): _____

Total travel and per diem amount: \$ _____

Associated Core Competency: _____

***TOTAL for the month: Field SWCT Travel \$** _____

National Office SWCT \$ _____

SUPERVISOR SIGNATURE: _____

***The total amounts must equal the SWCT amount in Block 11 of your voucher. If this section is not completed, the total amount in Block 11 will be charged to Field SWCT.**

DIRECTIVE 6301. CONTRACTS

1. Purpose. This Directive outlines the delegation of authority from the Director and the policies, procedures, and responsibilities of officials for the execution and administration of contracts for the Federal Mediation and Conciliation Service.
2. Definition. A contract is a legally enforceable agreement between two or more parties by which rights are acquired by one party based on the duty of the other party to perform. This includes many types of documents that obligate the government on expenditure of funds to obtain some benefit.
3. Basic Authority. Pursuant to Title II, Section 202 of the Labor Management Relations Act of 1947, the Director is authorized to make such expenditures for supplies, facilities, and services as he deems necessary. Such expenditures shall be allowed and paid upon presentation of itemized vouchers therefore approved by the Director or by any employee designated by him for that purpose.
4. Delegation of Authority. The Director is responsible for assuring that all federal procurement laws and regulations are adhered to, and that the direction and policies of the President, Office of Management and Budget, and the General Services Administration are followed. The Director has delegated contracting authority by designating Contracting Officers.
5. Basic Policies. The policies that must be observed in the execution of contracts for FMCS are set forth in the sub-paragraphs that follow. They are fundamental principles of government contracting and apply generally to all contracts. They are covered in various federal procurement laws and regulations. All contracts executed by FMCS are regulated by the Federal Acquisition Regulations (FAR).
 - a. Authorization. All procurement accomplished through contract must be expressly or implicitly authorized by statute.
 - b. Appropriateness. Contracting must be an appropriate way to accomplish the project or service. Contracts may be used to carry out the legitimate official business of government. However, if the Congress has specified a different method of accomplishing the task, contracts may not be used. An agency is barred from obtaining personal services on a contract basis when such a contract creates an employee-employer relationship.

- c. Availability of Funds. Before any contract can be executed, the Director of Budget and Finance must certify availability of funds through a written procurement request. Contracts may not be made in excess of, or in advance of, available funds. Funds may not be obligated for other than the purpose of which they were approved/appropriated by Congress.
 - d. Procedures and Terms. Required contracting procedures and terms must be used in the solicitation and award of contracts. Contracts can be declared invalid if required procedures are not employed.
 - e. Unauthorized Acts or Promises. The government is not bound by acts or promises of unauthorized personnel. An employee of the Service can be held personally liable for acting outside the limits of his or her authority. Only a Contracting Officer can legally bind the government to a contract.
 - f. Benefits and Services. The government must receive some cogent benefit or service as an end product of a contract.
6. Procedures. In order to insure that basic policies for contracts are uniformly followed throughout FMCS, the procedures set forth in the following sub-paragraphs will be observed.
- a. Notification to Contracting Officer. Upon determining that a bonafide need for a contract exists, national office or field directors shall notify a Deputy Director or a Contracting Officer at least 30 days in advance of the time the contract should be executed. Emergency needs requiring quicker action should be highlighted. The notification shall be in writing and request that a contract be solicited. The following will be included in the Procurement Request (PR) Package:
 - (1) A funds certified Procurement Request (PR) establishing the bonafide need.
 - (2) A Statement of Work (SOW), Statement of Objectives (SOO) or a Performance Work Statement (PWS) that includes the definition of the nature of the service or product requested, the terms of the proposed contract, the date by which the contract is required, and the relationship of the contract to the official business of FMCS.

- (3) Market Research documents with at least three (3) suggested vendors.
 - (4) Sole Source Justification (Justification for Other than Full and Open Competition (JOTFOC), if necessary.
- b. Approval of Need. The Contracting Officer will obtain the approval of a Deputy Director, the Chief Financial Officer (CFO), or the Director of Field Operations , of the need for the contract. No further action will be taken by any employee of the Service until such approval is given.
- c. Negotiation and Execution of the Contract. When a decision has been made to proceed with a contract, the negotiation and execution of a contract will conform to the following provisions:
 - (1) Providing Information. It shall be the responsibility of the requesting office head to provide the Contracting Officer, upon request with specifications defining as precisely as possible the service or product required and other pertinent information. The requesting office head may also recommend potential contractors.
 - (2) Solicitation Document. It shall be the authority and responsibility of the Contracting Officer to prepare an appropriate solicitation document, determine the method of procurement, ensure evaluations are performed by the requiring official before selection of the contractor, verify funding, conduct negotiations, and award the contract. Preliminary discussions with a proposed contractor will ordinarily be conducted by the official proposing the contract in conjunction with the Contracting Officer, but under no circumstances is any kind of commitment to be made by any employee except the Contracting Officer.
 - (3) Responsibility for Justifications. The Contracting Officer shall be responsible for insuring that justifications, reports, determinations and findings, and documentation of such are secured as required by federal procurement laws and regulations.
 - (4) Responsibility for Documentation. The Contracting Officer shall insure that proper documentation and invoicing are secured in order to effect payment.

- (5) Review by General Counsel. The General Counsel shall review all contracts over the Simplified Acquisition Threshold in accordance with the FAR Subpart 13, and all other contracts, when deemed necessary by the Contracting Officer, for legal sufficiency, including consideration of factors set forth under paragraph 5. (Basic Policies) of this directive. The Contracting Officer shall be responsible for consulting with the General Counsel on all questions of law involving the execution of contracts.
 - (6) Sole Source Procurement. When the product or service required can be obtained only from one source, non-competitive sole source procurement can be authorized pursuant to the requirements of the Competition in Contracting Act (CICA) as implemented by FAR Subpart 6.3 and in accordance with the requirements of FAR 6.303-1. The Contracting Officer must execute a formal determination and findings providing the facts and basis for such a sole source decision in accordance with the FAR.
- d. Administration of the Contract. The administration of the contract requires continuing coordination between the operating official utilizing the services or products and the Contracting Officer.
 - (1) Designation of Contracting Officer's Technical Representative (COTR). The Contracting Officer shall be responsible for designating an appropriate FMCS FAC-COTR to monitor the progress of the contract by COTR assignment letter. The COTR shall be referred to as the Contracting Officer's Technical Representative for a specific contract. The COTR is usually a program official who is most directly involved with the technical program aspects of the contract.
 - (2) Responsibilities of the COTR. The COTR shall be responsible for reports of progress by the contractor to the Contracting Officer under the terms specified in the contract.
 - (3) COTR's Role in Payments. The contractor shall submit all invoices to the Budget and Finance Office. COTR shall be responsible for providing the Contracting Officer with a certificate that the services or products have been received and that the level of effort satisfies the needs of the agency.

- (4) Contracting Officer's Role in Payments. The Contracting Officer shall provide the Budget and Finance Office a certification that the services or products received are consistent with the terms of the contract and that payment is requested. Payment of any invoice shall not be made by the Budget and Finance Office until the Contracting Officer has provided certification that all services have been performed or products received as required by the terms and conditions of the contract. The Contracting Officer shall maintain a Payment Record spreadsheet to ensure proper payments and the remaining funds on the contract.

DIRECTIVE 6302. PURCHASING

1. Purpose. This directive outlines the policies, procedures, and responsibilities for obtaining supplies, equipment, and services involving the expenditure of appropriated/available funds.
2. Policy. The Federal Mediation and Conciliation Service maintains procurement management systems, consistent with federal laws and regulations, to provide supplies, equipment, and services to efficiently accomplish its mission.
3. Purchasing Authority. Title II, Section 202(b), of the Labor Management Relations Act, 1947, as amended, authorizes the Director of FMCS to make such expenditures for supplies, facilities, and services as he deems necessary. The authority to make such expenditures may be delegated by the Director to any employee of the Service.

- a. Delegation of Purchasing Authority (DPA). The Director has delegated purchasing authority to Contracting Officers (CO) and those individuals issued government credit cards will receive authority in writing, pursuant to the FAR 1.603-3(b) which states, "You are hereby delegated procurement authority for the use of the Government Purchase Card subject to the limitations set forth below."

Limitations: Purchases made under this delegation have the following monetary limitations:

Single Purchase Limit \$ Micro-purchase Threshold \$3,000 (currently) or less
Monthly Purchase Limit \$ Not more than \$10,000 (non Contracting Officers)

The DPA letter will be issued by the Agency Organization Program Coordinator (AOPC), via the Head of the Contracting Activity (HCA). The Director of Administrative Services shall serve as the Head of the Contracting Activity (HCA). No other employee of the Service has the authority to make expenditures.

- b. General Purchasing Authority. The Director of Administrative Services has established general purchasing procedures, consistent with paragraph 4 below, to provide for the efficient purchase of routine or recurring services or supplies.
 - (1) Office Machine Repair. Supervisors are authorized to contact the appropriate vendor directly if the service required is authorized by a maintenance contract.
 - (2) Conference Rooms and Meeting Space. National office Contracting Officers are authorized to procure conference room space when appropriate documentation, specifics, market research, agendas, and approvals are submitted. In addition, the

DMS's may procure, by Government Purchase Card, meeting space when required for meetings with the parties, when appropriate.

- (3) Purchases from GSA Advantage. DMS's are authorized to purchase office supplies from General Services Administration (GSA) Advantage. Any purchase totaling more than \$1,000.00 must be approved by a national office Contracting Officer when using DoDAAC/AAC/RUC 933100 FMCS AAC.
- 4. Purchasing Procedures. Procedures are set forth below for the purchase of supply items; printed or duplicated material; furniture and office equipment; telephone service; and other miscellaneous services or products for official purposes.
 - a. Administrative Supply Items. Administrative supply items are recurring use supply items such as pens, papers, and forms that are regularly stocked by Administrative Services.
 - (1) Ordering from FMCS Supply Center. Complete and forward FMCS Form AS-1, Requisition, or send E-Mail request to a Contracting Officer. (See Attachment 1 to this directive.)
 - (a) Submit separate requests for each location, i.e., if stock items are needed for a regional office and for a field office, submit a separate request for each.
 - (1) Ordering from GSA Advantage. Routine supplies may be ordered directly from GSA Advantage in accordance with 6302.3.b.(3) above. Access to the Account for FMCS is established by a Contracting Officer upon field director request.
 - (2) Back Orders. If the supply of an item ordered from Administrative Services has been exhausted, it may be "backordered" until a new supply is received. The term "back ordered" will be noted in the margin of a copy of FMCS Form AS-1 that is returned to the requester.
 - b. Non-stock Items. Non-stock items consist of furniture and office equipment, subscriptions, office alterations, and other miscellaneous services and products.
 - (1) Requests. Complete and forward FMCS Form AS-1 request to a CO.
 - (a) The request must be approved by the requesting national office or field director.

- (b) Separate requests should be submitted for each location, i.e., regional offices or field offices.
 - (c) Separate requests should be submitted for the following general categories:
 - (i) Books and subscriptions.
 - (ii) Printing and binding.
 - (iii) Furniture.
 - (iv) Equipment.
 - (v) All others (separate request for each category).
 - (d) Requisitions should include a brief justification for the items requested.
 - (e) Requests should include the following additional information, if available:
 - (i) Brief description of item.
 - (ii) Suggested vendor.
 - (iii) Applicable discount terms.
- (2) Procurement Methods. Whenever an item cannot be filled from stock, the Contracting Officer will determine the alternative method of purchase. Items are usually offered for sale to the government in accordance with terms of purchase contracts negotiated by the General Services Administration. Many such contracts are mandatory for FMCS use. Under such circumstances, no part of the purchase price may be paid from FMCS appropriations if obtained from a source other than the authorized contractor.
- (a) The proper contract vehicle (Task Order, Delivery Order, Purchase Orders, Government Purchase Card purchases or GSA Advantage on-line) is assigned once Procurement Requisitions are prepared and received by the Contracting Officer, for most national and field office purchases. The Procurement Request is routed through the Budget & Finance Office for certification of availability of funds prior to award of the contract vehicle. The Government Purchase Card (for purchases up to \$1,000) and GSA Advantage on-line purchases (using DoDAAC/AAC/RUC 933100 FMCS AAC) are pre-approved, then reviewed, obligated and expended when invoices and receipts are submitted to the office of Budget and Finance.

- (b) When items are delivered, the requesting office or Contracting Officer should determine whether delivery is complete and check for damage or shortage. Those persons designated to accept delivery should date and sign the Receiving Report Copy. If only partial delivery has been made, or if there is damage or shortage, this should be noted on the Receiving Report. The Receiving Report should be sent to Contracting Officers. Information on the Receiving Report will be entered on the Purchasing Office Copy.
 - c. Office Machine Repair. For repair service of an office machine that is covered by a service contract, the authorized vendor should be contacted by an FMCS representative of the office concerned.
 - d. Changes in Telephone Service for Regional and Field Offices. The appropriate field office director should submit an AS-1 or E-Mail to Administrative Services detailing the telephone service requested and the existing service that is to be deleted or changed. Any telephone changes shall be handled at the National Office level by the Telecommunications Specialist.
 - e. Miscellaneous Reimbursements. Reimbursement of employees for small purchases of expendable office supplies, and non-travel related expenditures are reimbursed through a Miscellaneous Reimbursements procedure.
 - (1) Policy. The Miscellaneous Reimbursement Form is routed through the supervisor and forwarded with electronic receipts to the office of Budget and Finance for electronic payment.
 - (2) The Miscellaneous Reimbursement procedure may be used for the following types of procurements and payments:
 - (a) Small purchases of expendable office supplies.
 - (b) Registration fees for conferences when such payment is authorized.
 - (c) Home office phones and internet.
5. Certification Required.
- Bills and statements received from vendors for repairs, services, equipment, etc., serving as Receiving Reports, should be certified by the individual receiving the services or goods by signing and dating, then forwarding to the office of Budget and Finance.

DIRECTIVE 6303. GOVERNMENT PURCHASE CARDS AND CHECKS

1. Purpose: This Directive outlines the delegation of authority from the Director and the policies, procedures, and responsibilities of officials on the use of Government Purchase cards and checks. The Government Purchase cards and/or checks are issued to select FMCS employees to facilitate agency operations and may be used to pay for small purchases made in accordance with Part 13 of the Federal Acquisitions Regulations (FAR). Without exception, the Government Purchase cards or checks may be used only to pay for authorized Government purchases.
2. Delegation of Authority: The Director is responsible for assuring that all federal procurement laws and regulations are adhered to, and that the direction and policies of the President, Office of Management and Budget, and the General Services Administration are followed. The Director has delegated authority for management of the Government Purchase card and check program to the Chief Financial Officer and the Director of Administrative Services.

The Agency/ Organization Program Coordinator (AOPC) or the Head of the Contracting Agency (HCA) will, pursuant to FAR 1.603-3cb, delegate procurement authority in writing to card holders for the use of the Government Purchase card. The delegation will include the following limitations:

Single Purchase Limit \$ Micro-purchase Threshold \$3,000 (currently) or less
Monthly Purchase Limit \$ Not more than \$10,000 (non Contracting Officers)

The Director of Administration will serve as the HCA.

3. Approval Process. The Director is authorized to approve the issuance of Government Purchase cards and checks to select FMCS employees, based on their job responsibilities. Positions that entail responsibilities that may require the use of Government Purchase cards and checks include: Director of Field Operations; Directors of Mediation Services; Contracting Officers; Education and Training Director; and Director of Administrative Services. With the Director's Approval, positions may be added as deemed necessary by a Deputy Director in consultation with the Chief Financial Officer and the Director of Administrative Services.
 - a. Transaction Purchase Limit. Transactions of less than \$1,000 do not require prior approval. Any single transaction of \$1,000 or more must have prior approval in writing from the cardholder's supervisor. Cardholders may pay commercial phone bills by the Government Purchase card or check without prior approval.
 - b. Written prior authorization of the purchase must be attached to the purchase statement. It is the cardholder's responsibility to secure approval prior to purchase.

4. Authorized Use of the Card. The Government Purchase card is embossed with the employee's name and may be used only by that individual. No other person is authorized to use the card except the cardholder. The card will be withdrawn from any cardholder with the possibility of disciplinary action for allowing unauthorized use. It is the cardholder's responsibility to safeguard the Government Purchase card and account number at all times.
- a. When a merchant seeks authorization for a charge, the Government Purchase card authorization systems check the individual cardholder's single purchase limit, the cardholder's 30-day limit, and the type of merchant where the cardholder is making a purchase before granting authorization for that transaction.
 - b. Use of the card must meet the following conditions:
 - (1) The total of a single transaction may be comprised of multiple items and under no circumstances can the purchase exceed the authorized single limit. Purchases will be denied by the merchant if the authorized single transaction limit is exceeded. Cardholders shall not split payment for purchases in order to stay within the single transaction limit.
 - (2) All items purchased over the counter to be paid for using the card must be immediately available. Purchases cannot be backordered. When purchasing items over the counter, the cardholder should inform the merchant that it is for official Government purchases and therefore is not subject to state or local sales taxes. (The card is imprinted with "U.S. Govt. Tax Exempt.")
 - (3) All accountable personal property and property on the FMCS Sensitive Items List purchased with the purchase card must be reported, within 5 business days, in writing, to the Office of Administrative Services-Property Manager for inclusion in the FMCS property inventory system. Purchasers must complete an Equipment Control Record Card (attached).
 - (4) Typical credit card or check purchase items include the following: small office supplies if comparable to or less than GSA prices; small office machine purchase and repairs not under a maintenance agreement; commercial phones; and employee registration fees.
5. Telephone Ordering Procedures. Cardholders must comply with the following instructions when placing a telephone order using the Government Purchase card:
- a. When purchasing items by phone, the cardholder should inform the merchant that it is for official U.S. Government purchases and therefore is not subject to state or local sales taxes.

- b. Give your name as it appears on the Government Purchase card, the Agency's name, the complete shipping address, with the building number and mail stop number, if applicable, and a business telephone number.
- c. Insist that the vendor compute the entire charge, including shipping, handling, and other fees, and advise the cardholder of the exact amount that will be billed against the Government Purchase card.
- d. Obtain an approximate delivery date for the item(s) ordered.
- e. Enter a record of the purchase in a log. (See Transaction Log Sheet, an example attached.)

6. On-line Internet Non-Competitive Small Purchases.

Cardholders must comply with the following instructions when placing an internet order using the Government Purchase card:

Security is a prime consideration in making internet purchases. Purchase card internet orders may be made only through the FMCS web browser. The cardholder shall not use a home computer or personal internet account for purchase card orders.

To place an internet order, the cardholder must use a web browser that supports Secure Socket Layer (SSL) encryption (i.e., Explorer version 2.1 or greater; or Navigator version 2.0 or greater). A vendor web page that supports secure transmissions will generally have an internet address that begins with <https://> rather than with <http://>. Also, a secure symbol, such as a padlock or key, should be displayed in a lower corner on the browser. As required for all purchases, the cardholder shall carefully verify the charges on all subsequent statements.

GSA Advantage is an internet ordering system that helps provide for a secure transfer of data. It includes all GSA's customer service center products and many federal supply schedules, such as, telecommunications equipment and ADP supply schedules. GSA Advantage allows cardholders to search through the GSA schedules and select the best value product for the requirements.

The GSA Advantage web site is: <http://www.gsaadvantage.gov/>.

- 7. Authorized Use of Government Purchase Checks. Checks may be used to procure products and services similar to that of the Government Purchase card ONLY if the vendor does not accept the purchase card.
- 8. Unauthorized Purchases or Careless Use of the Government Purchase Cards and Checks. A cardholder who misuses the Government Purchase card or check by making unauthorized purchases may be liable to the FMCS for the total dollar amount for such purchases. A cardholder may also be subject to disciplinary action for unauthorized or misuse of a card in

accordance with FMCS Directive, Part 6000, Chapter 6300, Directive 6302. Cardholders shall not make purchases of anything other than for official business use, and shall not write convenience checks to the order of any FMCS employee, for any reason.

9. Questionable Products or Purchases. If a cardholder is contemplating a purchase and is unclear as to the required approvals or authorization, the cardholder should check with the approving official. If the approving official is uncertain about a proposed purchase or action, the approving official should check with the AOPC.
10. Documentation. Proofs of purchases are required for each purchase made using the Government Purchase card or check. These documents will be used to verify the purchases shown on the cardholder's monthly statement.
 - a. The cardholder must obtain a customer copy of the charge slip when a purchase is made over the counter. The customer copy becomes the accountable document. The cardholder should ensure that all carbons are destroyed after signing the charge slip to avoid use of the card in any improper or illegal way.
 - b. The cardholder must maintain a complete record of all transactions and attach any shipping documents associated with telephone purchases. All credit card files, to include certified billing for statements and supporting documentation, must be maintained for 3 years after final payment of invoice.
11. Reconciliation. The cardholder must approve/reconcile the information on his/her billing statement and enter a description for each purchase, including item(s) purchased, and for whom or which office the item(s) was purchased. This can be done any day within the billing cycle; however it must be done within five (5) business days after the statement closing date, the 25th day of each month.
 - a. It is the cardholder's responsibility to validate each purchase on the statement. If an item has been returned and a credit voucher received, the cardholder must verify that the credit is reflected on the statement. Transaction documentation must be retained by the cardholder if purchases and credits do not appear on the next monthly statement.
 - b. It is the cardholder's responsibility to notify the Director of Administrative Services or his/her designee to resolve and reconcile the monthly statements. If the cardholder does not have the documentation of the transaction to send with the statement, an explanation must be attached that describes the item(s) purchased, date of purchase, merchant's name, and a reason why the supporting documentation is not available. The Director of Administrative Services may reject a cardholder's explanation and request additional information as deemed necessary to substantiate the purchase.

13. Disputing a Sales Transaction. The procedure to dispute a sales transaction is:

- a. First, attempt to resolve the dispute with the vendor.
- b. Complete the Cardholder Statement of Questioned Item form (see attached). The form is available from the Office of Administrative Services.
- c. Pay particular attention to:
 - describing the attempted vendor resolution
 - signing the form
 - providing your daytime telephone number, including the area code
 - attach any supporting documentation such as credit vouchers, return shipping documents such as postal or other shipping company receipts.

Return the original form to the address on the form and retain a copy for your records. Forward a copy to the Director of Administrative Services or his/her designee.

The statement of the questioned item must be returned to the vendor no later than 60 days from the date on which the transaction appeared on the statement. This time limit preserves your right to dispute the transaction.

14. Responsibilities.

- a. The cardholder is responsible for:
 - (1) Reviewing and reconciling each transaction on his or her monthly statement;
 - (2) Certifying and classifying each transaction on the monthly statement; and
 - (3) Providing explanations by the 5th working day after the statement closing date.
- b. The Budget and Finance Office is responsible for:
 - (1) Verifying each payment invoice with the monthly statement;
 - (2) Obligating, expensing, and making payments to vendors;
 - (3) Making timely payments so as to avoid late payment penalties; and
 - (4) Maintaining supporting documentation on all purchases for a minimum of three years from the date of invoice payment.

15. Lost or Stolen Cards. The cardholder is responsible for immediately notifying the Agency Organization Program Coordinator and the card issuing bank if a card is lost or stolen. The telephone numbers for the issuing bank are issued with your Government Purchase card or can be found on the back of the card.

DIRECTIVE 6401. PRINTING AND DISTRIBUTION

1. Purpose. The purpose of this directive is to outline the responsibilities and procedures for printing and distribution to insure that these functions support the accomplishment of the FMCS mission in the most efficient and economical manner possible.
2. Authority. Government Printing and Binding Regulations No. 23, October, 1974, requires heads of Agencies to maintain, under their direct supervision, a central service with responsibility for the conduct of a coordinated program controlling the development of materials to be printed; and the procurement, production, and distribution of printed material. The central service for FMCS is located in the Branch of Support Services, Office of Administrative Services.
3. Responsibilities.
 - a. National Office Managers/Directors and District Directors. National Office Managers/Directors and District Directors are responsible for:
 - (1) Insuring that all printing and reproduction requests, originating from their offices, relate to, and are necessary for, the conduct of official Government business.
 - (2) Obtaining a determination from the Office of General Counsel, prior to submission of a request, whether or not copyrighted material can be reproduced in accordance with the doctrine of "fair use" or on any other basis. Factors affecting such determination can include the following:
 - (a) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
 - (b) The nature of the copyrighted work;
 - (c) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and,
 - (d) The affect of the use upon the potential market for or value of the copyrighted work.
 - b. Branch of Support Services. Staff of the Branch of Support Services is responsible for:
 - (1) Advising and assisting ordering offices on all printing and reproduction matters.
 - (2) Determining the most economical and efficient method of reproducing copy,

including whether the work will be done in the FMCS shop, at the Government Printing Office, or elsewhere.

- (3) Ensuring that FMCS printing requests to the Government Printing Office or to printing and reproduction contractors have been approved by the Director of Administrative Services.
- (4) Providing all printing facilities in-house that are practical and economical, such as printing, binding, quick copy, punching, and collating services.
- (5) Providing consultation regarding any special printing services that are available in-house or outside the Agency, i.e., map reproduction and blueprints.

4. Procedures. The following procedures will be observed by all supervisors in submitting printing requests and preparing copy for reproduction:

Submitting Printing Requests. All material submitted to the Branch of Support Services must be complete and in final form, and be accompanied by a printing requisition, FMCS Form AS-46 Duplication Slip. Materials and AS-46 can be submitted electronically to PrintShopDC@fmcs.gov (See Attachment 1 to this Directive). No work will be scheduled until all soft copies relating to a specific request are supplied. "Soft" or electronic masters only will be accepted.

- b. Preparing FMCS Form AS-46. The following instructions correspond to the blank spaces on FMCS Form AS-46:

- (1) "Date" - Enter date request is being submitted.
- (2) "From" - Enter name of requesting supervisor.
- (3) "Identify Work" - Enter a brief description of the work or the title.
- (4) "No. of Pages" - Enter number of original pages submitted.
- (5) "Copies per Page" - Enter number of copies of each page needed.
- (6) "Paper Size" - Check appropriate box for paper size desired.
- (7) "Method" - Check appropriate boxes. Quick copy is Xerox-type duplication; "offset" is the method used for larger quantities of duplication; if reduction is desired. Consult the Branch of Support Services for capabilities. When requesting two-sided printing other than head-to-head, submit a sample for the printer to follow. When requesting punching or stapling on multi-page publications, provide sample for clarity.

- (8) "Distribution Instructions" - Give standard distribution list, if appropriate, and/or indicate what supplemental distribution beyond standard distribution lists may be required (providing lists and/or labels as necessary). If all copies are to be sent to one location, enter that location as indicated.
 - e. Scheduling by the Branch of Support Services. Normally, the Branch of Support Services schedules its printing in the order in which complete copies and requisitions are received. Unless otherwise stated in the requisition form, most printed materials may be completed within the same day of the request. A written response from Support Services will be sent via email in regards to reception and possible scheduling conflicts.
- 5. Conserving Printing Funds. Requesting supervisors should observe a few basic rules in connection with each printing request so that overall costs can be kept as low as possible without sacrificing efficient support to the FMCS mission.
 - a. The original printing request, on any job, should cover all present requirements as well as any future requirements that can be reasonably projected.
 - b. Substantive changes and editing of material after submission should be avoided, if at all possible. To the maximum extent feasible, the first copy submitted should be the final copy.
 - c. Supervisors should plan work to allow enough time for completion of a printing project during regular working hours.
 - d. Emergency printing of materials necessary for the conduct of official FMCS business can be procured locally from commercial printing vendors only with advanced approval of the appropriate supervisor. Justification must be given for use of non-government printing sources. FMCS has an account with GPO Express via FedEx/Kinko's which offers printing services at a discounted price when needed. Account holders will be limited to Support Services only, therefore field offices need to go through Support Services to use this account.
- 6. Distribution. A number of standard distribution lists have been established in FMCS. The majority of the distributions are now issued through e-mail and the FMCS intranet and/or internet. If a standard list exists for a paper distribution, that list will be used. Variations may be made when a good reason exists for a departure from the standard list.
 - a. Standard Distribution Lists. Standard distribution lists exist for most of the FMCS Issuance System which covers the bulk of the material that is distributed in the Agency. The Branch of Support Services provides information on the distribution that is to be made of directives and bulletins under the Issuance System.
 - b. Special Distribution. Special distributions are used to distribute materials other than the materials which are part of the FMCS Issuance System, if requested. This is no

longer an automatic process, and it is mostly distributed through e-mail and intranet. Such material, includes FMCS Press Releases, Handbooks, and materials originally issued by other Agencies and organizations.

- c. Procedures. The Office of Information Systems and Administrative Services maintains standard distribution lists as well as any special distribution lists that need to be maintained to meet recurring needs of employees. Special one-time distribution lists and other instructions may be submitted with the printing requisition, FMCS Form AS-46.

DIRECTIVE 6402. INVENTORY PROPERTY MANAGEMENT

1. Purpose. The purpose of this directive is to provide the service policies and procedures with regard to inventory property management as set forth in Federal Management Regulations (FMR).
2. Authority. The head of the Office of Administrative Services is responsible for maintaining an inventory of agency equipment with all relevant records associated with the equipment from the date of acquisition to the date of disposal. The inventory tracking duties, but not ultimate responsibility, may be delegated to the Property Management Specialist.
3. Responsibilities.
 - a. Each DMS is responsible for maintaining property inventory control within his/her district.
 - b. Equipment obtained by agency funds is acquired by issuing a purchase order, task/delivery order or through the use of the Agency's government purchase card. The Procurement Officer maintains copies of purchase orders and records related to purchase card purchases of equipment. The inventory process begins on the date of receipt of goods. The Property Management Specialist (PMS) obtains relevant data for each item, assigning unique inventory property identification numbers to each record, and maintains the information on an automated tracking system (Sunflower Systems). The PMS will send an Equipment Control Record card to the appropriate custodian for his/her signature acknowledging responsibility for the personal property. The custodian will return the card to the PMS to file with related documents.
 - c. The Property Management Specialist has the responsibility of collecting and recording in the inventory system (Sunflower Systems) all data related to the computer equipment and for sensitive items such as fax machines, cameras, televisions, copiers, LCD projectors, and VCRs etc. The data collected consists of the following: bar coded property tag number, description, model number, manufacture, purchase order number, acquisition value, and date of purchase.
 - d. The Office of Administrative Services has the responsibility of conducting a physical inventory of all agency equipment by June 30th of each year. The inventory should account for 100% of capital property equipment and allow for a 15% random sampling basis of laptops. The PMS has the responsibility of reviewing all capital inventory items two weeks before the June 30th deadline. This process allows each field office to verify inventory, and make appropriate corrections with the corresponding documentation, complete certification forms, and return the information to the PMS for verification. Verification of records includes the

information about the equipment including its location and use. If the location of the equipment changes during the year, the office must notify the Property Management Specialist, so that the inventory record can be updated. Corrections can be noted directly on the computer-generated lists or on a scanner that can be connected directly to the inventory system. The PMS will solicit an explanation from the custodian for any equipment that is coded as missing at the annual inventory. If the custodian has determined that the equipment has been stolen, the custodian will complete a Report of Survey and will report the theft to the local Police Department and the Property Management Specialist.

- e. The Property Management Specialist will meet with appropriate officials of the Office of Budget and Finance two weeks prior to the end of each quarter to reconcile any differences in agency reporting.

Authority:

29 U.S.C. 172 and 29 U.S.C. 173 et seq.

Subpart A -- Arbitration Policy; Administration of Roster**1404.1 Scope and Authority**

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Pub L. 80-101) as amended. It applies to all arbitrators listed on the FMCS Roster of Arbitrators, to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or fact-finding.

1404.2 Policy

The labor policy of the United States promotes and encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and fact-finding are important features of constructive employment relations as alternatives to economic strife.

1404.3 Administrative Responsibilities

(a) *Director.* The Director of FMCS has responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster and FMCS arbitration procedures.

(b) *Office of Arbitration Services.* The Office of Arbitration Services (OAS) maintains a Roster of Arbitrators (the Roster); administers Subpart C of this part (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.2**

arbitrators; and provides names or panels of names of listed arbitrators to parties requesting them.

(c) *Arbitrator Review Board.* The Arbitrator Review Board shall consist of a chairman and members appointed by the Director who shall serve at the Director's pleasure. The Board shall be composed entirely of full-time officers or employees of the Federal Government and shall establish procedures for carrying out its duties.

(1) *Duties of the Board.* The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in Section 1404.5;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under subsection 1404.5;

(iii) Recommend to the Director the acceptance or rejection of applicants for listing on the Roster, or the withdrawal of listing on the Roster for any of the reasons set forth in this part;

(iv) At the request of the Director of FMCS, review arbitration policies and procedures, including all regulations and written guidance regarding the use of the FMCS arbitrators, and make recommendations regarding such policies and procedures to the Director.

(2) [Reserved]

Subpart B -- Roster of Arbitrators; Admission and Retention**1404.4 Roster and Status of Members**

**ORIGINAL ISSUANCE
JUNE 1997**

(a) *The Roster.* FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in 1404.5 and who remain in good standing.

(b) *Adherence of Standards and Requirements.* Persons listed on the Roster shall comply with FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by the OAS pursuant to Subpart C of this part. Arbitrators shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

(c) *Status of Arbitrators.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except that arbitrators are subject to certain reporting requirements and to standards of conduct as set forth in this Part.

(d) *Role of FMCS.* FMCS has no power to:

- (1) Compel parties to appear before an arbitrator;
- (2) Enforce an agreement to arbitrate;
- (3) Compel parties to arbitrate any issue;
- (4) Influence, alter, or set aside decisions of arbitrators on the Roster;
- (5) Compel, deny, or modify payment of compensation to an arbitrator.

(e) *Nominations and Panels.* On request of the parties to an agreement to arbitrate or engage in fact-finding, or where arbitration or fact-finding may be provided for by statute, OAS will provide names or panels of names for a nominal fee. Procedures for obtaining these services are outlined in Subpart

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.4**

C of this part. Neither the submission of a nomination or panel nor the appointment of an arbitrator constitutes a determination by FMCS that an agreement to arbitrate or enter fact-finding proceedings exists; nor does such action constitute a ruling that the matter in controversy is arbitrable under any agreement.

(f) *Rights of Persons Listed on the Roster.* No person shall have any right to be listed or to remain listed on the

Roster. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are served. To accomplish this purpose, FMCS may establish procedures for the preparation of panels or the appointment of arbitrators or factfinders which include consideration of such factors as background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties. FMCS may also establish procedures for the removal from the Roster of those arbitrators who fail to adhere to provisions contained in this part.

1404.5 Listing on the Roster; Criteria for Listing and Retention

Persons seeking to be listed on the Roster must complete and submit an application form that may be obtained from OAS. Upon receipt of an executed application, OAS will review the application, assure that it is complete, make such inquiries as are necessary, and submit the application to the Arbitrator Review Board. The Board will review the completed application under the criteria in paragraphs (a), (b), and (c) of this section, and will forward to the FMCS Director its recommendation as to whether or not the applicant meets the criteria for listing on the Roster. The Director shall make all final decisions as to whether an applicant may be listed on the Roster. Each applicant shall be notified in writing of the Director's decision and the reasons therefor.

(a) *General Criteria.* Applicants for the Roster will be listed on the Roster upon a determination that they are

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.5**

experienced, competent, and acceptable in decision-making roles in the resolution of labor relations disputes.

(b) *Proof of Qualification.* Qualifications for listing on the Roster may be demonstrated by submission of five (5) arbitration awards prepared by the applicant while serving as an impartial arbitrator of record chosen by the parties to labor disputes arising under collective bargaining agreements. The Board will consider experience in relevant positions in collective bargaining or as a judge or hearing examiner in labor relations controversies as a substitute for such awards.

(c) *Advocacy.* Any person who at the time of application is an advocate as defined in paragraph (c)(1) of this section, must agree to cease such activity before being recommended for listing on the Roster by the Board. Except in the case of persons listed on the Roster as advocates before November 17, 1976, any person who did not divulge his or her advocacy at the time of listing or who becomes an advocate while listed on the Roster, shall be recommended for removal by the Board after the fact of advocacy is revealed.

- (1) *Definition of Advocacy.* An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant, in matters of labor relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices, equal employment opportunity, and other areas generally recognized as constituting labor relations. The definition includes representatives of employers or employees in individual cases or controversies involving worker's compensation, occupational health or safety, minimum wage, or other labor standards matters. This definition of advocate also includes a person who is directly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm. Consultants engaged only in joint education or training or other non-adversarial activities will not be deemed as advocates.

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.6**

(d) *Duration of Listing, Retention.* Listing on the Roster shall be by decision of the Director of FMCS based upon the recommendations of the Arbitrator Review Board. The Board may recommend, and the Director may remove, any person listed on the Roster, for violation of this part and/or the Code of Professional Responsibility. Notice of cancellation or suspension shall be given to a person listed on the Roster whenever a Roster member:

- (1) No longer meets the criteria for admission;
- (2) Has become an advocate as defined in paragraph (c) of this section;
- (3) Has been repeatedly or flagrantly delinquent in submitting awards;
- (4) Has refused to make reasonable and periodic reports in a timely manner to FMCS, as required in Subpart C of this part, concerning activities pertaining to arbitration;
- (5) Has been the subject of complaints by parties who use FMCS services, and the Board after appropriate inquiry, concludes that just cause for cancellation has been shown;
- (6) Is determined by the Director to be unacceptable to the parties who use FMCS arbitration services; the Director may base a determination of unacceptability on FMCS records which show the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected. Such cases will be reviewed for extenuating circumstances, such as length of time on the Roster or prior history.

(e) The Board may, at its discretion, conduct an inquiry into the facts of any proposed removal from the Roster. An arbitrator listed on the Roster may only be removed after 60-day notice and an opportunity to submit a response or information showing why the listing should not be canceled. The Board may recommend to the Director whether to remove an arbitrator from the Roster. All determinations to remove an arbitrator from the

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.7**

Roster shall be made by the Director. Removals may be for a period of up to two (2) years, after which the arbitrator may seek reinstatement.

(f) The director of OAS may suspend for a period not to exceed 180 days any person listed on the Roster who has violated any of the criteria in paragraph (d) of this section. Arbitrators shall be promptly notified of a suspension. They may appeal a suspension to the Arbitrator Review Board, which shall make a recommendation to the Director of FMCS. The decision of the Director of FMCS shall constitute the final action of the agency.

1404. 6 Inactive Status

A member of the Roster who continues to meet the criteria for listing on the Roster may request that he or she be put in an inactive status on a temporary basis because of ill health, vacation, schedule, or other reasons.

1404.7 Listing Fee

All arbitrators will be required to pay an annual fee for listing on the Roster as set forth in the Appendix to this part.

Subpart C -- Procedures for Arbitration Services**1404.8 Freedom of Choice**

Nothing contained in this part should be construed to limit the rights of parties who use FMCS arbitration services to jointly select any arbitrator or arbitration procedure acceptable to them. Once a request is made to OAS, all parties are subject to the procedures contained in this part.

1404.9 Procedures for Requesting Arbitration Lists and Panels

(a) The Office of Arbitration Services (OAS) has been delegated the responsibility for administering all requests for arbitration services. Requests should be addressed to the Federal Mediation and Conciliation Service, Office of

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.8**

Arbitration Services, Washington, DC 20427.

(b) The OAS will refer a panel of arbitrators to the parties upon request. The parties are encouraged to make joint requests. In the event, however, that the request is made by only one party, the OAS will submit a panel of arbitrators. However, the issuance of a panel -- pursuant to either joint or unilateral request -- is nothing more than a response to a request. It does not signify the adoption of any position by the FMCS regarding the arbitrability of any dispute or the terms of the party's contract.

(c) As an alternative to a request for a panel of names, OAS will, upon written request, submit a list of all arbitrators and their biographical sketches from a designated geographical area. The parties may then select and deal directly with an arbitrator of their choice, with no further involvement of FMCS with the parties or the arbitrator. The parties may also request FMCS to make a direct appointment of their selection. In such a situation, a case number will be assigned.

(d) The OAS reserves the right to decline to submit a panel or make appointments of arbitrators, if the request submitted is overly burdensome or otherwise impracticable. The OAS, in such circumstances, may refer the parties to an FMCS mediator to help in the design of an alternative solution. The OAS may also decline to service any requests from parties with a demonstrated history of non-payment of arbitrator fees or other behavior which constrains the spirit or operation of the arbitration process.

(e) The parties are required to use the Request for Arbitration Panel (Form R-43), which has been prepared by the OAS and is available in quantity upon request to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427, or by calling (202) 606-5111 or at www.fmcs.gov. Requests that do not contain all required information requested on the R-43 in typewritten form may be rejected.

(f) Requests made by only one party, for a service other

ORIGINAL ISSUANCE
JUNE 1997

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.9**

than the furnishing of a standard list or panel of seven (7) arbitrators, will not be honored unless authorized by the applicable collective bargaining agreement. This includes unilateral requests for a second or third panel or for a direct appointment of an arbitrator.

(g) The OAS will charge a nominal fee for all requests for lists, panels, and other major services. Payments for these services must be received with the request for services before the service is delivered and may be paid by either labor or management or both. A schedule of fees is listed in the Appendix to this part.

1404.10 Arbitrability

The OAS will not decide the merits of a claim by either party that a dispute is not subject to arbitration.

1404.11 Nominations of Arbitrators

(a) The parties may also request a randomly selected panel containing the names of seven (7) arbitrators accompanied by a biographical sketch for each member of the panel. This sketch states the background, qualifications, experience, and all fees as furnished to the OAS by the arbitrator. Requests for a panel of seven (7) arbitrators, whether joint or unilateral, will be honored. Requests for a panel of other than seven (7) names, for a direct appointment of an arbitrator, for special qualifications or other service will not be honored unless jointly submitted or authorized by the applicable collective bargaining agreement. Alternatively, the parties may request a list and biographical sketches of some or all arbitrators in one or more designated geographical areas. If the parties can agree on the selection of an arbitrator, they may appoint their own arbitrator directly without any further case tracking by FMCS. No case number will be assigned.

(b) All panels submitted to the parties by the OAS, and all letters issued by the OAS making a direct appointment, will have

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.10**

an assigned FMCS case number. All future communications between the parties and the OAS should refer to this case number.

(c) The OAS will provide a randomly selected panel of arbitrators located in state (s) in proximity of the hearing site. The parties may request special qualifications of arbitrators experienced in certain issues or industries or that possess certain backgrounds. The OAS has no obligation to put an individual on any given panel or on a minimum number of panels in any fixed period. In general:

(1) The geographic location of arbitrators placed on panels is governed by the site of the dispute as stated on the request received by the OAS.

(2) If at any time both parties request that a name or names be included, or omitted, from a panel, such name or names will be included, or omitted, unless the number of names is excessive. These inclusions/exclusions may not discriminate against anyone because of age, race, gender, ethnicity or religious beliefs.

(d) If the parties do not agree on an arbitrator from the first panel, the OAS will furnish a second and third panel to the parties upon joint request and payment of an additional fee. Requests for a second or third panel should be accompanied by a brief explanation as to why the previous panel(s) was inadequate. If parties are unable to agree on a selection after having received three panels, the OAS will make a direct appointment upon joint request.

1404.12 Selection by Parties and Appointments of Arbitrators

(a) After receiving a panel of names, the parties must notify the OAS of their selection of an arbitrator or of the decision not to proceed with arbitration. Upon notification of the selection of an arbitrator, the OAS will make a formal appointment of the arbitrator. The arbitrator, upon notification of appointment, is expected to communicate with the parties within 14 days to arrange for preliminary matters, such as the date and place of hearing. Should an arbitrator be

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100 11**

notified directly by the parties that he or she has been selected, the Arbitrator must promptly notify the OAS of the selection and his or her willingness to serve. If the parties settle a case prior to the hearing, the parties must inform the arbitrator as well as the OAS. Consistent failure to follow these procedures may lead to a denial of future OAS service.

(b) If the parties request a list of names and biographical sketches rather than a panel, they may choose to appoint and contact an arbitrator directly. In this situation, neither the parties nor the arbitrator is required to furnish any additional information to FMCS and no case number will be assigned.

(c) Where the parties' collective bargaining agreement is silent on the manner of selecting arbitrators, the parties may wish to consider any jointly determined method or one of the following methods for selection of an arbitrator from a panel:

(1) Each party alternately strikes a name from the submitted panel until one remains, or

(2) Each party advises the OAS of its order of preference by numbering each name on the panel and submitting the numbered lists in writing to the OAS. The name that has the lowest combined number will be appointed.

(3) In those situations where the parties separately notify the OAS of their preferred selections, once the OAS receives the preferred selection from one party, it will notify the other party that it has fourteen (14) days in which to submit its selections. If that party fails to respond within the deadline, the first party's choice will be honored. If, within 14 days, a second panel is requested and is allowed by the collective bargaining agreement, the requesting party must pay a fee for the second panel.

(d) The OAS will make a direct appointment of an arbitrator only upon joint request unless authorized by the applicable collective bargaining agreement.

(e) The issuance of a panel of names or a direct

ORIGINAL ISSUANCE
JUNE 1997

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.12**

appointment in no way signifies a determination of arbitrability or an interpretation of the terms and conditions of the collective bargaining agreement. The resolution of such disputes rests solely with the parties.

1404.13 Conduct of Hearings

All proceedings conducted by the arbitrators shall be in conformity with the contractual obligations of the parties. The arbitrator shall comply with 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, and the arbitrator's decision shall be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an ex parte proceeding of this nature must be based upon evidence presented to the arbitrator.

1404.14 Decision and Award

(a) Arbitrators shall make awards no later than 60 days from the date of the closing of the record as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. However, failure to meet the 60 day deadline will not invalidate the process or award. A failure to render timely awards reflects upon the performance of an arbitrator and may lead to removal from the FMCS Roster.

(b) The parties should inform the OAS whenever a decision is unduly delayed. The arbitrator shall notify the OAS if and when the arbitrator (1) cannot schedule, hear, and render decisions promptly, or (2) learns a dispute has been settled by the parties prior to the decision.

(c) Within 15 days after an award has been submitted to the parties, the arbitrator shall submit an Arbitrator's Report and Fee Statement (Form R-19) to OAS showing a breakdown of the fee

ORIGINAL ISSUANCE
JUNE 1997

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.13**

and expense charges so that the OAS may review conformance with stated charges under Section 1404.11(a). The Form R-19 is not to be used to invoice the parties.

(d) While FMCS encourages the publication of arbitration awards, arbitrators should not publicize awards if objected to by one of the parties.

1404.15 Fees and Charges of Arbitrators

(a) FMCS will charge all arbitrators an annual fee to be listed on the Roster. All arbitrators listed on the Roster may charge a per diem and other predetermined fees for services, if the amount of such fees have been provided in advance to FMCS. Each arbitrator's maximum per diem and other fees are set forth on a biographical sketch, which is sent to the parties when panels are submitted. The arbitrator shall not change any fee or add charges without giving at least 30 days advance written notice to FMCS. Arbitrators with dual business addresses must bill the parties for expenses from the least expensive business address to the hearing site.

(b) In cases involving unusual amounts of time and expenses relative to the pre-hearing and post-hearing administration of a particular case, an administrative charge may be made by the arbitrator.

(c) Arbitrators shall divulge all charges to the parties and obtain agreement thereto immediately after appointment.

(d) The OAS requests that it be notified of any arbitrator's deviation from the policies expressed in this part. While the OAS does not resolve individual fee disputes, repeated complaints concerning the fees charged by an arbitrator will be brought to the attention of the Arbitrator Review Board for consideration. Similarly, repeated complaints by arbitrators concerning non-payment of fees by the parties may lead to the denial of services or other actions by the OAS.

1404.16 Reports and Biographical Sketches

**ORIGINAL ISSUANCE
JUNE 1997**

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.14**

(a) Arbitrators listed on the Roster shall execute and return all documents, forms and reports required by the OAS. They shall also keep the OAS informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations or which creates or gives the appearance of advocacy as defined in Section 1404.5 (c) (1).

(b) The OAS will provide biographical sketches on each person admitted to the Roster from information supplied by applicants. Arbitrators may request revision of biographical information at later dates to reflect changes in fees, the existence of additional charges, or other relevant data. The OAS reserves the right to decide and approve the format and content of biographical sketches.

**ORIGINAL ISSUANCE
JUNE 1997**

Appendix Schedule of Fees

Annual listing fee for all arbitrators	\$100 for the first address; \$50 for second address
Request for panel of arbitrators:	\$30 for each panel request (includes subsequent appointment)
Direct appointment of arbitrator when a panel is not used	\$20 per appointment
List and biographical sketches plus of arbitrators in a specific area	\$10 per request \$.10 per page



DIRECTIVE 8101. ETHICS AND CONDUCT

1. **Purpose.** This Directive describes conduct and ethics responsibilities applicable to all employees of FMCS. The maintenance of high ethical standards in the public service is essential to assuring the confidence of the public in their Government. Such standards of behavior and integrity reflect credit on the Government and are required in order to assure the proper performance of official duties. Moreover, the nature of FMCS operations requires that personal integrity and honesty must be established and adhered to in carrying out the mission of the agency.
2. **Authority.** The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635.
3. **Applicability.** This Directive applies to all FMCS employees. Directives on Social Media Use (Directive 8103) and Information Technology Use (Directive 8102) should be carefully considered in conjunction with this directive.
4. **Responsibility and Authority.** FMCS supervisors are responsible for ensuring that their employees are aware of the standards of conduct. The Office of Human Resources is responsible for ensuring that each newly hired employee receives a copy of the Standards of Ethical Conduct for Employees of the Executive Branch.
 - a. The primary responsibility rests with the individual employee to become familiar with these standards, to act in accordance with them, and to seek guidance before engaging in any activity that might not be consistent with the principles or specific provisions set forth in these standards. Such guidance is provided by the Ethics Officers.
 - b. The General Counsel is the FMCS Designated Agency Ethics Official responsible for standards of conduct and conflict of interest matters. The General Counsel may designate employees in the Office of General Counsel/Office of Ethics as ethics officers. Ethics Officers are responsible for the interpretation of the standards of conduct and ethics rules and for advising supervisors and employees regarding the application of the standards on a case by case basis.
5. **Conflicts of Interest.** FMCS employees must ensure that their conduct does not compromise the integrity of, or public confidence in, FMCS. Employees must maintain high standards of honesty, integrity, and loyalty to FMCS. Employees must not engage in private or personal activities that might conflict, or appear to conflict, with FMCS interests, such as:
 - a. Using FMCS employment for private gain;
 - b. Giving preferential treatment to any person or company;



- c. Failing to make impartial decisions on behalf of FMCS;
 - d. Losing complete independence or impartiality; or
 - e. Making a Government decision outside official channels.
6. **Compliance.** Employees must ensure that they comply with the general principles and specific provisions of these standards. If any doubt exists as to whether an activity or planned activity violates these standards, employees are obligated to seek advice immediately from the Ethics Officers or the General Counsel.
7. **Remedial Action and Discipline.** An employee's failure to comply with these standards or whose conduct is prejudicial to the best interests of FMCS, or of a nature to bring discredit upon it can be cause for remedial or disciplinary action. Such action may include, but is not limited to:
- a. Change in assigned duties;
 - b. Divestment of any conflicting interest;
 - c. Disqualification from a particular assignment; and
 - d. Appropriate discipline, up to and including dismissal.
 - e. Violations of the Standards of Ethics may also result in civil and criminal penalties.
8. **Gifts.** A "gift" is defined to mean anything of monetary value given to an individual in his/her personal capacity, and specifically includes transportation, local travel, and lodgings and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.
- a. Certain items are not considered gifts and may be accepted by an employee. For example, modest refreshments (such as coffee and donuts), greeting cards, plaques and other items of little intrinsic value are not considered gifts. In addition, discounts available to the public or to all Government employees and rewards or prizes connected to competitions open to the general public are not considered gifts.
 - b. **Gifts to Official Superior:** Employees shall not make a gift to an official superior, solicit contributions from other employees for a gift to an official superior, make a donation as a gift to a supervisor, or accept a gift from an employee receiving less pay. An official superior is an employee's supervisor and any other superior who is in the chain of command of the employee.
 - c. There are exceptions to this general prohibition. Employees may give to an official superior and the official superior may accept voluntary gifts in the following



circumstances:

- 1) On an occasional basis (including for a birthday or annual holiday), an employee may give, and the official superior (or person receiving more pay than the employee) may accept:
 - a) Gifts, other than cash, having a market value of \$10 or less per occasion;
 - b) Items such as food and refreshments to be shared in the office among several employees;
 - c) Personal hospitality at a residence which is of a type and value customarily provided by the employee to personal friends;
 - d) Gifts given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; or
 - e) Transferred leave, provided it is not transferred to an immediate supervisor.
- 2) On special infrequent occasions of personal significance, such as marriage, illness, birth or adoption of a child, retirement or resignation of the official superior.
- 3) Gifts from Outside Sources: FMCS employees are subject to restrictions on the gifts that they may accept from sources outside the Government. Unless an exception applies, FMCS employees may not accept gifts that are given because of their official positions or that come from certain interested sources ("prohibited sources").
- 4) A prohibited source is a person (or an organization made up of such persons) who is seeking official action by, is doing business or seeking to do business with, or has interests that may be substantially affected by performance or nonperformance of the FMCS employee's official duties.
- 5) The following are exceptions to the ban on accepting gifts:
 - a) A gift valued at \$20 or less, provided that the total value of gifts from the same person is not more than \$50 in a calendar year;
 - b) A gift motivated solely by a family relationship or personal friendship;
 - c) A gift based on an employee's or his spouse's outside business or employment relationships, including a gift customarily provided by a



prospective employer as part of bona fide employment discussions;

- d) A gift (i.e., political contributions via fundraising) provided in connection with certain nonpartisan political activities not barred by the Hatch Act; or
- e) Gifts of free attendance at certain widely attended gatherings, provided that FMCS has determined that attendance is in its interest.

9. Compensation for Performing Official Services. FMCS employees are generally prohibited from receiving compensation from an outside source for doing his or her Government job. More specifically, unless an exception applies, an employee may not receive any salary or contribution to or supplementation of salary, from any source other than the Government, as compensation for services as a Government employee. Salary, or any contribution to or supplementation of salary, can be anything of monetary value received by the employee, including both lump-sum payments and periodic payments.
10. Outside Employment or Activity. Employees are entitled to independence in their personal activities outside of FMCS, with certain restrictions. In conducting these activities, employees must adhere to the Office of Government Ethics' Outside Activities regulations at 5 C.F.R. Subpart H. FMCS employees may not engage in outside employment or any other outside activity that conflicts with the employee's official duties, including their regular hours of work. An outside activity conflicts with an employee's official duties if the activity is prohibited by statute or requires the employee's disqualification from Government work that is central or critical to the performance of his/her Government duties.

An outside activity is any activity an employee engages in, whether for compensation or on a volunteer basis that is not an official duty or assignment of the employee's position with FMCS.

11. Ethics Advice for Outside Activities. FMCS does not have a requirement for advance approval of outside activities. However, employees will be held accountable for engaging in any outside activity that is determined to create a conflict of interest. To ensure that an employee does not engage in a conflict of interest through an outside activity, employees are advised to seek guidance in advance from their supervisor and the Office of Ethics/General Counsel to ensure that their outside employment or activities do not violate the federal regulations. Request for such advice should be submitted to the Office of Ethics/General Counsel through the employee's supervisor, on forms available on the FMCS Intranet site.
12. Use of Government Position and Resources. An employee shall not, directly or indirectly, use or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee. Incidental and occasional personal use of FMCS computer and communications systems is permitted, provided that such use does not



interfere with the conduct of FMCS business and is consistent with FMCS policies on the use of such systems. See also Directives 8102 and 8103 on this subject.

13. **Misuse of Information.** FMCS employees shall not use or allow the use of nonpublic FMCS information to further their own private interests or the private interests of others. Nonpublic information is information that employees gain by reason of their FMCS employment and that he or she knows or reasonably should know has not been made available to the general public.

Nonpublic Government information includes but is not limited to:

- a. Information that is exempt from disclosure under the Freedom of Information Act;
 - b. Information that FMCS has designated as confidential; or
 - c. Information that has not actually been disseminated to the general public and is not authorized to be made available to the public upon request.
14. **Financial Interest and Responsibilities.** An employee shall not participate in an official capacity in any matter in which, to the employee's knowledge, the employee or the employee's spouse, minor child, business partner, or a person or organization with which the employee is connected has a financial interest. For the purpose of this policy, an employee is considered to have a connection to a person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment, or with an organization (for profit or nonprofit) in which the employee is serving as officer, director, trustee, general partner, or employee.
- a. Whenever an employee holds a potentially conflicting interest or a question might be raised concerning the influence of financial interests on the integrity of an employee's official services, the employee must immediately inform his/her supervisor of any such conflict of interest and consult with an Ethics Officer. The Ethics Officer will determine if the conflict can be resolved or if a waiver is appropriate.
 - b. The restriction prohibiting a financial conflict of interest extends to all FMCS activities. It therefore includes mediation activities, litigation or administrative hearings in which the Agency is involved, contracts, grant applications and grant awards, as well as any related activities that bring the Agency into contact with outside parties.
15. **Statements of Employment and Financial Interests.**
- a. Covered Employees – OGE Forms 278 and 278-T: Pursuant to the Ethics in Government Act, as amended, the following senior-level employees must file an OGE Form 278 (Public Financial Disclosure Report) annually. In most circumstances, the filing date is in May of each year. OGE Form 278 filers must also file OGE Form 278-



Ts (Periodic Transaction Reports) throughout the year disclosing the purchase, sale and exchange of stocks, bonds and most other securities valued over \$1,000. Forms, and assistance in completing and filing these Forms, may be obtained from the Ethics Officer.

- 1) Officers and employees whose positions are classified above GS-15 of the General Schedule, or whose rate of pay, other than under the General Schedule, is equal to or greater than 120% of the minimum rate of pay for GS-15 of the General Schedule, generally included would be the Director, Deputy Directors, Senior Executive Service (SES) employees and qualified Special Government Employees;
 - 2) Employees in the excepted service in positions that are confidential or policy making;
 - 3) The FMCS Designated Agency Ethics Official.
- b. Covered Employees – OGE Forms 450 and 450-A: Pursuant to Executive Order 12674, certain mid-level employees whose duties involve the exercise of discretion in sensitive areas must file an OGE Form 450 (Confidential Financial Disclosure Report) or 450-A (Certificate of No New Interests) annually, including those below. In most cases the filing date is in February of each year. Forms and assistance may be obtained from the Ethics Officer.
- 1) Regional Directors;
 - 2) Director of Public Affairs;
 - 3) Director of Education and Training;
 - 4) Supervisors of Budget and Finance;
 - 5) Director of Administrative Services;
 - 6) Employees with Contracting Responsibility;
 - 7) Director of ADR;
 - 8) Grants Specialist;
 - 9) Director of IT;
 - 10) EEO Director;
 - 11) Supervisor, Arbitration and Notice Processing;



- 12) Director of Human Resources;
 - 13) Director of Arbitration and Notice Processing Services.
 - c. Mediators: Although FMCS mediators are not required to submit statements of employment and financial interests, inherent in their position is the responsibility to report to their supervisors any situation in which a conflict of interest or the appearance of a conflict of interest exists.
16. Review of OGE Forms 278, 278-T, 450 and 450-A Statements, Responsibilities and Remedial Action.
- a. Ethics Officer: The Ethics Officer will review each statement and supplementary statement of employment and financial interests for possible conflicts of interest.
 - 1) No Conflict or Appearance of Conflict Exists. If no conflict or appearance of conflict is apparent, the statement shall be filed and maintained by the Ethics Officer in accordance with applicable Retention Schedule requirements. Forms 450 and 450-A will be retained as confidential information in a secure fashion.
 - 2) Conflict or Appearance of Conflict is Evident. If the Ethics Officer believes that a conflict or possible conflict exists from review of the statement, this official will:
 - a) Contact the employee and request a written explanation of the conflict or appearance of conflict;
 - b) File the statement with the explanation if the explanation is dispositive of the potential conflict;
 - c) Submit the findings and written explanation to the Director if the statement is not dispositive of the conflict or possible conflict.
 - b. Director of FMCS: If, after considering the findings and the explanation, the Director or the Director's designee decides that remedial action is required, the Director or designee shall take immediate action to end the conflict or appearance of conflict of interest.
 - c. Remedial Action: All remedial action, whether disciplinary or otherwise, will be effected in accordance with Federal Mediation and Conciliation Service and OPM procedures.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

DIRECTIVE 8102. INFORMATION TECHNOLOGY USE

- 1) Purpose. This document outlines the policies that govern the use of Information Technology (IT) equipment and services (IT resources) at the FMCS. Given the constantly changing IT environment, this directive is broadly defined and should be evaluated in concert with current best practices and requirements.
- 2) Authority. The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; the Freedom of Information Act, 5 U.S.C. §522; the Privacy Act, 5 U.S.C. §552a; the Hatch Act, 5 U.S.C. §7321-7326; and others, e.g., laws pertaining to intellectual property.
- 3) Applicability. This policy applies to all FMCS employees, contractors, detailees, temporary employees and interns who use IT resources provided by the FMCS (Users). Directives on Social Media Use (Directive 8103) and Ethics and Conduct (Directive 8101) should be carefully considered in conjunction with this directive.
- 4) Information Technology Policy. The FMCS provides IT resources to advance and support the agency mission and to facilitate normal and efficient business operations. To meet this objective, the FMCS prevents unauthorized use and abuse of its IT resources.

The IT Department is responsible for configuring, issuing, maintaining and safeguarding FMCS IT resources and for communicating best practices to Users. In this role, the IT Department may, at its discretion, suspend or alter individual or group access to IT resources.

- a) Appropriate Use. It is the policy of the FMCS, that Users will use FMCS IT resources to perform work duties in furtherance of the Agency's mission. Users are also permitted to use FMCS IT resources for incidental and occasional personal use only to the extent that such use does not impair the FMCS's ability to successfully conduct normal and efficient business operations or otherwise violate FMCS policy. The FMCS reserves the right to suspend or alter IT resource use privileges at any time and without warning for activities that violate its policies or otherwise endanger or compromise its business operations.
- b) Copyright. The FMCS and Users shall respect and adhere to all copyright laws and licensing agreements.
- c) Equipment. All IT equipment provided by the FMCS is the property of the U.S. Government and will not be converted to private use. Users are expected to safeguard

EMPLOYEE RESPONSIBILITIES AND CONDUCT

and properly maintain FMCS IT equipment. Users should coordinate with the IT Department for the return of equipment that is damaged beyond repair or is no longer in use. The IT Department must be notified immediately of damaged, stolen or lost equipment.

- d) **Files.** All electronic information, including e-mail, that are stored at any time on IT resources are the property of the FMCS. Users should be aware that personal information stored on or accessed via FMCS IT resources is not private and may be accessed or quarantined at any time by the FMCS and may be subject to Freedom of Information Act (FOIA) and litigation requests.

All Users are responsible for exercising appropriate care in maintaining and protecting information and data used in FMCS business operations. Users shall not store Agency records in unauthorized online file storage or exchange systems.

Managers are responsible for maintaining their unit's electronic files properly stored and maintained.

- e) **Security.** Users shall not alter or bypass FMCS IT system security software or hardware and should at all times exercise good judgment in using IT resources. Users should access only those files or IT systems which they are permitted to use. The IT Department, or an approved third party auditor working under the auspices of the IT Department, has the sole authority to test or evaluate system, password and file security.

Users shall follow good password and data security practices as proscribed by the IT Department. These practices include mandates from the National Institute of Standards and Technology (NIST), Executive Orders, and other federal agencies.

- f) **Email and Internet Services.** The FMCS provides electronic mail and Internet/Intranet services to enhance productivity and to facilitate internal and external communications. Incidental and occasional personal use of these services is permitted only to the extent that such use does not impair the FMCS's ability to successfully conduct normal and efficient business operations. Further, such personal use is not permitted if it restricts the work of other users, or is used in any way to conduct illegal or other restricted activities, as defined below, or in violation of any FMCS policy.

The FMCS reserves the right to disclose any information or communication transmitted or received using FMCS IT resources as may be appropriate, including disclosure to management, internal security, law enforcement, and the public via appropriate FOIA

EMPLOYEE RESPONSIBILITIES AND CONDUCT

requests.

Users shall not conduct agency business from private email or information exchange accounts without prior authorization. In the event that such use occurs, Users shall immediately forward all such messages to their FMCS email account to ensure proper archiving.

Only specifically authorized managers may send broadcast messages to all FMCS employees. An individual who wishes to email all FMCS employees must first obtain permission from his or her supervisor. Users should exercise good judgment in using the "reply to all" email function, and when sending large email attachments to a group.

Recipients of messages or information inadvertently sent or misaddressed to them should not copy, retain or disclose the contents of such messages. It is the policy of FMCS that such messages shall be deleted and the sender notified, if possible, that the message was misaddressed or misdirected.

5) Definitions.

- a) IT equipment. Includes, but is not limited to: telephones; cell phones; computing devices; computer or TV monitors; printers; scanners; faxes; network switches and routers; cabling; portable and fixed storage devices; cameras; projectors; equipment racks or cases; and computer peripheral devices.
- b) IT services. Include, but are not limited to: telephone and fax services and accounts; internet data lines and accounts; central data storage arrays; video conference services and accounts; FMCS-provided online accounts; and 3rd party hosted business solutions (e.g.: "cloud" applications).
- c) Restricted Activities. Include, but are not limited to, using FMCS IT resources for: operating a personal business; viewing, soliciting or transmitting pornography; gambling; the unauthorized access, transmittal, or copying of confidential or classified electronic files, databases, or records; creating web pages or information sites without appropriate written approval; illegally copying or sharing copyrighted or licensed information; enabling "peer-to-peer" file sharing; generating chain letters or other non-professional communications; committing fraud or communicating threats; using proxies or services that bypass FMCS internet and email content and message filtering; or using programs that mask the user's identity or impersonate another person.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

- 6) Accountability. Users are individually accountable for compliance with this directive. Anyone who uses FMCS IT resources for illegal or restricted activities is subject to prosecution to the full extent of the law and may be held personally liable for any and all damages caused by such activities. Users who violate this directive may be subject to discipline up to and including immediate discharge.

Users are responsible for overall compliance with FMCS IT resource policies and should report actual or suspected violation of this directive to their manager or others, as appropriate.



DIRECTIVE 8103. SOCIAL MEDIA USE

1. **Purpose.** This Directive establishes FMCS policy concerning social media use.
2. **Authority.** The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; the Freedom of Information Act, 5 U.S.C. §522; the Privacy Act, 5 U.S.C. §552a; the Hatch Act, 5 U.S.C. §7321-7326; and others, e.g., laws pertaining to records management.
3. **Applicability.** This directive applies to all FMCS employees and directly supervised persons working on behalf of FMCS. Directives on Information Technology Use (Directive 8102) and Ethics and Conduct (Directive 8101) should be carefully considered in conjunction with this Directive.
4. **Background.** Social media provide powerful and effective tools for communicating, sharing information, and interacting with colleagues and the public. FMCS and many of its employees use social media to enhance communication, collaboration, and information exchange in support of its mission.
 - a. Employees who use social media to perform their duties must adhere to the same standards of professional practice and conduct generally expected of FMCS employees.
 - b. Additionally, while FMCS does not seek to restrict strictly personal social media use, these technologies may blur the distinction between professional and personal roles, and employees should therefore exercise appropriate caution in their private social media use. When you use social media in your personal capacity, you are not speaking for FMCS and it should not appear to others as though you are speaking for FMCS.
5. **Definitions.** Recognizing that social media terminology and technology is constantly evolving, this Directive is intended to provide guidance regarding employee use of internet-based communication technologies, including, but not limited to, blogs, wikis, media sharing, podcasts, social networking, and document and data sharing.
6. **Guiding Principles.** FMCS employee behavior must at all times be guided by the Standards of Ethical Conduct for Employees of the Executive Branch, the Mediator Code of Conduct, and other applicable government ethics regulations and policies. These standards, codes, and policies cover a wide range of prohibited activities, such as:
 - a. Using your government position or non-public agency information to further your own or another's personal interest;
 - b. Using your government position to endorse any products, services, or enterprises; or



- c. Endorsing political parties, candidates, or groups in your official capacity, while on duty, or while on Federal property, in violation of the Hatch Act.
- 7. Employees who use social media on behalf of FMCS or for their personal edification on or off duty should keep the following in mind:
 - a. The office of Public Affairs has the sole authority for creating and maintaining official FMCS social media sites and accounts and for publicizing official FMCS events and affairs.
 - b. Do not use official FMCS logos, letterhead, or images in personal social media.
 - c. Personal on-line behavior should always be consistent with the conduct expected of an FMCS employee, commensurate with the public trust associated with the position, and conforming to professional and ethical standards.
 - d. Mediators are expected to be especially careful not to jeopardize their professional standing, neutrality, and acceptability to FMCS customers.
 - e. Do not have unreasonable expectations of privacy. Assume that even personal and private communications will enter the public domain and will persist there.
 - f. Disclosing sensitive, confidential, or proprietary FMCS information without authorization is strictly prohibited. This prohibition applies even in circumstances where password or other controls provide the appearance of privacy.
 - g. Consider adding a disclaimer to social networking profiles, personal blogs, or other online presence clearly stating that the opinions or views expressed are personal and do not purport to represent those of FMCS. Be aware that a disclaimer will not necessarily prevent damage to personal reputations or to FMCS.
 - h. Understand that off-duty social media conduct may be a basis for discipline if it adversely impacts the operations of FMCS.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

DIRECTIVE 8104. FMCS MEDIATOR CODE OF CONDUCT

The Federal Mediation and Conciliation Service (“FMCS” or “the Service”) is an independent agency of the federal government established by Congress in 1947 to help employers and unions avoid costly work stoppages through mediation and collective bargaining. The FMCS has a history of successful and innovative advances in labor-management collaboration, joint problem-solving and the resolution of major collective bargaining disputes. In 1996, Congress recognized this record for pioneering dispute resolution techniques and highly skilled professional mediators and called upon the FMCS to help other federal agencies minimize costly litigation by resolving disputes, such as employment discrimination and public policy dialogues, arising under their jurisdictions.

The FMCS Mediator Code of Conduct restates the important principles set forth in the Code of Professional Conduct for Labor Mediators in the Appendix to Part 1400 of the Code of Federal Regulations (CFR), a set of standards created by the Association of Labor Relations Agencies (ALRA), with special support from FMCS, for all labor mediators serving member organizations. This FMCS Mediator Code of Conduct revises and updates earlier FMCS Mediator Codes of Conduct to cover the full range of FMCS mediator duties.

1) Mediator Responsibilities to the Parties.

- a. To help them settle their disputes. Collective bargaining mediation is a voluntary process which occurs when a third party neutral helps labor and management reach agreement in contract negotiations for initial or renewal collective bargaining agreements.

In collective bargaining mediation, FMCS mediators ideally are in contact with both parties before negotiations actually begin. In some cases, however, the contact is triggered by the legally required notice of intent to open a collective bargaining agreement. In both collective bargaining and ADR workplace and employment disputes, mediators convene and may conduct joint and separate meetings of the parties, using their knowledge of the parties and their issues to guide them through potential deadlocks to a mutually acceptable settlement.

Federal mediators have an absolute commitment to neutrality and confidentiality in collective bargaining. They know that if their commitment to confidentiality and neutrality is compromised, they are not likely to be effective or acceptable to the parties.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

For this reason, federal mediators must never convey information without the express permission of the party who conveyed the information. Mediators may make suggestions and offer procedural or substantive recommendations with the agreement of both parties. However, they have no authority to impose settlements. Their only tool is the power of persuasion. The FMCS mediator's effectiveness derives from his/her acceptability to the parties, his/her broad knowledge and experience in the process of collective bargaining and dispute resolution and the status of FMCS mediators as respected workplace dispute resolution professionals.

- b. To inform them regarding the FMCS. The usefulness of the Service to both the labor-management and government ADR communities is advanced by the use of Education, Advocacy and Outreach (EAO). FMCS mediators are expected to inform representatives of labor and management and the general public regarding the jurisdiction, coverage, assistance, services, programs and training provided by the Service.
- c. To help them in their efforts to determine the causes of poor labor-management and workplace relations and to assist in the elimination of those problems. In today's highly competitive and changing global economy, good workplace relationships are more important than ever. Strong, positive working relationships between management and labor are essential to the ability of both private sector companies and governments to achieve organizational excellence and success. The Labor-Management Cooperation Act of 1978 authorized and directed the FMCS to offer services to improve economic development, job security and organizational effectiveness. FMCS mediators provide a variety of workplace training programs and services to help break down barriers and build better working relationships in the federal, public and private sectors.
- d. To inform them regarding the FMCS policies and procedures on arbitration. Mediation is a process by which a third party neutral assists parties to reach their own resolution of a dispute. By contrast, arbitration is a process by which a third party neutral actually decides how the dispute should be resolved. Federal mediators do not arbitrate, but the Service meets the mandate of the National Labor Relations Act by "promoting the settlement of issues between employers and employees through the process of conference and collective bargaining...the settlement of issues through collective bargaining may be advanced by making available full and adequate government facilities for conciliation, mediation and voluntary arbitration." For disputes that cannot be resolved through mediation, federal mediators advise parties regarding arbitration procedures and policies, including the services of the FMCS Arbitration Program.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

- e. To give information and suggestions on a variety of labor relations problems. Mediators make themselves available to labor-management and ADR parties in connection with requests for information and suggestions regarding workplace conflict management issues. If a question is one which more properly should be referred to another agency or individual, that is what the mediator must do. As a general rule, mediators should always consider first suggesting that the parties seek guidance from their counsel. When a mediator knows that the question should be referred to another agency, however, he or she may certainly make this suggestion. For example, if the question is one concerning wage and overtime issues governed by the Fair Labor Standards Act, the mediator refers the party to the U. S. Department of Labor. If the question is one of union recognition or unfair labor practices, the party is referred to the National Labor Relations Board.

Even if a mediator has a law degree, mediators are cautioned not to provide legal advice while in the role of a neutral. The mediator is neither advocate nor judge and the wrong advice or the parties' misinterpretation of that advice could greatly compromise the mediator's future effectiveness with one or both of the parties. Parties should always be referred to an appropriate source for the information they are seeking.

- 2) Mediator Responsibilities to Other Legally Constituted Mediation Agencies. Federal mediators, along with State and local mediators, have one common objective – labor and workplace dispute resolution. It is incumbent upon the federal mediator to cooperate with other mediators, as appropriate, in the pursuit of their common goal without wasting the resources of either agency through unnecessary duplication of services. FMCS maintains a long-standing liaison relationship with the Association of Labor Relations Agencies (ALRA) in furtherance of this objective. All of the member agencies of several states are signatories to the Mediator's Code of Professional Conduct which governs mediator cooperation.
- 3) Mediator Responsibilities to Other Governmental Agencies. Mediators should always be mindful of the statutory independence and autonomy of the FMCS and its importance on the parties' perception of agency and mediator neutrality. In order to effectively and fully assist the parties, however, mediators should develop working relationships with other U.S. governmental agencies that deal with labor, management and workplace issues, such as the Department of Labor, the National Labor Relations Board, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, the National Mediation Board, and others. In addition, the mediator develops familiarity with state and local government agencies handling labor-management issues in addition to mediation agencies.

EMPLOYEE RESPONSIBILITIES AND CONDUCT

- 4) Mediator Responsibilities to the Public. “It is the policy of the United States that sound and stable industrial peace and the advancement of the general welfare, health and safety of the Nation and of the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the process of conference and collective bargaining.” 29 USC § 151.

“The Service may make its services available to Federal agencies to aid in the resolution of disputes Functions performed by the Service may include assisting the parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals.” 29 USC § 173(f).

The mediator is the FMCS as far as the public is concerned. He/she informs the public of the activities, the objectives, and the reasons for its existence. The Service, therefore, expects the mediator to mingle with the members of and become an integral part of the labor-management and workplace communities. The mediator must know them well, and they must know the mediator. The FMCS regards attendance at forums, conferences, labor-management events, and events involving federal workplace dispute resolution issues as part of a mediator’s duties. The mediator participates in and joins professional and civic groups. The mediator gets to know the representatives of the press and develops a professional working relationship with them. This provides an opportunity to educate an opinion maker about the Service, its role in the collective bargaining and workplace dispute resolution processes, fundamental facts about the mediation process, as well as other programs, activities and services offered by the Service. It is through these contacts that the mediator develops the confidence of the public in themselves and the FMCS, thus, providing greater service to the public.

- 5) Mediator Responsibilities to Other Mediators. A mediator should not enter any dispute which is being mediated by another mediator or mediators without first conferring with the person or persons conducting such mediation and his/her supervisor. The mediator should not intercede in a dispute merely because another mediator may also be participating. Conversely, it should not be assumed that the lack of mediation participation by one mediator indicates a need for participation by another mediator.

In those situations where more than one mediator is participating in a particular case, each mediator has a responsibility to keep the other informed of developments which are essential to a cooperative effort and should extend every possible courtesy to his/her fellow

EMPLOYEE RESPONSIBILITIES AND CONDUCT

mediator.

The mediator should carefully avoid any appearance of disagreement with, or criticism of, his fellow mediator. Discussions as to what positions and actions mediators should take in particular cases should be carried on solely between or among the mediators.

- 6) Mediator Responsibilities to Themselves. The mediator should realize his/her capabilities to the fullest extent by:
- a. Developing their professional background. Issues and approaches to mediating labor-management and other workplace disputes are dynamic not static. The skill set and technologies necessary for assisting parties in collective bargaining and ADR are continually changing. Mediators must grow with the profession or find that the profession has outgrown them, all of which implies a flexible mediator, who is constantly learning and knowledgeable about the broad field of labor-management relations and conflict resolution.
 - b. Maintaining their professional standards. Throughout their career, mediators may face situations in which one or both parties will try to use them to further their own ends. True, the mediator exists to serve the parties. But the mediator must always bear in mind that the limits of that service are reached when attempts are made to have him/her depart from the basic standards of neutrality, honesty and integrity. Carefully read the Code of Professional Conduct for Labor Mediators. Its principles apply to all FMCS work – both collective bargaining and ADR – and live by its high standards.
 - c. Maintaining a Whole Relationship Perspective. Mediators must be knowledgeable about events involving the workplace and the customers we serve in the private, federal and public sectors. In their interactions with bargaining committees and people involved in workplace disputes, FMCS mediators come in contact with a wide spectrum of people and personalities and learn a great deal about the products or services they provide. The mediator is attentive to the value systems, thinking and decision-making styles of his/her customers. Value these experiences as learning experiences and don't be afraid to share your own pertinent experiences, while being mindful to avoid judging the experiences, styles, or value systems of others. Mediation is a dynamic human process and is most effective when it is conducted in those terms as opposed to being treated as an academic exercise. The effective mediator has no trouble relating with most of those with whom they come in contact. The effective mediator is a person with excellent

EMPLOYEE RESPONSIBILITIES AND CONDUCT

interpersonal skills and broad cultural, recreational, and familial interests.

7) Mediator Responsibilities to FMCS.

- a. To carry out assignments. The mediator's most important responsibility to the FMCS is to fulfill all the critical elements of his/her job with competence and professionalism. And, while collective bargaining mediation (CBM) remains a major aspect of our work, mediators are expected to perform, with equal excellence, the full range of services we offer to parties including but not limited to mediation. At FMCS, mediation is a broad term embracing a wide variety of activities and skills which a mediator must perform to be effective in carrying out FMCS' mission. In addition to playing the critical role of neutral third party called in to assist in the resolution of a collective bargaining or workplace dispute, the effective FMCS mediator is the consultant, the educator, the advisor and the skilled trainer to whom the parties are able to turn for all their relationship and dispute resolution needs. Whether it is mediating a collective bargaining dispute, a grievance or employment matter, conducting relationship development training or facilitating a public policy dialogue for a sister government agency, FMCS mediators have the broad experience, process skills, impartiality and objectivity to help parties – in a variety of contexts – resolve or reduce conflict.
- b. To prepare written/electronic reports on activities. It is a fundamental requirement of any job to fulfill the administrative duties connected with that job. This basic requirement is even more essential in the case of the FMCS mediator because timely and accurate reports are fundamental to the overall status and success of the Service. Case reports keep regional and national office managers apprised of the status of the mediator's assignments. Through these reports, other federal mediators, regional and national leaders with a need-to-know are informed quickly and easily of the progress of cases. They are also the keystone on which research is built and statistics gathered for budgeting, staffing and strategic planning determinations. In order to demonstrate that allocated agency resources are efficiently and effectively utilized, timely and accurate case reporting is required of all FMCS mediators.
- c. To keep informed of FMCS policies and procedures. Mediators are expected to keep informed and updated on all FMCS policies and procedures both on a national and regional level. This means reading emails from agency leadership, reviewing internal newsletters and regularly visiting the FMCS internal and external websites. Such awareness is an essential prerequisite to continuing effective representation of the

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Service and lack of knowledge of a widely disseminated policy or procedural requirement is not an acceptable excuse.

- d. To effectively utilize FMCS resources. In very few organizations is the use of resources – the mediator’s time, travel, telephone and office services – left as much to the employee’s judgment and discretion as in the case of the FMCS mediator. This independence is based on the premise that the mediator is a mature person of unquestioned integrity. It is the mediator’s responsibility to make certain that assumption is never legitimately questioned.
- e. To improve the operations of the Service. Much has been said and much has been written about the value of a “bottom-up” as opposed to a “top down” approach to management. The FMCS embraces the idea that the best suggestions for the improvement of agency operations are likely to come from the individuals who deliver FMCS services – the mediators and managers. On a routine basis, mediators are asked to join work groups or task forces designed to evaluate and make recommendations regarding new training materials, issues and service delivery approaches.

Mediators are encouraged by their supervisors to make whatever suggestions occur to them for the improvement of the Service. Those who have the interests of the Service at heart take this invitation seriously and regard their responsibilities broadly. When they see something in the Service which they believe should be improved, they suggest these improvements rather than simply complaining about the issue.

- f. To always conduct him/herself in a manner that brings credit to the Service. The FMCS mediator’s conduct is under public scrutiny and subject to criticism at all times – not just when the mediator is engaged in professional work. The mediator, therefore, is one whose personal conduct should always command the respect of the community and bring credit to the Service. FMCS mediators are expected to demonstrate mature judgment, high ethical and moral values, and, in general, demonstrate the personality and reputation that FMCS labor-management and workplace dispute resolution customers have come to respect and trust.

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

DIRECTIVE 9101 EQUAL EMPLOYMENT OPPORTUNITY

1. Purpose: This document sets forth the Federal Mediation and Conciliation Service (FMCS) policies and procedures related to equal employment opportunity (EEO) in the workplace for FMCS employees and job applicants.

2. Authority: Title VII of the Civil Rights Act, 42 USC 2000e; the Equal Pay Act of 1963, 29 USC 206(d); the Age Discrimination in Employment Act, 29 USC 621; Sections 501 and 505 of the Rehabilitation Act of 1973, 29 USC 791; Title I and V of the Americans with Disabilities Act of 1990, 42 USC 12101; the Civil Rights Act of 1991, 42 USC 1981; the Civil Service Reform Act of 1978, 5 USC 2301.

3. Applicability: This Directive applies to all FMCS employees and job applicants.

4. EEO Policy:

a. What is the FMCS policy on discrimination in the workplace?

FMCS provides equal employment opportunity to all employees and applicants for employment in accordance with federal law. Specifically, federal law prohibits discrimination against any person on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, age (40 years or older), genetic information, or disability in regard to applying, interviewing, hiring, advancing, training, promoting, terminating, and any other terms and conditions of employment.

b. What is the FMCS policy on harassment?

FMCS provides a workplace free of any form of harassment. Federal law prohibits harassment based on race, color, national origin, religion, sex, sexual orientation, gender identity, age (40 years or older), genetic information, or disability. Harassment is conduct that has the intent or effect of unreasonably interfering with an employee's work or conduct that creates an offensive, intimidating, or hostile work environment. The conduct must be severe and/or pervasive under a reasonable person standard.

c. What is the FMCS policy on sexual harassment?

Sexual harassment is one of the prohibited forms of harassment that will not be tolerated at FMCS. Sexual harassment is defined as unwelcome advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

d. What is the FMCS policy on retaliation?

Any act of retaliation, interference, or coercion against an employee or applicant who raises concerns or files a complaint under any EEO policy or procedure is

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

prohibited and will not be tolerated at FMCS.

5. EEO Procedures

- a. What should I do if I think I have been discriminated against in the workplace?

An employee or applicant should discuss any allegations relating to discrimination or harassment in the workplace with the FMCS EEO Program Director or any FMCS EEO counselor. (See FMCS EEO Program Director for a current listing of the individuals holding these positions.) To initiate the EEO process, an aggrieved employee or applicant must initiate contact with an EEO counselor or the EEO Program Director within forty-five (45) calendar days of the alleged discriminatory conduct, incident, or personnel action.

- b. What happens after I contact the EEO counselor or Program Director?

Initially, FMCS will treat the allegation as an informal complaint and will provide counseling. During this process, an EEO counselor will advise the complainant of his/her rights and responsibilities during the administrative process, solicit specific information about the complaint, and seek to resolve it. The complainant may be represented by an individual of his/her choosing during this process. The EEO counselor will also inform the complainant of the FMCS Alternative Dispute Resolution (ADR) process. The ADR process may be available at both the informal and formal stage of the complaint, at the discretion of the FMCS EEO Program Director. The complainant or the agency, however, can decline to pursue ADR.

- c. What does the FMCS ADR process involve?

The FMCS ADR process may include, among other things, fact-finding, mediation, or another facilitative procedure. If FMCS offers and a complainant agrees to use an ADR process, FMCS will provide a written ADR agreement. The complainant must sign and acknowledge receipt of the ADR agreement within seven (7) business days of receipt of the agreement. If the ADR process is not successful, the complaint will be returned to the stage of EEO process it was in before ADR.

- d. What happens if I want to file a formal complaint?

If a matter is not resolved through informal counseling or an ADR process, an FMCS EEO Counselor will provide the complainant with a notice of his/her right to file a formal complaint. A complainant may file a formal complaint, in writing, within fifteen (15) calendar days of receiving the notice of right to file a formal complaint. The EEO Program Director will review the formal complaint and determine whether it should be dismissed or investigated. If the complaint is accepted for investigation, the EEO Program Director will so notify the

FEDERAL MEDIATION & CONCILIATION SERVICE DIRECTIVE

complainant, complete an investigation and issue a report of investigation (ROI) within 180 calendar days from the date the formal complaint is filed, unless the parties agree to an extension or additional time is required by regulations. Upon issuance of an ROI, the complainant will have two choices: (1) request a hearing before an EEOC Administrative Judge; or (2) ask FMCS to issue a final agency decision (FAD) as to whether discrimination has occurred. Complainant must make a request for an EEOC hearing within thirty (30) days of receipt of the ROI. FMCS's final agency decision (FAD) or an EEOC Administrative Judge's decision may be appealed to the EEOC or challenged in federal court.

- e. Must employee witnesses participate in an investigation?

Yes, employees are expected to cooperate in an EEO investigation, and they are protected from any form of retaliation in the same manner as the individual bringing the complaint.

- f. Where can I find additional information about the EEO process?

6. Regulations regarding the federal government EEO process can be found at 29 CFR Part 1614. The U.S. Equal Employment Opportunity Commission website is also a valuable resource for all matters concerning equal employment opportunity. The EEOC website can be accessed at <http://www.eeoc.gov/federal/index.html>.